
Appeal Decision

Site visit made on 23 January 2017

by Veronica Bond LLB (Hons), Solicitor (non-practising)

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 7 February 2017

Appeal Ref: APP/G1250/W/16/3160501

Land adjacent to 1008 Wimborne Road, Bournemouth, BH9 2DE

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
 - The appeal is made by Juno Developments (Sandbanks) Ltd against the decision of Bournemouth Borough Council.
 - The application Ref 7-2016-3141-P, dated 17 June 2016, was refused by notice dated 15 September 2016.
 - The development proposed is construction of a block of 10 apartments with associated parking, access and landscaping.
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Decision

1. The appeal is dismissed.

Procedural Matter

2. The application was made in outline with only landscaping reserved for future determination. Accordingly I consider the appeal on the basis that approval is sought for access, appearance, layout and scale.

Main Issues

3. The main issues are:
 - the effect of the proposal on the character and appearance of the area;
 - the effect on the living conditions of the occupants of 11 Marks Road with particular regard to outlook, natural light and privacy;
 - whether the proposal would afford adequate living conditions for its future occupants in respect of internal living accommodation and outdoor amenity space; and
 - the effect of the proposal on highway safety.

Reasons

Character and appearance

4. The appeal site previously formed part of a car park connected to the adjacent public house and is currently used for a car sales business. The surrounding area shows some significant variation in designs with commercial and residential uses, three storey flatted development and more modest housing. The nearby public house is itself of substantial size, being of two storey design with additional accommodation in the roof.

5. The appeal proposal would introduce a three storey apartment block building onto the site. Although of substantial size, the building would be of a similar scale to other nearby buildings, and would draw upon the architectural design of the public house building including through its gabled front. Although it would not have its main entrance addressing the street, it would present a strong principal elevation to the road frontage, with large ground floor windows giving the impression of entrances.
6. I therefore find on the first main issue that the proposal would not harm the character and appearance of the area. It would accord in this respect with Policies CS6, CS21 and CS41 of the Bournemouth Local Plan: Core Strategy (adopted October 2012) (CS) and saved Policy 6.10 of the Bournemouth District Wide Local Plan (adopted February 2002) (LP). These together seek, amongst other things, high quality design which reinforces local identity and to ensure that development involving flats respects or enhances the character and appearance of the area, especially regarding scale and massing. There would be no conflict either in this regard with the National Planning Policy Framework (the Framework) or the Council's Residential Development – A Design Guide (adopted September 2008) (DG), which include similar aims.

Living conditions – No 11

7. The rear of the proposed building would face in the direction of the side elevation of the dwelling at 11 Marks Road. No 11 has a single storey extension to the rear which has a large side window facing in the direction of the appeal site. The window is to a dining area and, given the currently undeveloped nature of the appeal site, enjoys an open outlook and good levels of natural light through this window.
8. The effect of the proposed development would be to introduce a significant mass of built form in close proximity to this side window. Although stepped down and back at this point, the proposed building would nonetheless have an overbearing and enclosing effect as perceived from ground floor level and, given the very limited separation distance and scale of the building proposed, would reduce levels of natural light to the room also, taking account of the property's orientation. The presence of first floor windows in the proposed development and opposite No 11's window would result in direct overlooking at a close distance which would not be comparable to the normal mutual oblique overlooking in residential areas.
9. The same is true as regards the private garden area nearest the house at No 11 which would both see a reduction in natural light levels and impeded outlook, along with a harmful degree of overlooking given the circumstances outlined above. Although actual overlooking could be prevented through the use of high level windows, this would not in any event afford a good standard of outlook for future occupants of the proposed development and so would not represent an acceptable solution. Whilst the effect on outlook from No 11's rear facing windows would not be harmfully affected, this does not remove the harm identified above.
10. In this way I find on the second main issue that the proposal would harm the living conditions of the occupants of 11 Marks Road with particular regard to outlook, natural light and privacy. It would thus conflict with the aims of Policies CS 21 and CS41 of the CS and saved Policy 6.10 of the LP including ensuring that new development does not harm the amenities of neighbouring

residents. It would conflict also with similar aims contained in the DG and in the Framework related to residential amenity.

Living conditions – future occupants

11. The proposed building would accommodate nine two bedroomed flats which would fall below the Governments internal space standards as set out in the Technical Housing Standards – nationally described space standard (March 2015). In percentage terms and practically, the deficit against the prescribed minimum standard would be significant. The result would be of cramped living accommodation with insufficient room for the sort of furniture that would usually be expected, nor for adequate storage. Although there are no locally adopted standards, the deficiency against the national standards detailed would mean that inadequate living conditions would be afforded to future occupants.
12. As regards the garden space provided, this would be of small size, particularly relative to the likely number of users, and would be situated to the rear of site, with boundaries on two sides and the substantial built form of the appeal building on the other two sides. The effect would be of a poor quality outdoor space of limited usability. Particularly given that the two bedroom apartments could be occupied by families, the proposal would not offer adequate outdoor amenity space.
13. Although an adequate outlook and levels of natural light would be provided, this does not compensate for the somewhat cramped living accommodation and low quality outdoor amenity provision. The expectation of higher densities in this sort of location and fact that people could choose not to occupy the apartments if they considered the space inadequate is not a good justification for providing a poor standard of accommodation and garden area. This is so irrespective of the appellant's market knowledge which has not, in any event, been substantiated.
14. Accordingly, on the third main issue, I conclude that the proposal would not afford adequate living conditions for its future occupants in respect of internal living accommodation and outdoor amenity space. It would conflict with the aims of Policy CS41 of the CS to ensure a high standard of amenity for future occupants and with similar aims outlined in the DG and in the Framework.

Highway safety

15. The resultant effect of the proposal would be that the appeal site would not be available to offer off street parking in connection with the adjacent public house. The public house has though currently ceased trading and, although its future use is uncertain, there appears to be a reasonable likelihood that the building may be used for a retail use. In any event, it appears that the car park is now in separate ownership from the public house building and thus there is no guarantee of the car park site being available in the future for use in connection with the public house.
16. The appellant has also produced a parking survey identifying the number of on street parking spaces available within a 100 metre radius on differing days of the week and at different times of day. Although some of these would appear to include parking spaces in respect of which there are time limitations, nonetheless, in the absence of any substantive evidence to the contrary, it would appear that there is a reasonable level of on street parking spaces

available in the immediate vicinity of the appeal site. As such, any increased parking demand as a result of the proposal would not lead to adverse highway safety effects arising from inappropriate parking. This is particularly so given that a reasonable number of patrons would be likely to come from the surrounding residences and so could walk to the public house.

17. I conclude then on the fourth main issue that the proposal would not result in any harmful effects as regards highway safety. It would accord with the underlying aims of Policy CS16 being to ensure that an adequate level of parking is provided in the interests of highway safety.

Other Matters

18. The National Planning Policy Framework (the Framework) seeks to significantly boost the supply of housing and Policy CS21 details the anticipated housing need in the area. The proposal would make a modest contribution in this regard, aiming to make more efficient use of a relatively accessible site.
19. The appellant has submitted a completed planning obligation in the form of a Unilateral Undertaking made under Section 106 of the Town and Country Planning Act 1990 (as amended). This includes a commitment to the payment of a financial contribution towards measures to mitigate the impacts of the proposed development on the Dorset Heathlands. This has been approved by the Council. On the basis that I am dismissing the appeal for other reasons, I have not dealt with this any further.

Conclusion

20. The proposal would offer modest benefits as outlined and I find also that there would be no harm as regards the character and appearance of the area, nor as to highway safety. These aspects do not though outweigh the development plan conflict and harm found as regards the effect on the living conditions of nearby residents and in respect of the living conditions that would be afforded to future occupants. Given the tri-partite definition of sustainable development in the Framework, the proposal would not therefore represent the sustainable development in respect of which the Framework creates presumption in favour. For the above reasons, I find that the appeal should fail.

Veronica Bond

INSPECTOR