

Appeal Decision

Site visit made on 24 January 2017

by R J Jackson BA MPhil DMS MRTPI MCMi

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

Decision date: 10 February 2017

Appeal Ref: APP/G1250/W/16/3163087

Addiscombe, 8 Cranborne Road, Bournemouth BH2 5BR

- 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 Cape Developments against the decision of Bournemouth Borough Council.
 - The application Ref 7-2016-24668-B, dated 8 May 2016, was refused by notice dated 25 August 2016.
 - The development proposed is to demolish existing flat block and erect block of 31 flats with parking.
-

Decision

1. The appeal is dismissed.

Procedural issues

2. The application was made in outline with access, layout and scale for consideration. I have considered the appeal on this basis. The formal definitions of 'access', 'layout' and 'scale' are set out in legislation¹, but in simple terms this means that the location of the access, the form of the building, including the circulation routes and parking layouts, and the height and shape of the building are for consideration at this stage.
3. What is reserved for later consideration as 'reserved matters' are 'appearance', which deals with the external form of the building, and 'landscaping', which is the treatment of those external parts of the site excluding the buildings.
4. There are two Tree Preservation Orders (TPOs) relating to the site. One² which relates to a Corsican Pine within the site near the southwest corner at the junction of Cranborne Road with Tregonwell Road, and a second³, being an area Order, which relates to all trees on the northern part of the site and extends to adjoining land to the east.

¹ Article 2(1), The Town and Country Planning (Development Management Procedure) (England) Order 2015 (as amended)

² Reference 970/2012

³ Reference 1102/2016

Main Issues

5. The main issues are the effect on:

- the character and appearance of the area and the setting of the West Cliff and Poole Hill Conservation Area (the WCPHCA);
- the living conditions of the occupiers of The Summit in terms of outlook, light and privacy;
- highway safety and the convenience of occupiers of nearby properties in terms of parking; and
- the Dorset Heathlands⁴.

Reasons

Character and appearance and setting of WCPHCA

6. The appeal site lies on a sloping site at the junction of Cranborne Road with Tregonwell Road. On Tregonwell Road the junction lies at the bottom of a significant dip in the road, but is at the top of Cranborne Road which slopes down to the east. On the opposite side of Cranborne Road are the grounds of the former Winter Gardens.
7. Further down Cranborne Road are three blocks of flats. These are four or five storeys in height, including accommodation in the roofs, constructed on plinths to level the floors. However, the absolute height of these blocks reduces with the ground level of Cranborne Road. These properties are within a woodland setting with the woodland behind the buildings linking with the woodland on the rear part of the appeal site. Visually this woodland also links with the trees on the Winter Gardens site giving this area a sylvan feel.
8. On the opposite side of Tregonwell Road lies the WCPHCA. Directly opposite is a vacant site where, I am informed, planning permission has been granted for four and five storey development.
9. To the rear (north) of the appeal site is The Summit. In this vicinity this is a five storey residential building, although immediately to the rear of the appeal site what would be the ground floor provides an access to car parking. There is a vegetated bank between the appeal site and The Summit topped by a fence. There are balconies on the south elevation of The Summit facing towards the appeal site.
10. The appeal site itself has a two storey building occupied as six flats. To create this the site was partially levelled with a retaining wall holding back the lower part of the steep bank which rises to the rear of the site. This bank is well vegetated. The northwestern part of the site however is level with Tregonwell Road and this has block of four garages upon it with access from Tregonwell Road. However the boundary of Tregonwell Road between the access to the garages and the junction with Cranborne Road is well vegetated.
11. The appeal proposal would involve the demolition of all the buildings on the site, the excavation of a proportion of the site and the removal of the trees at

⁴ Dorset Heathlands Special Protection Area, Dorset Heathlands Ramsar Site, Dorset Heathlands Special Area of Conservation and Dorset Heathlands Special Area of Conservation (Purbeck and Wareham) and Studland Dunes.

the rear of the site, and the construction of an eight storey building. The built form, which is for consideration at this stage through layout and scale, would have a basement and eight above ground storeys. However, the built form would not be this height across the whole floor area. Facing Cranborne Road the building would be five storeys high at the junction with Tregonwell Road reducing to three storeys to the east. Facing Tregonwell Road, the building would increase from its five storeys at the junction with Cranbourne Road to the full height. However, because of the ground level change the maximum height would be only six storeys above ground level, so overall it would only be approximately half a storey taller in absolute terms than The Summit. Access to the basement car park would be in the southeastern corner of the site.

12. The Bournemouth Local Plan: Town Centre Area Action Plan (the AAP) was adopted in 2013. Policy D5 of this plan deals with tall buildings which are defined as being substantially taller than their neighbours, and/or significantly change the skyline and/or are taller than six commercial storeys or equivalent. The policy encourages tall buildings in locations shown on the Proposals Map, subject to various criteria, but indicates that there is a presumption against proposals for tall buildings outside these locations unless fully justified. The appeal site lies outside the relevant area shown on the Proposals Map. At eight storeys the building would meet the last criterion and as such should be considered as a 'tall building'. However, a policy should not be blindly followed without considering whether the case in hand should be considered an exception; in this case whether there is an exception to the general presumption against such a building in this location.
13. Policy D5 of the AAP sets out a number of criteria that a tall building should meet, and it makes sense to look at these, because should the proposal fail to meet these criteria then it is likely that such a building would be harmful to the character and appearance of the area.
14. The first criterion is that the building should have a good relationship with the context. In looking at the context of the site it seems to me that the site relates more to Cranborne Road than to Tregonwell Road. The site is well vegetated, as are the other sites along Cranborne Road, and the whole links visually with the well treed environs of the site of the former Winter Gardens on the opposite side of Cranbourne Road.
15. In support of the application the proposal was accompanied by an Arboricultural Impact Assessment and Arboricultural Method Statement (the AIAAMS). This categorised the trees on site in accordance with British Standard 5837:2012⁵ (the BS). The categorisation of trees in accordance with the BS depends on a dual categorisation, firstly depending on the quality of the tree (A, B, C, U) and secondly subcategories (1, 2, 3) which are intended to reflect arboricultural and landscape qualities and cultural values. The AIAAMS was undertaken prior to the imposition of the TPO relating to the trees at the rear of the site and the Council maintains that the categorisation should have been revisited in light of this. It seems to me that the health of the tree would not alter due to the TPO and it might only be the subcategory which would change.
16. Having said that it is clear from the AIAAMS that in respect of the trees to the rear of the site "only the larger trees closest to dwelling have been surveyed & numbers as sub-category within group" and the value of the group to the

⁵ 'Trees in relation to design, demolition and construction – Recommendations'

character and appearance of the area has not been fully taken in account. The proposed development would require the felling of the trees in this area, and there would be insufficient land for planting to mitigate the effects of any felling, particularly as the area to the north of Flats 4 and 5 would need to be kept reasonably clear of vegetation in order to ensure that the occupiers of those flats were not unacceptably enclosed. Through the loss of the verdant and sylvan quality of the site the proposal would not have a good relationship with its context.

17. The second criterion in Policy D5 of the AAP is that development should have a positive relationship with the historic context. Conservation areas are designated because it is desirable to preserve or enhance the character or appearance of areas of special architectural or historic interest. I have not been provided with any background as to the designation of WCPHCA, but in looking around the area it appeared to be a mixed area of commercial, including hotels, and residential development, where development was varied in form. There are no listed buildings in the vicinity of the appeal site. Given the varied nature of the WCPHCA I am satisfied that the proposed development would preserve the setting of the WCPHCA, to which special attention should be given, and consequently the proposal would have a neutral relationship with its historic context.
18. The third criterion is that development should have an acceptable impact on the skyline and respect and/or enhance key views, vistas and landmarks. I have already assessed the proposal in views from Cranbourne Road, where it would be harmful. In looking along Tregonwell Road from the north the proposed development would be read in context with development at The Summit and would not be out of keeping in this view. However, in looking along Tregonwell Road from the south the proposal would appear out of keeping with the character and appearance of the area. This is because the building would be seen on the corner of Cranborne Road and Tregonwell Road, but would not be seen as a corner feature as it firstly, would be set back from the junction, and secondly, the corner would be a low point as the building would rise to the rear. It would therefore not enhance a key view of the site.
19. The fourth criterion is that it should have a high quality appearance and high architectural quality. This is part of the 'appearance' of the building which is reserved for later consideration and I am satisfied that a high quality appearance could be achieved.
20. The remaining criteria are that the proposal should reduce the impact on the local and wider environment, provide well designed internal and external environments that support the public realm and where appropriate provide public facilities and accord with other relevant policies and guidance. The supporting text to the policy makes it clear that these relate to construction, the effect on the living conditions of the occupiers of neighbouring properties, which I consider below, and public access. The first criterion could be satisfied, and the last, public access, would not be relevant to this appeal, however for the reasons set out below the proposal would be harmful to the living conditions of the occupiers of neighbouring properties.
21. The appellant has referred to a number of other sites outside the locations for tall buildings set out in Policy D5 where it indicates that planning permission has been granted for such buildings. However, as I have set out above the

policy should not be blindly followed and from the information I have it would appear that there were reasons why the Council considered permission should be granted. In any case, each proposal needs to be judged on its own individual merits based on the policies and circumstances pertaining at the time of the decision.

22. As set out above, the site lies outside an area seen as suitable for tall buildings, and notwithstanding what would be a satisfactory relationship in architectural form to The Summit, and that it would preserve the setting of the WCPHCA, the form of the building when viewed from Cranborne Road and from the south along Tregonwell Road would be harmful to the character and appearance of the area, and the proposal would be harmful to the living conditions of the occupiers of neighbouring properties.
23. Consequently the proposal would be contrary to Policies CS21 and CS41 of the Bournemouth Local Plan: Core Strategy (the BCS) in that it would not contribute positively to the character of the neighbourhood, and would not maintain and enhance the quality of the street scene. It would also be contrary to Policies 4.25 and 6.10 of the Bournemouth District Wide Local Plan (the BDWLP) which require, where necessary, development proposal to include sufficient land for planting and landscaping, and where flats are to be permitted they should respect the character and appearance of the area, scale and massing of developments, and takes account of important trees. It would be contrary to Policies D4 and D5 of the AAP in that it would fail to respect the site and its setting and, as well as being in an area where there is a presumption against tall buildings, would not have a good relationship with its context, nor have an acceptable impact on the skyline or enhance key views. Finally, it would be contrary to paragraphs 58 and 64 of the National Planning Policy Framework (the Framework) in that it would not respond to local character and would fail to take the opportunities available for improving the character of an area.

Living conditions

24. The Council's, and local residents, objections relate to the proposed relationship to the flats in The Summit. As noted above, there are a number of balconies to the flats on the southern elevation on all the upper floors. The proposed building would be located considerably closer to and above The Summit than the existing buildings on site.
25. The effect of this would be to significantly and harmfully change the outlook from the flats. Currently, with the exception of the first floor flats which look out to the bank at the rear of the appeal site, they have an open aspect and the proposal would involve the introduction of an, in effect, six storey building. This would harmfully change the current situation introducing an overbearing aspect with the lowest flats having a building up to four storeys above them in close proximity.
26. Local residents have also objected to the loss of light. Given that the proposed building would be, using the uncontested figures given by the Council, between approximately 6 m and 8 m from the south elevation of The Summit and given the southern aspect, for the lower floor flats in particular, there would be an unacceptable loss of light to these properties.

27. Objections have also been raised about a potential loss of privacy from any windows in the north elevation of the proposed building. To some extent this forms part of the function of the 'appearance' of the building which is reserved for later consideration. However, if permission were to be granted this would mean that the building form would be fixed and I need to be satisfied that the appearance of the building could be delivered to give the proposed occupiers appropriate living conditions without causing an unacceptable loss of privacy outside the site.
28. For those of the proposed flats in the northwest corner (Flats 14, 21, 26, 28 and 31) the illustrative layouts all show that they have external walls to the north, east and west. I am therefore satisfied that the final internal flat layouts could be designed so that sufficient light could be delivered from east and west and there would not be an unacceptable level of overlooking to the north.
29. For the remaining flats facing north (Flats 4, 5, 8, 9, 15, 16 and 22) I am satisfied that there would be sufficient separation, and in the case of the lower floor flats physical structure (any necessary retaining wall or bank) to ensure that they did not give rise to an unacceptable loss of privacy.
30. Notwithstanding that the proposed building could be delivered without an unacceptable loss of privacy for the occupiers of adjoining properties it would result in a harmful overbearing effect leading to a loss of light and outlook for those occupiers. As such the proposal would be contrary to Policy CS41 of the BCS which requires that new developments should enhance the amenities of neighbouring residents. It would also be contrary to Policy 6.10 of the BDWLP which requires development to respect the living conditions of the occupiers of buildings in the vicinity and to paragraph 17 of the Framework which seeks a good standard of amenity for all existing occupiers of land and buildings.

Highway safety and parking convenience

31. The Council has adopted a Parking Supplementary Planning Document (the PSPD) to provide guidance on parking standards for new development. As the document follows the guidance on parking standards set out in paragraph 39 of the Framework and it was adopted following public consultation I give this significant weight in my decision.
32. The PSPD indicates⁶ that the minimum dimensions for a standard car parking space is 5 m by 2.6 m. However for spaces adjacent to walls or footways the spaces may need to be enlarged by 0.5 m and that for perpendicular bays an 'overspill' of 0.8 m is needed. These enlargements seem sensible as they allow access to/from the vehicle adjacent to any wall and for the vehicle at the end of an aisle to swing out.
33. The PSPD has divided the borough in to various zones for the purposes of setting 'benchmark' parking standards. The appeal site lies in the Town Centre zone. The PSPD gives different parking standards for flats with one allocated space, and for flats with unallocated (communal) parking.
34. As noted above as layout is for consideration at this stage the parking arrangements shown on the application drawings are also for consideration. The layout shows spaces 1 and 3 inside spaces 2 and 4 respectively which means that to ensure that spaces 1 and 3 are reasonably usable each pair

⁶ Section 2

needs to be allocated for a single flat. These spaces should therefore be considered allocated but the remaining nineteen spaces could be considered as unallocated parking. However, as the Council has shown the parking spaces are smaller than set out in the PSPD and do not allow for the overspill to the relevant standard. This means that the layout is deficient and, in reality, there should be less parking available if the layout was in accordance with the advice in the PSPD and thus usable.

35. The mix of flats within the proposed development is shown on the application form as seven 1-bedroom, twenty three 2-bedroom and one 3-bedroom flats. Working on the assumption that the 3-bedroom flat and one of the 2-bedroom flats would have the allocated spaces, the benchmark figure for the remaining flats would be approximately twenty two spaces. This means that the provision on site would be below the benchmark figure.
36. Although the site is in the Town Centre it is set at a higher level than the main centre and while within walking distance the topography of the area would not encourage cycling. I therefore consider that parking at the benchmark level should be delivered on site unless there are sufficient spaces on street in the near vicinity to allow residents to find reasonable alternatives.
37. The roads in the immediate vicinity of the appeal site have double yellow lines to prevent parking at all times, so that the nearest unrestricted, free, parking is in St Michaels Road and West Hill Road. Although only a snapshot of the situation, I walked along both sections of St Michaels Road and West Hill Road at the site visit. This was in the early afternoon in January when I would expect parking demand to be at a low point. However, I saw no empty on-street spaces and there was some, although limited, parking on footways. My experience reflects the evidence of the Council and the reported experience of my colleague Inspector in a recent appeal⁷, which related to West Hill Road, and indicates that there is parking stress in the area. There are public car parks in the vicinity, but these all involve parking charges. I consider that they would not provide a satisfactory solution for the residents of the proposed development as this would be an expensive solution to their parking needs.
38. The appellant has referred, in particular, to permission at the site of the former Punshon Memorial Church, where a low quantum of on-site parking was permitted. I have been advised that this was originally granted permission under a different policy background, and, consequently, there are material differences between the two schemes.
39. I therefore conclude that there is insufficient parking on site to allow for the reasonable needs of the development to be met, and that parking off site would add to parking stress in the area. This would either lead to illegal parking or people would have to park further from their residences. This would either create highway safety issues or a reduction in convenience for those living in the area.
40. Consequently, the proposal would be contrary to Policy CS16 of the BCS which indicates that parking shall be in accordance with the Council's adopted parking standards and the PSPD as set out above.

⁷ APP/G1250/W/16/3144749

Dorset Heathlands

41. The site lies beyond 400 m but within 5 km of the Dorset Heathlands. Natural England, the Government's specialist advisor, indicates that in this location, in the absence of suitable mitigation, additional residential development will have, in combination, a significant adverse impact on the integrity of the sites. This is taken through in Policy CS33 of the BCS. In addition the relevant Councils have published "The Dorset Heathlands Planning Framework 2015 - 2020 Supplementary Planning Document" (the SPA SPD) to provide a mechanism of providing mitigation through a range of measures which are identified in the document.
42. The appellant and the Council agree that a contribution is needed towards mitigation of the effects of the development through a Planning Obligation providing contributions towards Strategic Access Management and Monitoring (SAMM). In order to protect the Dorset Heathlands I concur that an appropriate contribution is necessary, and as set out in the SPA SPD, would be directly related to the development and fairly and reasonably related in scale and kind to the development. As I understand it, SAMM does not represent "infrastructure" within the terms of the Community Infrastructure Levy Regulations 2010 (as amended) and thus Regulation 123 is not engaged.
43. In their final comments on the appeal the appellant indicates "This signed legal agreement has been issued for signing". However, no completed legal document has been submitted to deliver the necessary mitigation. On that basis the proposal does not make adequate provision for effects of the development on the Dorset Heathlands. As such the proposal would fail to comply with Policy CS33 of the BCS and the SPA SPD. It would also fail to comply with the terms of the Conservation of Habitats and Species Regulations 2010 (as amended) and paragraph 118 of the Framework which seeks adequate mitigation for European sites.

Other matters

44. Local residents have expressed concern about the effects of the proposal on air quality and noise and disturbance caused by traffic associated with the development. I have no evidence to show that the air quality issues are a particular concern in this area which would be exacerbated by the development. I am also satisfied that there would be sufficient separation to the adjoining properties so that vehicles accessing the appeal site and manoeuvring within it would not give rise to unacceptable noise and disturbance to harmfully affect the living conditions of adjoining occupiers through this source.

Conclusion

45. For the reasons given above, and taking into account all other matters raised, I conclude that the appeal should be dismissed.

RJ Jackson

INSPECTOR