
Appeal Decision

Hearing held on 26 January 2017.

Site visit made on 26 January 2017.

by Jacqueline Wilkinson B. Arch, Dip Cons Studies (York) IHBC

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

Decision date: 20 March 2017

Appeal Ref: APP/G1250/W/16/3159406

859 Wimbourne Road, Bournemouth Dorset BH9 2BG

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by DWP Housing Partnership against the decision of Bournemouth Borough Council.
 - The application Ref 7-2016-19548-B, dated 24 February 2016, was refused by notice dated 18 May 2016.
 - The development proposed is demolition of existing building and replacement with a 2 storey building solely in residential use.
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Decision

1. The appeal is dismissed.

Application for costs

2. An application for costs was made at the Hearing by DWP Housing Partnership against Bournemouth Borough Council. This application is the subject of a separate Decision.

Main Issues

3. A Unilateral Planning Obligation dated 10 January 2017 undertakes to pay towards the Dorset Heathlands Mitigation Strategic Access Management and Monitoring. I am satisfied that the obligation complies with the tests set out in the Framework and the CIL¹ Regulations and that the effect on protected habitats would be adequately mitigated.
4. The main issues are therefore: i) whether the proposal would adversely affect the vitality and viability of the district centre and if so, ii) whether there are other material considerations which would justify the grant of permission.

Reasons

The district centre

5. Policy CS6 *Delivering sustainable communities* of the Bournemouth Local Plan: Core Strategy October 2012, (Core Strategy) aims to ensure that local neighbourhoods are improved and enhanced to reinforce local identity, access to services and functionality through retaining and enhancing a range of

¹ Community Infrastructure Levy Regulations 2010.

facilities that meet the day to day needs of the local community. It also states that it will aim to do this through encouraging an increase in local employment opportunities. The text recognises that Bournemouth's district centres have broadened their range of services and emphasises the importance of a good range of facilities to meet local and broader needs.

6. Policy CS9 *Enhancing district centres* specifically requires that development does not result in the loss of ground floor retail/commercial floor space to residential use. This, it states, is in order to maintain or improve upon the function, vitality and viability of the centre in relation to its retail, cultural and community facilities.
7. Saved policy 5.20 of the Bournemouth District Wide Local Plan 2002 states that within secondary shopping areas uses appropriate to shopping centres will be granted planning permission subject to provisos. The appellants point out that the text to this policy states that the issue of the contribution of the proposed use to the vitality of the shopping area is not a critical factor in these (secondary shopping areas) locations. However, this is not at odds with the wider aims of the later Core Strategy approach set out in CS9, which is no longer focused solely on shopping functions of the district centre.
8. The Framework in Section 2 *Ensuring the vitality of town centres*, sets out that local planning authorities should define a broad strategy for the definition of a network and hierarchy of centres that is resilient to anticipated economic changes. The terms vitality and viability are not defined. Policies CS6 and CS9 take a wide view of the question of vitality and viability. These policies aim to retain a "good range of facilities", including employment opportunities. The Core Strategy also recognises the impact of changes in shopping habits and states that it is therefore important that the experience and social interaction of shopping in local centres is enhanced through complementary leisure and community uses, business premises and services.
9. The district centre runs the length of Wimborne Road and has two designated core areas. The northern section, known as Moordown, is more local in character than the southern section and is characterised by small units in a series of 1920's and 30's shopping parades and forward shop extensions to former houses. The core of Moordown has been identified in the next parade to the north on the same side of the street as the appeal site, but this parade is not discernibly different in functional character to other parades nearby.
10. The appellants have carried out a District Centre Health Check, which shows that in the northern stretches of the district centre approximately 97% of ground floor premises are occupied and 9% of buildings are in residential occupancy at ground floor level. The appellants' interpretation of the results is that there is sufficient retail provision to ensure the vitality of the centre is maintained and that the loss of this one unit would not affect its viability.
11. The loss of just one small unit amongst many other small units would not have a measurable impact on the vitality i.e. the current strength, of the centre. However, viability in its broadest sense is the ability of the district centre to maintain its vitality over the longer term. Neither party would express an opinion as to how the cumulative impact of the loss of individual small commercial units would be assessed. Since the Core Strategy was adopted,

permitted development² rights have been introduced which allow change the use of Class A1, A2 and B1(a) commercial premises to residential use. The Council stated that so far there have not been many such changes of use in this part of the district centre and that it is difficult to predict how much take up there will be.

12. First floor residential uses play an important role in the vitality of the area, giving surveillance and activity and I accept that some properties are in residential use at ground floor level. The domestication of the relatively deep forecourt on the appeal frontage could be controlled by condition. However, the two bedroom windows would inevitably be blank, which would be significantly at odds with the active commercial character of the ground floor frontages in the area. The ground floor residential use would not therefore be an appropriate use in the district centre.
13. An appeal decision³ in relation to an application for prior approval for a change of use to residential of part of the ground floor of 907 Wimbourne Road, which is in the designated primary shopping area one block north of the appeal site, has been put before me. This appeal was upheld, the Inspector having decided that the loss of this unit would not harm the vitality of the centre. However, there were significant differences between this site and the appeal site in that the part of the ground floor area involved had not been functionally separate to the residential use for some years.
14. The appellants suggest that the fact that the building is now vacant and shored up should be taken into account. However, buildings undergoing renovation are held in this state for periods of time and this does not outweigh the longer term objectives set out in the Core Strategy.
15. I therefore conclude, notwithstanding my findings on vitality, that the proposal would fail to meet the longer term aims of policies CS6 and CS9 of the Core Strategy to, maintain and improve the viability of the District Centre.

Other material considerations

16. The appellants have explained that due to severe structural problems, the building is beyond economic repair. An estimate of £161,200 for repairs was submitted as evidence at the Hearing. They make the case that re-building the property is therefore necessary, but that the inclusion of a commercial ground floor would not be viable.
17. A structural report was submitted to support the appellants' case for demolition. It refers, in 6.00 to the poor state of repair of the building, lack of foundations and the continuing structural movement. I accept that the building is in need of substantial repair. However, at the Hearing I was told that the building has been in the ownership of the appellants for 16 years. The precise reason for the building failure is still not known but it was evident at the site visit that the adjacent buildings had also suffered from historic movement. For whatever reasons, the actions taken over the years have not been effective in remedying the causes.

² Town and Country Planning (General Permitted Development) (England) Order 2015, Town and Country Planning (General Permitted Development) (Amendment) (England) Order 2016.

³ APP/G1250/W/15/3132853

18. An initial valuation, scenario A, (dated 18 February 2016) was carried out to determine whether a contribution towards affordable housing should be made. This was on the accepted basis of a purchase/sale scenario, with a 17.5% profit level. This demonstrated a negative residual valuation of - £119,091 and the Council has waived its requirement for affordable housing contributions.
19. For the appeal, two more scenarios were assessed. Scenario B (rebuild with commercial ground floor for open market sale) demonstrates a significantly higher negative residual valuation using the same base criteria as scenario A. Scenario C (rebuild with commercial ground floor but no site value for open market sale) demonstrates a negative residual valuation of -£5,391. As there has been no land transaction, scenario C is the most relevant to this appeal.
20. Despite these viability assessments, the appellants are prepared to proceed with the project on the basis that the flats would be rented, not sold. This indicates to me that other approaches to the question of viability exist. The viability assessments have been made without a detailed scheme and are based on standard assumptions about input data, profit levels and land values. Whilst this is accepted methodology, it is not a full options analysis.
21. There are items on the cost estimate for repairs which would also arise in the re-build scenario (party wall award, renew foul drainage) and there would be some savings on demolition and clearance. A lower profit margin would be justifiable in the case of this relatively small construction project. On the limited evidence before me, I cannot rule out that a scenario involving repair and the retention of this art deco building, including the attractive shop front, would be reasonably viable.
22. I therefore conclude that a case for there being other material considerations to outweigh the failure of the proposal to support the long term viability of the district centre has not been demonstrated.

Conclusions

23. This part of the district centre is in good health and the wider benefits of this economically and socially are set out in the Core Strategy. However, there are factors outside the Council's control, along with significant changes to way people acquire goods and services which will increasingly will impact on the longer term viability of the district centre. I therefore find that the Council's precautionary approach to the loss of small commercial uses on the ground floors of premises in the District Centre is justified. I have concluded that the proposal would not have an immediate impact on the vitality of the area, but that it would fail to maintain or improve the longer term viability of the centre.
24. The proposal would make a windfall contribution to the supply of housing in the Borough, but this would be small and I am satisfied that the Council can demonstrate a five year supply of housing land.
25. I have not been able to conclude that there are no reasonable prospects for the re-use or rebuilding of this property in its current uses. I therefore conclude that there are no other material considerations which would justify the grant of permission in this case.
26. For the reasons given above I conclude that the appeal should be dismissed.

Jacqueline Wilkinson

INSPECTOR

APPEARANCES

FOR THE APPELLANT:

Ken Parke	Ken Parke Planning Consultants
Adam Bennett	Ken Parke Planning Consultants
Tom Wilde	KPPC (Observing)
John Newman	Chartered Surveyor
Stephen Wells	DWP

FOR THE LOCAL PLANNING AUTHORITY:

Tom Hubbard	Planning Officer
Lee Finn	Planning Appeals Officer

DOCUMENTS

- 1 Appellant – Estimated repair costs
- 2 Appellant – Costs application