
Appeal Decisions

Site visit made on 16 March 2017

by Mrs H M Higenbottam BA (Hons) MRTPI

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

Decision date: 12 April 2017

Appeal A: APP/G1250/C/16/3155026

Land at 54 St. Michaels Road, Bournemouth BH2 5DY

- The appeal is made under section 174 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991.
- The appeal is made by Mr Stuart James Ridley against an enforcement notice issued by Bournemouth Borough Council.
- The enforcement notice was issued on 10 June 2016.
- The breach of planning control as alleged in the notice is 'Without planning permission, change of use from an hotel to a Sui Generis House in Multiple Occupation with shared facilities.'
- The requirement of the notice is to cease the use of the property for the purpose of multiple occupation.
- The period for compliance with the requirements is 6 months.
- The appeal is proceeding on the grounds set out in section 174(2) (a) of the Town and Country Planning Act 1990 as amended.

Summary of Decision: The appeal is dismissed and the enforcement notice is upheld. Planning permission is refused on the application deemed to have been made under section 177(5) of the 1990 Act as amended.

Appeal B: APP/G1250/W/16/3155035

Croydon Private Hotel, 54 St. Michaels Road, Bournemouth BH2 5DY

- 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 Mr Stuart James Ridley against the decision of Bournemouth Borough Council.
- The application Ref 7-2015-25963, dated 19 August 2015, was refused by notice dated 21 March 2016.
- The development proposed is stated to be 'Change of use The Croydon Hotel 54 St. Michaels Road Bournemouth BH2 5DY to longterm occupancy'.

Summary of Decision: The appeal is dismissed.

Appeal A on ground (a) and Appeal B

Main Issues

1. The Council accept that the hotel on the appeal site is no longer viable and has no reasonable prospect of continuing. The first issue between the parties is therefore the implications of allowing the development for the Council's adopted policy in respect of Houses in Multiple Occupation (HMO) which has particular regard to the function of the area in relation to the tourist industry and the local community.
-

2. I shall also consider whether or not the development would preserve or enhance the character or appearance of the West Cliff and Poole Hill Conservation Area.
3. In addition, the appeal site lies in the vicinity (within 5km and beyond 400m) of designated Dorset Heath lands Special Protection Area (SPA), Ramsar site and Dorset Heaths Special Area of Conservation (SAC). Therefore, the second main issue is the effect of the development on the Heathland interest features of these sites.

Reasons

4. No 54 is part of a terrace and is a three storey building with a basement. There is a small amenity area to the rear with steps to the basement and a gate to the pedestrian rear access. There are eight en-suite rooms within the ground, first and second floors. One on the ground floor, three on the first floor and four on the second floor. Each room has a shower room, fridge, double bed, clothes storage and other furniture. All appear well appointed and although some rooms are smaller than others, all are adequate to accommodate the furniture and facilities.
5. Large walk in storage cupboards are found on the first and half landing between ground floor and first floor which are used for storing cleaning materials and maintenance equipment by the owner. There is also a shower room adjacent to No 2.
6. On the ground floor is a communal kitchen/dining/sitting area for the residents of the en-suite rooms to use. The interior and exterior of the building are finished to a high standard and it appears that the facilities are enjoyed by the residents. I noted there was a launderette within easy walking distance of the property.
7. The basement is a one bedroom apartment, accessed via a staircase from the ground floor. I understand the building manager and his partner live in this unit. The flat has a rear basement door leading into the rear yard area where there is a small lower patio and at the upper level, accessed via steps, is the bin storage area and a shed for bicycle storage for all residents. A rear gate leads onto a pedestrian access way. The bins within the communal areas of the HMO are emptied by the cleaners of these areas.
8. No 54 is sited on a corner with frontages to St. Michaels Road and Purbeck Road. Purbeck Court flats 1-11 and No 52 Flats 1-5 are either side of the appeal site. There are also a large number of hotels/guesthouses/B&B's in the immediate vicinity. It is within the West Cliff and Poole Hill Conservation Area.
9. The appellant has provided the following evidence in relation to the hotel/B&B use of the property
 - a letter from 'Mr Green' estate agents stating that the property was marketed from 7 July 2014 for six months and there was no interest in the property;
 - a letter from BKB Chartered Certified Accountants stating that a hotel/B&B use struggled to make a commercial profit over the years of trading and currently has sizable losses carried forward from the initial

set up and renovation of the hotel. In its view the current business model is not viable;

- a HMO license dated 10 September 2015 issued by Bournemouth Borough Council; and
- a final comments letter which explains the vetting of residents, supervision of the premises by the owner and live-in manager and part time cleaner. It also confirms the refuse collection costs and bicycle storage available. The appellant states that the residents are people of good repute and professionals who contribute to the life and business of Bournemouth.

First issue

10. Policy CS28 of the Bournemouth Local Plan: Core Strategy (adopted October 2012) (CS) resists the loss of sites or premises used or last used as tourist accommodation unless it can be demonstrated that the business is no longer viable and has no reasonable prospect of continuing and the loss of the tourist accommodation will not harm the function of the area in relation to the tourism industry and local community. The Council accept that the hotel on the appeal site is no longer viable and has no reasonable prospect of continuing and consider that in such circumstances a residential use, but not a HMO use, would be supported. The Council record in the officer's report that a residential use would only be supported if it were within Class C3¹ and individual flats.
11. The Tourist Accommodation Supplementary Planning Document (adopted April 2016) (SPD) explains where viability evidence confirms a site or premises are not capable of providing viable holiday accommodation use either in the existing form or a change of use/redevelopment involving an appropriate element of tourist accommodation then residential uses will be considered. However, it goes on to state that HMO uses are unlikely to be supported especially in areas characterised by holiday accommodation. This accords with Policy 6.17 of the Bournemouth District Wide Local Plan (LP) as HMO use is unlikely to be compatible with the existing character of such areas and is likely to cause harm to the function of the area in relation to other tourism businesses.
12. The Council state that the Westcliff area is currently suffering from the negative impact of HMO uses which contribute to a number of difficult issues presenting in the immediate area relating to crime, anti-social behaviour, general appearance of the property and surrounding area as well as the decline of the quality of the street scene and the sustainability of the community. These are voiced as general issues of a concentration of HMO uses within the area. In this case I saw at my site visit the high /good quality of the conversion of the appeal property to a HMO, with attention to detail both internally and externally. However, while this may be an exceptionally good HMO, I cannot reasonably control such standards or ownership through conditions.
13. HMO uses generally relate to transient communities which are identified as resulting in anti-social behaviour in the area. The effect of HMO's generally on the attractiveness of the area as a tourist destination is of serious concern to

¹ Class C3 Dwellinghouses of the Town and Country Planning (Use Classes) Order 1987.

the Council because of its economic impact. It has adopted policies to reinforce and improve the tourist function of the area and a change of use to a HMO would undermine that objective. Due to these issues I accept that the HMO use fails to comply with the first bullet point in saved LP Policy 6.17 due to an adverse impact on the character of the area because of an over intensification of this type of use where the predominant use is Hotels, Guesthouses and B&B's. As such it would also be contrary to the SPD.

14. The character of the West Cliff and Poole Hill Conservation Area is one which includes 19th century development on within the tightly packed shopping and commercial area around Commercial Road and Poole Hill and compact development of mainly terraced hotels and guest houses in and around St Michaels Road, where although many hotels/guesthouses have been altered over time the original Victorian character and appearance remains. The development harms the character of the Conservation Area by increasing the intensification of HMO use within the area, which detracts from the tourist use which is an important part of the areas character.
15. The development is within a terrace, between two flatted properties, and it therefore fails to comply with the second bullet point of LP Policy 6.17, which requires that HMO's are only created in substantial detached buildings where they are adjacent to residential properties.
16. Although the rear yard is limited in size and only has direct access from the basement flat, I consider it provides adequate bin storage facilities and cycle storage to serve the needs of the HMO and provides a sitting out area for the basement flat at the lower level. As such it would comply with the thrust of CS Policy CS18 as adequate cycle storage exists. Furthermore, while outdoor amenity areas may be desirable this is a site within a densely populated area and the lack of such an area for the proposed use is not determinative in my view.
17. The Council has referred to a 2016 appeal decision relating to 67-71 St Michaels Road (reference APP/G1250/C/16/3143366) relating to the use of the premises as a HMO. I note that this was a much larger HMO than the current appeal with 45 units within it and so was likely to have a much greater impact, because of the anticipated number of residents coming and going, the increased expectation of occupant change (as it would be less likely to be a settled community) and the demand on other resources and space.
18. While the business in this case appears well managed and the residents do not cause particular problems in this location, I cannot reasonably control the ownership, management of the HMO or behaviour of residents and thus allowing this appeal would significantly undermine CS Policy CS28 and LP Policy 6.17. In addition I am mindful that to permit this development would lead to a harmful precedent for HMO applications in this area which could significantly undermine the tourist function and viability of the area to the detriment of the local economy.
19. In addition the development fails to preserve or enhance the character of the Conservation Area and would be contrary to CS Policies CS39 and CS41 which, amongst other things, promote development which enhances local distinctiveness and preserves or enhances the character of a conservation area. In addition, it would fail to accord with Paragraph 131 of the Framework, which

states that local planning authorities should take account of the desirability of sustaining and enhancing the significance of heritage assets.

Second issue

20. CS Policy CS33 and the Dorset Heathlands Planning Framework Supplementary Planning Document (DHPF) requires contributions towards Strategic Management and Mitigation Measures to ensure that there is no adverse effect on the integrity of nature conservation sites of national and international importance. There is no mechanism available for achieving such contributions before me. As such, the development is contrary to this policy. Moreover, without substantiated evidence to the contrary the proposal would be likely to add to unacceptable pressure on these wildlife sites that would not be adequately mitigated and so would cause harm to protected areas.

Public Benefits

21. Paragraph 132 of the Framework states that great weight should be given to the conservation of heritage assets, as they are irreplaceable and any harm should require clear and convincing justification. In this case, I consider that the unacceptable harm identified to the Conservation Area would be less than substantial. Paragraph 134 of the Framework requires that where the harm identified would be less than substantial, that harm should be weighed against the public benefits of the proposal.
22. The Planning Practice Guidance states that public benefits may follow from many developments and could be anything that delivers economic, social or environmental progress as described in paragraph 7 of the Framework. Public benefits should flow from the proposed development and should be of a nature or scale to benefit the public at large and should not just be a private benefit.
23. While the development provides accommodation for individuals to a good standard this does not outweigh the harm identified to the character of the Conservation Area and the significance of the heritage asset.

Conclusions

24. For the reasons given above I conclude that Appeal A should not succeed. I shall uphold the enforcement notice and refuse to grant planning permission on the deemed application. In relation to Appeal B for the reasons given above I conclude that the appeal should be dismissed.

Formal decisions

Appeal A

25. The appeal is dismissed and the enforcement notice upheld.

Appeal B

26. The appeal is dismissed.

Hilda Higenbottam

Inspector