



Appeal Decision

Site visit made on 5 February 2019

by P W Clark MA(Oxon) MA(TRP) MRTPI MCMI

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

Decision date: 19 February 2019

Appeal Ref: APP/G1250/W/18/3207259

Garden Court, 45 Surrey Road, Bournemouth BH4 9HR

- 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 H Kudmany against the decision of Bournemouth Borough Council.
 - The application Ref 7-2018-1215-S, dated 16 January 2018, was refused by notice dated 23 March 2018.
 - The development proposed is penthouse flats.
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Decision

1. The appeal is allowed and planning permission is granted for penthouse flats at Garden Court, 45 Surrey Road, Bournemouth BH4 9HR in accordance with the terms of the application, Ref 7-2018-1215-S, dated 16 January 2018, subject to the following conditions:
 - 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
 - 2) The development hereby permitted shall be carried out in accordance with the following approved plans: 1350.12B, 1350.14D, 1350.18E, 1350.19A, 1350.21, 1350.22 and 1350.23.
 - 3) No development shall take place until details/samples of the materials to be used on the external surfaces of the proposed development have been submitted to and approved in writing by the Local Planning Authority. Development shall be carried out in accordance with the approved details.
 - 4) Before development commences, the tree protection measures as detailed in the Complete Arb Services Ltd. Tree Report 3rd Revision dated March 2018 shall be implemented in full and in accordance with the recommended timetable and maintained and supervised until completion of the development.
 - 5) Any new or replacement hard surfaced area shall either be made of porous materials, or provision shall be made to direct run-off water from the hard surface to a permeable or porous area or surface within the curtilage of the property.
 - 6) Before the occupation of any part of the development hereby approved, the car parking spaces and cycle storage lockers shown on the approved plans shall be constructed and laid out in accordance with the approved

plans and thereafter permanently retained. Both car parking spaces shall be made available for the residents and visitors of the development and shall remain unallocated to any specific resident or residence for the lifetime of the development.

Reasons

Habitat Regulations

2. The appeal site lies within a zone of proximity to the Dorset Heathlands Special Protection Area (SPA) and Ramsar site and the Dorset Heaths Special Area of Conservation (SAC) where developments, either on their own or in conjunction with other proposals are likely to have an adverse effect on the integrity of the SPA. An Appropriate Assessment under the Habitat Regulations is necessary in allowing the appeal. This need be no more than proportionate to the case.
3. In this case, the cumulative effects of potential development within the Bournemouth area on the protected sites have been assessed during the preparation of the Bournemouth Local Plan Core Strategy adopted 2012 (the Core Strategy) and (up to the year 2020) in the Dorset Heathlands Planning Framework 2015-2020, dated January 2016 (the Mitigation Strategy). These have resulted in an implementation plan to mitigate the impact of new housing development upon the Dorset Heaths Special Protection Area. The measures included within this Implementation Plan are funded partly by CIL receipts and partly by payments secured through planning obligations.
4. A Unilateral Undertaking, signed and dated 8 January 2019, provides for the appropriate contribution to be made in accordance with the Mitigation Strategy. With this in place, I conclude that the effects of this proposal on the protected areas would be sufficiently mitigated so that no harm to their integrity would result.

Protected trees

5. There is a Tree Preservation Order protecting two trees within the curtilage of Garden Court. The development proposed would have no direct effect on either of these two trees. There is a risk that activities during construction could have an adverse effect but recommendations are made in a Tree Report (3rd revision) by Complete Arb Services Ltd which, if followed, would avoid any harm by designating a work area and erecting protective fencing to exclude building workers from an area around the protected trees. These measures can be required by condition (4). No additional tree protection condition of the kind suggested by the Council would be necessary.

Main issue

6. With such a condition in place, the sole main issue in this appeal is the effect of the proposals on the supply of, and demand for, car parking. Two additional penthouse flats are proposed. The Council's parking standards require the provision of 1.8 (rounded up to 2) parking spaces (if unallocated), 2.2 (rounded up to 3) if allocated. This can be required by condition. The proposal would provide two unallocated spaces. These would be located on an enlarged part of an excavated area currently forming a footpath around the building but an alternative pedestrian route would be available within the undercroft of the building.

7. The Council's Parking Supplementary Planning Document adopted in July 2014 advises that the minimum dimension of a standard car parking space should be 2.6 x 5m. In this case, to allow for the fact that the parking spaces proposed would be adjacent to the front wall of the block of flats on one side and cut into a steep slope with retaining walls on two other sides, spaces of 3.1 x 5.5m are shown on the plans so that car doors could be opened once the parking spaces are in use.
8. One of the parking spaces would be sited partly underneath the flight of steps which lead up to the front door of the block of flats. At a point approximately 5m into the space and about 2.6m out from the face of the building, I estimate the headroom under the stairs would be about 2.4m, rather more than the 1.58m minimum annotated on the plans (which appears to relate to the 5.5m depth and 3.1 width extremities of the space) but in either event sufficient to clear the average height of a vehicle which, according to the Council's information, is about 1.5m.
9. I have carefully studied the Council's detailed swept-path analyses which show that, if approached in the correct direction implied by the "in" and "out" accesses to the site, the parking spaces can be accessed, albeit that a large car would have to undertake several shunting manoeuvres. I am therefore satisfied that the proposal would make adequate provision of parking to meet the demands arising from the development proposed without reliance on parking on-street. It would comply with Core Strategy policies CS16 and CS41 which require adherence to the Council's car parking standards and a contribution to the safety of the public realm.

Other matters

10. Other matters raised include the adequacy of parking provision for the existing development on site but the proposal would not remove any existing authorised provision and it is not expected that a proposed new development should be required to make good any deficiencies in a pre-existing development. Concerns about the structural capacity of the existing building to carry the load of the new development would be dealt with through the Building Control process. A standard condition would require compliance with the approved plans which show obscured glazing to bathroom windows in the side elevations, thus providing privacy to occupants of neighbouring buildings and modesty to potential future occupants of the development proposed.

Conditions

11. In addition to those already mentioned, conditions would be necessary to require the submission of details of materials to be used in the external surfaces of the proposal as these are not shown on the drawings or described on the application form. Condition (5) is required to ensure satisfactory drainage of the parking spaces without increasing the rate of run-off from the site in accordance with sustainable drainage principles but a condition, requested by the Council to install a sustainable urban drainage system for the whole of the existing development on site goes beyond what is necessary for this development to be made acceptable and so is not imposed.

P. W. Clark

Inspector