



Appeal Decision

Site visit made on 10 September 2019

by Mrs H Nicholls MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 16th October 2019.

Appeal Ref: APP/Q1255/W/19/3227656

311 - 313 Wimborne Road, Poole BH15 3DH

- 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 Mars Investments Ltd against the decision of Poole Council.
 - The application Ref APP/18/00976, dated 19 July 2018, was refused by notice dated 8 March 2019.
 - The development proposed is demolition of the existing buildings and the erection of a mixed-use development comprising 25 x residential units and 2 x retail units with associated access.
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Decision

1. The appeal is allowed and planning permission is granted for demolition of the existing buildings and the erection of a mixed-use development comprising 25 x residential units and 2 x retail units with associated access at 311 - 313 Wimborne Road, Poole, BH15 3DH, in accordance with the terms of the application, Ref APP/18/00976, dated 19 July 2018, subject to the conditions in the attached schedule.

Preliminary Matters

2. I have taken the description of development from the Council's decision notice as the appeal proposal is described on the application form as comprising, amongst other things, 27 residential units. Following changes to the plans during the processing of the application, the residential element of the proposal is for 25 units. I shall proceed on this basis.

Application for costs

3. An application for costs was made by Mars Investments Ltd against Poole Council. This application is the subject of a separate Decision.

Main Issues

4. The main issues are the effect of the proposal on:
 - the character and appearance of the area; and
 - highway safety.

Reasons

Character and appearance

5. The area surrounding the appeal site is predominantly residential with the dominant highway, Wimborne Road, forming the main through route into the

town centre in this location. Buildings and dwellings surrounding the appeal site are generally two storey and typically of traditional form and character. There are a few examples of taller buildings, including the three storey flatted blocks adjoining the appeal site and the four storey modern building, including flats, to the south. In the wider surroundings, there are numerous examples of large, contemporary buildings containing flats that add variety and quality to the character and appearance of the town.

6. The existing appeal building is a large, two storey building with a shop front on the ground floor, featureless expanse of cladding at first floor level and with a large box-like addition to the rear. The appeal building, unlike the adjacent terrace, is unique in its characterless and dated quality. As such, the building has very limited architectural merit and its current condition detracts from the character and appearance of the area.
7. The appeal proposal would introduce a large four storey building over the footprint of the existing building. It would cover a greater extent of the site than the current building, although it would maintain a detachment of approximately 2 metres from the adjacent terrace and would respectfully step down in height at this point. The style of the building would be striking, with large extents of glazing creating verticality and balancing its horizontal form. It would also have an interesting balcony frame, a variation in depth in the principal elevation and other eye-catching articulation features, which would signify its high standard of contemporary design.
8. Whilst the building would be far larger than the building that currently exists on site, its prominence would provide a focal point for the local centre and re-emphasise the role of the buildings as part of the urban form, offsetting some of the dominance of the surrounding highway infrastructure. It would also provide a more active frontage along Wimborne Road and wrapping around the south elevation to add to its positive contribution to the character and appearance of the area.
9. In view of this main issue, the proposal would not harm the character and appearance of the area and would therefore comply with Poole Local Plan¹ Policy PP27, which seeks to achieve a good standard of design that reflects or enhances local patterns of development and neighbouring buildings.

Highway safety

10. The Oakdale Local Centre contains a range of local services and businesses along Wimborne Road in the vicinity of the appeal site, surrounded by moderate to high density housing. The appeal site also falls within an area identified in Local Plan Policy PP2 as a Sustainable Transport Corridor.
11. The appeal site comprises two business premises (one presently vacant), and has a dedicated car park. The car park is accessed via two separate entrances, one from Wimborne Road and one from Vicarage Road which passes the rear of the building.
12. Whilst access to the car park may have previously been unrestricted, at the time of my visit, the Wimborne Road access was blocked off and the rear access gate was closed, leaving a limited number of spaces accessed from

¹ Poole Local Plan – adopted November (2018)

Wimborne Road to serve the business currently in operation. As such, the car park is not one for general use by the wider public or used in association with other businesses in the Oakdale Local Centre.

13. The sole access for customers, future residents and service vehicles would be from Vicarage Road and the access from Wimborne Road would be permanently closed. This would reduce the number of vehicle manoeuvres across Wimborne Road, allowing for a free flow of traffic and improving the safety of users of the highway, including cyclists and pedestrians.
14. The proposal would result in there being two retail premises on the appeal site, along with 25 apartments distributed across the first, second and third floors. The car parking would be divided across the two uses, with 9 spaces for the retail element and 19 spaces for the residential apartments. From the parking standards set out in the Parking and Highway Layout in Development SPD² (Parking SPD) linked to Poole Local Plan Policy PP35 e), there would appear to be a shortfall of 1 space to serve the residential element of the proposal where all but registered disabled user spaces would be unallocated.
15. In respect of the parking for the retail units, the 9 spaces would be available on a first-come, first-serve basis. Local Plan Policy PP35 e) and the Parking SPD seek a range of 20 to 30 spaces for such uses calculated on the basis of floorspace. As such, there would be a tension with the aforementioned Development Plan policy and the Parking SPD. Despite the policy tension, I note that the Council's Transportation Officer did not object to the number and distribution of the parking spaces. The number of spaces also appears to relate well to the overall size of the site, avoiding an appearance of being overdeveloped by built mass or dominated by car parking and highway infrastructure.
16. Given the location of the shops within a Local Centre and Sustainable Transport Corridor and that a condition could limit the sale of convenience goods to only one of the retail units, the customer turnover is likely to be relatively high, thus negating the need for the full number of spaces. In addition, the proposal is located close to the public bus service route and it would include a sufficient number of cycle parking facilities.
17. In respect of the viability and vitality of the Local Centre, the proposal would maintain two retail units with active frontages on the main through route in the area. It would introduce residents onto the appeal site which themselves would create a demand on the local facilities and services. Despite that the proposal would not result in a surplus of parking for existing local businesses that currently operate without such a provision, the proposal would not harmfully affect the viability or vitality of the area.
18. In view of this main issue, the proposal would not prejudice highway safety. It would therefore comply with, in particular, Local Plan Policy PP35 which seeks to ensure new development maximises the use of sustainable forms of travel, provides adequate parking and safe access to the highway. In reaching this conclusion, I have taken into account the views of neighbouring occupiers in respect of the safety of Vicarage Road as the sole access to the site and in respect of the additional vehicular movements and demand for parking.

² Parking and Highway Layout in Development Supplementary Planning Document – adopted July 2011

Other Matters

Designated sites

19. The appeal site lies within the buffer zones of the Dorset Heathlands Special Protection Area and Poole Harbour Special Protection Areas (the SPAs), the Dorset Heathland Special Area of Conservation (SAC), and the Poole Harbour Ramsar site, all of which are designated in accordance with the Habitats Directive as transposed in the UK by the Conservation of Habitats and Species Regulations 2017 ('Habitats Regs'). The qualifying features of the sites include the network of heathland which supports internationally important numbers of bird species and extensive intertidal mudflats that provide an important feeding habitat for overwintering water birds. The conservation objectives for the designated sites are wide ranging and include maintaining the integrity of the sites, contributing to achieving the aims of the Wild Birds Directive and contributes towards the Favourable Conservation Status of its Qualifying Features.
20. The special interest features and integrity of the protected sites are liable to harm from the impact of increased recreational pressures from new residents. Clearly, the proposal is not directly connected with or necessary for the management of the protected sites. It is evident that the proposal, given its scale, nature and distance from the protected sites, would be likely to have significant effects either alone, or in combination with other projects. The only way of avoiding adverse effects on the integrity of the protected sites without seeking an alternative solution would be to secure appropriate mitigation. The parties agree on this suggested course of action.
21. The provision of infrastructure to mitigate the impacts on the designated sites is provided for by the Poole Community Infrastructure Levy (CIL) Charging Schedule which was adopted by the Council on 19th September 2019. In accordance with CIL Regulation³ 28 (1), the proposed dwellings would be CIL liable.
22. The mitigation for the Dorset Heathlands SPAs and Site of Special Scientific Interest would be in the form of a contribution towards its Strategic Access Management and Monitoring (SAMM), the fee for which is £264 per additional flat as set out in the Dorset Heathlands SPD⁴. The mitigation contribution towards the SAMM projects specific to the Poole Harbour SPA and Ramsar site would be £95 per additional flat.
23. The appellant has provided a Unilateral Undertaking dated 18 September 2019 to secure the agreed contributions and the Council has agreed that the form and wording of the undertaking is suitable to sufficiently bind the land and ensure that the contributions are put towards the funding of access management and monitoring the effects of mitigation measures across the relevant designated sites. The contributions are necessary, directly related to the development and fair and reasonable in scale and kind to the development proposed. I am therefore satisfied that they meet the appropriate tests and the obligation is therefore one I can take into account. The CIL payment would also be collected separately prior to commencement of the development.

³ The Community Infrastructure Levy Regulations 2010

⁴ Dorset Heathlands Planning Framework 2015 – 2020 Supplementary Planning Document (adopted January 2016)

24. Following consultation with Natural England on the 11 October 2019, and having regard to its views, I am satisfied that the mitigation described above can be appropriately secured and that it would be sufficient to prevent harmful effects on the integrity and interest features of the protected sites. As such, there would be no conflict with the Habitats Directive and the Habitats Regulations. The proposal also complies with Local Plan Policies PP32 & PP39; and the Dorset Heathlands SPD.

General matters

25. I acknowledge the other concerns expressed by neighbouring occupiers in respect of the potential impacts on privacy. The siting and layout of the proposal in relation to other dwellings in the surrounding area leads me to conclude that there would not be any impacts on the living conditions of neighbouring occupiers in this regard.
26. Notwithstanding that there have been a number of developments built and planned for the surrounding area that contribute to the local housing stock, I consider that the proposal would generate benefits in this regard. I am also mindful of the views expressed in respect of the likely demographic of the future occupants but do not consider that this is relevant or that there would be any harmful social impact from allowing a modest scheme of open market units of varied sizes in a predominantly residential area.

Conditions

27. I have considered the conditions suggested by the Council in the context of the Planning Practice Guidance. I have undertaken minor editing where necessary in the interests of precision and clarity. The number of pre-commencement conditions have been limited as far as possible and where used, the appellant's agreement has been sought.
28. In addition to the statutory time limit condition, it is necessary to condition the approved plans in the interests of certainty.
29. In the interests of the character and appearance of the area, it is necessary to seek details of some of the external materials prior to their use in the construction of the proposal.
30. In the interests of the living conditions of future occupiers, it is necessary to impose a condition preventing future adaptations to the balconies that may otherwise be permissible using permitted development rights.
31. In the interests of the living conditions of future occupiers and to avoid obstructions that may prejudice highway safety, a condition relating to bin stores is necessary.
32. In the interests of the character and appearance of the area, it is necessary to condition the adherence to tree protection measures during the construction of the development. For similar reasons, it is necessary to seek the submission and implementation of an agreed landscaping scheme prior to occupation.
33. In the interests of reducing the reliance on fossil fuels, a condition requiring details of renewable energy measures is necessary to accord with the relevant policy of the Development Plan.

34. In order to avoid any issues of surface water flooding, a condition requiring all ground hard surfaces to be porous or for them to be directed towards such an area is necessary.
35. A condition to limit the number of retail units to two is required in order to avoid them from being further subdivided or merged together, and to ensure that the goods sold therein do not compete with those on offer within town centre retail units.
36. In the interests of highway safety, a condition requiring the provision of access and parking spaces for both vehicles and cycles is necessary. The way in which the parking spaces shall be used is also required to maximise availability for residents and users at the times of greatest demand.
37. In the interests of the character and appearance of the area, it is necessary to seek details by condition of the reinstatement of the street furniture and signage that would be displaced outside the appeal site.
38. In order to ensure that the proposal has adequate means of drainage, a condition requiring the submission of a scheme prior to construction is necessary.
39. Given the nature of the scheme and in order to meet the housing needs of the ageing population, a condition requiring a proportion of the units to be provided with adaptable and accessible space standards and design features is necessary.
40. In the interests of maintaining and enhancing the biodiversity value of the area, it is necessary to impose a condition is seeking an onsite provision for Swifts.
41. Lastly, in the interests of the character and appearance of the area, a condition requiring details of shop fronts to be provided prior to their installation is necessary.

Conclusions

42. For the reasons set out above, the appeal is allowed subject to the conditions below.

Hollie Nicholls

INSPECTOR

SCHEDULE OF 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:
 - Site, block and location plan Ref. 8957/100 Rev G dated June 2018
 - Floor plans 1 of 2 Ref. 8957/101 Rev D dated June 2018
 - Floor plans 2 of 2 Ref. 8957/102 Rev B dated June 2018
 - Elevations 1 of 2 Ref. 8957/103 Rev C dated June 2018
 - Elevations 2 of 2 Ref. 8957/104 Rev C dated June 2018
 - Street scene and existing plans Ref. 8957/105 Rev A dated June 2018
- 3) Details and samples of all external facing, windows, doors, balcony balustrades, ground surfacing and roofing materials to be used shall be submitted to, and approved in writing by, the Local Planning Authority before any on-site construction works commence. The development shall thereafter be carried out in accordance with the approved details.
- 4) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015 and the Town and Country Planning Act 1990 or any subsequent re-enactments thereof, no alterations, additions or changes to the balcony/roof gardens shown on the approved plans shall be undertaken.
- 5) The bin stores for the flats and commercial units shown on the approved plans shall be available for use prior to occupation of the flats and commercial floorspace, respectively, shall be retained for such purposes and no structures shall be erected to limit access to them.
- 6) All works relating to the ground clearance, tree works, demolition and development with implications for trees shall be carried out as specified in the approved arboricultural method statement (ref DS/50919/AL dated 10 January 2019) and shall be supervised by an arboricultural consultant holding a nationally recognised arboricultural qualification.
- 7) Prior to the occupation of the development hereby approved proposals for the landscaping of the site shall be submitted to, and approved in writing by, the Local Planning Authority. The landscaping scheme shall include provision for landscape planting.

Upon approval:

 - a) the approved scheme shall be fully implemented with new planting carried out in the planting season October to March inclusive following occupation of the building(s) or the completion of the development whichever is the sooner, or in accordance with a timetable to be agreed in writing with the Local Planning Authority;
 - b) all planting shall be carried out in accordance with British Standards, including regard for plant storage and ground conditions at the time of planting;
 - c) the scheme shall be properly maintained for a period of 5 years and any plants (including those retained as part of the scheme) which die, are

removed or become damaged or diseased within this period shall be replaced in the next planting season with others of a similar size and the same species, unless the Local Planning Authority gives written consent to any variation; and

d) the whole scheme shall be subsequently retained.

- 8) Prior to first occupation of the building(s) hereby permitted, details of measures to provide 20% of the predicted future energy use of each dwelling from on-site renewable sources, shall be submitted to and approved in writing by the Local Planning Authority. These measures must then be implemented before any residential units are first occupied and shall be maintained in accordance with the manufacturers' specifications thereafter.
- 9) All ground hard surfaces 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 site. The hard surface shall thereafter be retained as such.
- 10) Notwithstanding the provisions of the Town and Country Planning (Use Classes) Order 1987 and the Town and Country Planning (General Permitted Development) Order 2015 or any subsequent re-enactments thereof, the ground floor commercial floorspace of the development hereby approved shall be used for A1 purposes only and for no other use whatsoever. The two units hereby permitted shall not be either divided or combined and at any time only one of the two units shall be used for the sale of food and drink, as the primary products for sale.
- 11) The development hereby permitted shall not be brought into use until the access, turning space, vehicle parking and cycle parking shown on the approved plan have been constructed, and these shall thereafter be retained and kept available for those purposes at all times.

During the opening hours of the approved commercial units, parking bays numbered C1 to C9 immediately to the rear and side of 'retail unit 1' on the approved site plan, shall remain available for customer use associated with those commercial units. The remaining parking bays which are numbered R1 to R19 'resident spaces' shall be available for use by residents and visitors associated with the approved flats and at no time shall these parking spaces be allocated to any individual residential unit, except for any parking spaces which are allocated to a registered disabled user.

- 12) The following schemes shall be submitted to and agreed in writing by the Local Planning Authority and implemented prior to first residential occupation of the building:
 - A scheme to remove and replace the existing planters and benches in the public highway, currently to the front of Commercial Unit 1.
 - A scheme to reconstruct the existing car park access off Wimborne Road to be a continuous footway lowered kerb access.
 - A scheme of car parking signage.
- 13) Prior to the commencement of the development hereby permitted, a scheme for the provision of sustainable urban drainage shall be submitted to, and approved in writing by, the Local Planning Authority. The drainage

works shall be implemented in accordance with the approved scheme and thereafter retained.

- 14) In advance of securing Building Regulation Compliance, the developer will identify 20% (5) of the dwellings hereby permitted to be built in accordance with the requirements of Part M4 (2) Category 2 of the Building Regulations (2015). The units shall first have been agreed in writing by the Local Planning Authority.
- 15) Prior to the commencement of the development hereby permitted, details of products and their siting of provision on site for Swifts shall be submitted to and approved in writing by the Local Planning Authority. The agreed details shall thereafter be implemented prior to first residential occupation of the development.
- 16) Prior to the commencement of use, details of the design of the shopfronts/display windows shall be submitted to and approved in writing by the Local Planning Authority. The approved details shall then be implemented prior to use of the respective unit and thereafter retained.