



Appeal Decision

Site visit made on 17 September 2019

by S. Rennie BSc (Hons), BA (Hons), MA, MRTPI

an Inspector appointed by the Secretary of State

Decision date: 21 November 2019

Appeal Ref: APP/Q1255/W/19/3233014

Rear of 97A and 99 High Street and 18A Lagland Street, Poole BH15 1QG

- 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 Mr A. Hawkes (JA Hawkes and Sons Ltd) against the decision of Bournemouth, Christchurch and Poole Council.
 - The application Ref APP/19/00273/F, dated 5 March 2019, was refused by notice dated 22 May 2019.
 - The development proposed is to erect 9 No Flats.
-

Decision

1. The appeal is allowed and planning permission is granted to erect 9 No Flats at Rear of 97A and 99 High Street and 18A Lagland Street, Poole BH15 1QG, in accordance with the terms of the application, Ref APP/19/00273/F, dated 5 March 2019, subject to the conditions set out in the attached Schedule.

Procedural Matters

2. On 1 April 2019 Borough of Poole Council merged with Bournemouth Borough Council and Christchurch Borough Council to become the Bournemouth, Christchurch and Poole Council. The development plans for the merged local planning authority remain in place for the former area of the Borough of Poole until such a time as they are revoked or replaced. It is therefore necessary to determine this appeal with reference to policies set out in the plans produced by the now dissolved Borough of Poole Council.
3. I have taken the address for the proposed development from the Appeal Form, as this appears to be a more accurate description of the site location.

Main Issues

4. The main issues are the effects of the development on the character and appearance of the area, together with the significance of heritage assets; and the effect of the development on the Dorset Heathland Special Protection Area (SPA), Site of Special Scientific Interest (SSSI) and Ramsar site, together with the Poole Harbour SPA, SSSI and Ramsar site.

Reasons

Character and Appearance/Heritage Asset effects

5. The site is an area of mainly vacant land to the rear of buildings which primarily front the High Street. The site is adjacent to a two storey building (No

- 20 Lagland Street) used as a commercial workshop. Access is via Lagland Street, through a small car park.
6. The site is within the designated Town Centre Conservation Areas (CA) of Poole. The Town Centre Heritage Character Statement 2012 of the former Borough of Poole Council describes the significance of the wider CA with its historic buildings, some being nationally and locally listed buildings, and the good quality townscape buildings, amongst other things. The site is in close proximity to locally listed buildings (No's 99, 97a, 97, 95, 93 High Street and 18 and 18a Lagland Street) and Grade II listed buildings (Nos 89 and 91 High Street).
 7. Section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990, (the Act) is relevant to this appeal as it requires special regard as to whether to grant planning permission for development which affects a listed building or its setting. Also, Section 72(1) of the Act requires special attention to be paid to the desirability of preserving or enhancing the character or appearance of Conservation Areas in the exercise of planning functions.
 8. The National Planning Policy Framework also advises that heritage assets are an irreplaceable resource and should be conserved in a manner appropriate to their significance. Paragraph 193 of the Framework states that when considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation.
 9. Furthermore, paragraph 197 states that non-designated heritage assets (such as locally listed buildings) should be taken into account with proposals, and that a balanced judgement is required with regard to any harm or loss and the significance of the heritage asset.
 10. In regard to the listed buildings mentioned above, the site is to the rear of these buildings and would be set against the backdrop of other tall commercial buildings, such as the Lloyds Bank. There would also be a separation distance which means that, overall, I do not regard the proposal to have any adverse effect on their setting.
 11. However, the site of the proposed block of flats is close to the rear of the non-designated locally listed buildings. These mainly form part of High Street buildings, which connects with their historic significance. However, the site is a vacant area of land of no particular merit to the setting of these buildings. Indeed, there is an extant permission for flats at this site, albeit this appeal proposal is for an additional storey in height.
 12. The proposed building would mainly screen the tall and blank side wall of the large Lloyds Bank building at No 101 High Street, which I would consider as visually beneficial. The proposed flats would obscure some view of the rear of some of the locally listed buildings, but not to a complete extent. Currently this elevation of these buildings is well set back from Lagland Street and views are partially obscured by No 20 Lagland Street. The additional floor from what has already been approved will therefore not result in any significant screening of these adjacent buildings.
 13. The proposed building is close to the rear of some of these neighbouring properties, such as No 99 High Street. However, this was much the same as

with the permitted scheme. At the additional third floor now proposed there would remain a clear gap to the gable of No 99 (noting that the Council state that the elevation plans are inaccurate on the gable position). In this high density area of Poole, I do not regard the proposal as a cramped form of development in this setting.

14. In terms of height, the proposed building would be slightly taller than the Lloyds Bank building, and of a similar height to the adjacent gable of No 99. The area is also characterised by buildings which range to a comparable height to that proposed. As such, the proposed flats would not appear dominant or overly prominent in this location as a result of their overall height.
15. Overall, I do not find any harm from the proposed development on the setting of listed or locally listed buildings, or the character of the Conservation Area. I regard the proposal to be of a suitable scale and appearance for its location. The proposal would also provide new dwellings in a sustainable location, making efficient use of this site, which is a significant benefit.
16. Therefore, the proposed is in accordance with Policies PP27, PP28 and PP30 of the Poole Local Plan (November 2018). These policies seek to, amongst other things, require development to reflect or enhance local patterns of development and neighbouring buildings and preserve or enhance the historic, architectural and archaeological significance of heritage assets, and their settings.
17. The Council has confirmed that policy PCS 23, which they mention in their reason for refusal, is not a current policy and its inclusion was likely a mistake and so I have not considered this policy further.

Ecology Impacts

18. The appeal site lies within a zone of proximity to the Dorset Heathlands Special Protection Area (SPA) and Ramsar site and the SSSI, where developments, either on their own or in conjunction with other proposals, are likely to have an adverse effect on the integrity of the special ecological sites. Additional pressures in this regard will arise as a result of new house building. Accordingly, I consider that occupation of the proposed development would be likely to increase recreational pressures on these designated areas and, either alone or in combination with other development in the area, would have a significant effect on them. It is therefore necessary for an Appropriate Assessment (AA) to be undertaken.
19. In this case, the cumulative effects of potential development within the Poole area on the protected sites have been assessed 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 Heathlands Special Protection Area.
20. Furthermore, the proposal also has the potential to effect Poole Harbour, which is another SPA, SSSI and RAMSAR site. These relate to water quality and the pressures arising from recreational activities. There is now a charging schedule detailing the contributions that will be required to mitigate the adverse effects of development on the Poole Harbour ecology.
21. Considering the proposal would result in the introduction of 9 new flats in Poole, based on the evidence provided, including the Dorset Heathlands

Mitigation Strategy and the Poole Harbour Interim Guidance, the increase in people in the area to be housed by the development would likely have an impact to these important ecological areas within close proximity to the site, such as through recreational pressures.

22. It is permissible for me, at this stage, to have regard to any proposed avoidance or mitigation measures. A legal undertaking has been submitted by the appellant committing to the payment of the appropriate contribution towards that required by the Strategic Access Management and Monitoring for both Heathland and Harbour. The Council has confirmed these payments have been made. 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.
23. The Council has accepted this approach. They also confirm that, whilst the unilateral legal agreement does not bind the Council, the contribution would be spent in accordance with the strategies in place. Furthermore, Natural England confirmed that subject to securing mitigation measures, following an appropriate assessment, they have no objections.
24. The contributions would be necessary to make the development acceptable in planning terms; directly related to the development; and fairly and reasonably related in scale and kind to the development, in accordance with the CIL Regulations. As such, the contributions toward the mitigation schemes would count as mitigation toward maintaining the integrity of the sites.
25. As competent authority for the purposes of the Habitats Regulations, considering all the above I am satisfied that the proposal would not have an adverse effect on the integrity of European protected sites. Consequently, the proposed development would not adversely affect the Dorset Heathland or Poole Harbour European Sites and would not conflict with the National Planning Policy Framework (the Framework) or Poole Local Plan policies PP32 and PP39 in this regard.

Conditions

26. I have considered the conditions put forward by the Council against the requirements of the Planning Practice Guidance (PPG) and the Framework. The conditions I have included from the recommended list have been subject to some alterations to improve clarity and ensure consistency with the Framework and PPG.
27. I have attached the standard time limit condition and a plans condition as this provides certainty. I have also added a condition concerning materials to ensure a satisfactory appearance.
28. A condition requiring the obscure glazing of certain windows is included to ensure the privacy of neighbours to a satisfactory level.
29. A condition to require a minimum of 10% of energy use per dwelling is from on-site renewable sources has been included, in the interests of sustainable development principles.
30. The access, turning space, vehicle parking and cycle parking needs to be in place prior to the development being brought into use, to ensure highway

safety and suitable access and parking provision, together with the option of cycling being supported as a sustainable mode of transport.

31. In the interests of drainage, all hard surfaces should be made of porous materials, as required by a condition included.
32. I have amended the recommended condition regarding the area described on the plans for delivery and pedestrian access to flats free. Being that the area is to have bins located there it may be difficult to enforce that there would be not even a partial obstruction of the hatched area at any time. Therefore, the condition included is one which requires simply that this hatched area is restricted to the use as proposed on the plan only. This, to my mind, keeps the condition clear as to what is required.
33. The condition recommended by the inclusion of ecology enhancement measures is included, considering the comments from Natural England on this matter and the need for bird boxes being mentioned.
34. Finally, I have not included the condition for the extension to the rear of No 99 to be completed prior to the proposed flats being brought into use as, from the evidence before me, there is not a clear reason why this is necessary.

Conclusion

35. For the reasons set out above, the appeal should be allowed subject to the conditions set out in the schedule below.

S. Rennie

INSPECTOR

Schedule – 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: 4248:38A Floor Plans & Block Plan Sheet 1 of 3; 4248:39 Elevations Sheet 2 of 3; 4248:40 Site & Location Plan Sheet 3 of 3.
- 3) Details and samples of all external facing and roofing materials to be used shall be submitted to, and approved in writing by, the Local Planning Authority prior to their installation/use on-site. The development shall thereafter be carried out in accordance with the approved details.
- 4) Both in the first instance and upon all subsequent occasions, the first, second and third floor living area windows associated with Flats 1, 4 and 7 on the approved plan on the front elevation shall be glazed up to a height of 1700mm above floor level with obscure glass in a form sufficient to prevent external views and shall either be a fixed light or hung in such a way as to prevent the effect of obscure glazing being negated by reason of opening.
- 5) Prior to first occupation of the building hereby permitted, details of measures to provide 10% 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 occupation is brought into use and maintained thereafter.
- 6) 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.
- 7) 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.
- 8) The cross hatched area annotated as a 'Delivery and Pedestrian Access to Flats' on the 'Floor Plans and Block Plan' (ref: 4248:38A) shall only be used for these purposes, as set out on this plan, at all times.
- 9) Details of bio-diversity enhancement to be delivered on site shall be submitted to, and approved in writing by the Local Planning Authority and implemented prior to occupation of any of the dwellings hereby approved. The details should include, but are not restricted to, bird boxes and bird bricks.