



Appeal Decisions

Site visit made on 16 December 2019

by Janet Wilson BA (Hons) BTP MRTPI DMS

an Inspector appointed by the Secretary of State

Decision date: 13th January 2020

Appeal A - Ref: APP/Q1255/W/19/3236435 7 Station Approach, Broadstone, Poole BH18 8AX

- 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 Charles Hoskins against the decision of Poole Council.
 - The application Ref APP/18/01586/F, dated 29 November 2018, was refused by notice dated 7 March 2019.
 - The development proposed is described as to extend the rear of the existing restaurant kitchen and make internal ground floor alterations, to provide toilets for the restaurant and improved seating and to construct a first floor flat over the kitchen area, with access from an existing staircase that serves the existing first-floor accommodation and the proposed new flat at the rear.
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Appeal B - Ref: APP/V1260/W/19/3236438 7 Station Approach, Broadstone, Poole BH18 8AX

- 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 Charles Hoskins against the decision of Bournemouth Christchurch and Poole Council.
 - The application Ref APP/19/00735/F, dated 7 June 2019, was refused by notice dated 31 July 2019.
 - The development proposed is to erect a two-storey rear extension to accommodate extensions to restaurant at ground floor and creation of new flat at first floor (revised scheme).
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Decision

1. Both Appeal A and Appeal B are dismissed.

Applications for costs

2. Applications for costs were made by Mr Charles Hoskins against Bournemouth Christchurch and Poole Council, formerly Poole Council in respect of both Appeal A and Appeal B. These applications are the subject of separate Decisions.

Preliminary Matter

3. On 1 April 2019 the three administrative areas of Bournemouth, Poole and Christchurch were formed into a single Unitary Local government district, now known as BCP. Appeal A was determined in March 2019 by the Borough of Poole Council and Appeal B was determined in July 2019 by BCP Council.

4. The Council have highlighted that there is no planning permission for the first floor flat in the existing building which is referred to by the appellant in evidence. Similarly, there is no lawful development certificate before me and at the time of the application for the restaurant the space at first floor was indicated as providing storage and rest facilities for staff employed in the ground floor restaurant. In the absence of evidence to the contrary I have dealt with the appeals on the basis that the first floor is not a C3 use but storage office and staff facilities in association with the restaurant.

Main Issues

5. The main issues relating to both appeals are:
 - a) The effect of the development on the character and appearance of the area and whether the development would preserve or enhance the setting and appearance of the Tudor/Golf Links Road Conservation Area (CA).
 - b) Whether the proposal makes adequate provision for access and parking provision and the effect on highway safety together with any consequential impact on parking stress in the locality.
 - c) The effect of the development on the Special Protection Areas (SPA) of Poole Harbour and the Dorset Heathlands in respect of the effect on protected species.

In addition, in respect of Appeal A:

- d) The effect of the development on the living conditions of future occupiers of the proposed flat with regard to outlook; and
- e) Whether adequate provision has been made for cycle storage;

And in respect of Appeal B:

- f) The effect of the development on the living conditions of the occupants of adjacent properties with regard to privacy and outlook; and
- g) The suitability of the proposed bin store for both the residential and commercial uses and the effect that this would have on street clutter, highway safety and anti-social behaviour.

Reasons

Character and appearance

6. The rear of the appeal site shares its boundary with that of the Tudor/Golf Links Road CA. The CA includes the road which functions as a rear service access to the appeal site. To the opposite side of the track is a terrace of commercial shops which are not listed buildings however they lie within the CA and are noted as positive buildings which make a contribution to the character of the CA. The rear of the appeal site is therefore experienced in the context of the rear and side elevations of notable buildings. The enlargement of the premises would result in built form within around 3 metres of the terrace. Whilst the appeal site is not located with an area defined on the Councils map as affecting the setting of the CA, it is still incumbent upon me to evaluate whether each proposal would preserve or enhance the setting of the CA as a designated heritage asset.

7. Both schemes, whilst similar in bulk and form, vary in their detailing including window arrangements, eaves detailing, overall height and points of access to the flats. Internally the ground floor arrangements both incorporate new kitchen arrangements and ground floor customer WCs which would be relocated from their current position on the first floor. Nonetheless the enlargement at the rear would, in either scheme take up virtually the entire footprint of the plot up to the boundary of the CA and involve an extension of 10 metres in depth from the rear face of the original building albeit replacing the ground floor lean to extension. In Appeal A the access steps down to the new kitchen and up to the flat which would be on the extremity of the rear boundary. In Appeal B the balcony to the first floor flat would project out to the same point which is also the boundary of the CA.
8. In design terms Appeal A would be flat roofed with a height the same as the eaves of the existing building; though the width would be marginally wider than the host property as it would utilise the existing footprint which already projects wider than the original building at ground floor. In Appeal B the roof would be higher than the eaves with a very gently sloping profile. It would still represent an essentially flat roof which would be wider than the existing property and which would also incorporate a flue from the commercial kitchen, rising from just below the projecting balcony, through the balcony and projecting through an overhanging roofline. It would have substantial glazing including a corner window extending to half the width of the extension and wrapping around the corner on the line of the boundary with the attached semi.
9. In either proposal the extensions would be dominant, prominent and incongruous in relation to the host property. They would incorporate design features which would not read well architecturally with the original building nor which could be described as locally distinctive. They would represent an overly bulky and obtrusive enlargement of the building which would be harmful to the character of the host property and which would fail to make a positive contribution to the wider setting of the CA even though the harm which would be caused would, in the words of the National Planning Policy Framework (The Framework), be less than substantial. Whilst the adjacent building to the north is a flat roofed building this appears to be part of the original design of that structure rather than an extension which would be added on to a building with a traditional pitched roof as would be the case for the Appeal proposals.
10. The appellant argues that there is an evolving trend for new buildings to be larger and this explains the height of the building in Appeal B. Whilst modern standards may have different requirements this would be an addition to a traditional building and therefore the parameters that affect an extension are not the same as if building a completely new structure where greater freedom may be afforded in relation to storey height. Comparison has also been made by the appellant in relation to the rear of No. 4 Station Approach which also has a flat roof. The original roof form to that building is different to the appeal site, as is the context. As such it is not a comparable example which I would be bound to follow.
11. For the above reasons the proposal would harm the character and appearance of the building and would fail to preserve or enhance the character or appearance of the CA. Consequently, the development would conflict with Policies PP27, PP28 and PP30 of the Poole Local Plan (2018) (PLP) and to the

aims of the Framework. These policies seek to ensure that developments are of a good standard of design, preserve or enhance heritage assets, are of appropriate scale and massing in relation to the established pattern of development and that the resultant plot coverage respects that which prevails in that part of the street where the site is located; all of which are areas where the proposals would be deficient.

12. In reaching this judgement on the design I have had regard to the varied building styles and materials which are evident in the local area and to the appellants' comment that the rear of the site is in a poor state of repair and of little architectural merit. However, these variations nor the condition of the building are factors which would justify the inappropriate enlargement of this property in the manner proposed and which I have found to be harmful in respect of both Appeals A and B.

Living conditions

13. The internal configuration of the two proposals vary. The first-floor arrangement for Appeal A involves the use of the existing upper floor accommodation as a one bedroomed flat with a second self-contained flat above the proposed restaurant kitchen extension. In Appeal B the existing first floor accommodation would be retained as staff facility for the restaurant with office, study and staff room with a separate flat above the proposed kitchen enlargement.
14. In the case of Appeal A the windows in both side elevations would be high level with cill heights above eye level in order to maintain privacy but to allow natural light. The consequence of this would be to limit the outlook of the future occupants which would be less than satisfactory in relation to the quality of the accommodation in particular in relation to the bedroom. Whilst the proposed lounge would have a further window this would be the only window of the five in the flat to have a cill height of traditional proportion; this would not, in my view, provide satisfactory living accommodation or outlook for the occupants particularly given that the window would have an outlook in very close proximity to the building on the opposite side of the service access road, arrangement which would be oppressive. The living conditions would not be sufficiently mitigated by the addition of four sun tunnels albeit intended to add additional natural light.
15. In the case of Appeal B the window configuration on the south elevation would be at 90 degrees from the upper floor windows of the adjacent property they would be located at a slightly higher level and the closest point would be around 4.5 metres from the existing windows. This would lead to an unacceptable relationship between these habitable rooms and would lead to direct overlooking or a significant perception of it which would be to the detriment of the living conditions of the occupiers of the adjacent property.
16. Also in Appeal B the proposed depth of the extension of over 10 metres on the boundary and at a higher eaves than the host building would lead to a poor outlook from the attached semidetached property (to the south) as the proposal would be significantly overbearing. Moreover, windows on the side elevation would also conflict with the aim of the Broadstone Neighbourhood Plan (2018) (BNP). This advocates, through Policy BP7, that development should not prevent future comprehensive development of adjoining sites. Given the configuration of the windows in the side elevation in either scheme this

would prevent the neighbouring property from adding even a modest addition in the future in conflict with the BNP. To the North there would also be some overshadowing towards the neighbouring property; given the bulk of the structure which would project beyond the first-floor building line to a materially unacceptable degree.

17. Consequently, the development would conflict with Policy PP27 of the PLP; to Policy BP7 of the BNP and to the aims of the Framework. These, amongst other things, seek to ensure that development does not have a harmful impact upon the amenity of local residents.

Parking and cycle storage

18. The Council clarify that there is no authorised use on the upper floor for a flat, the space was, at the time of my visit, used as storage and in Appeal B is annotated to be staff accommodation. Whilst the site is within the commercial centre of Broadstone it is categorised as Zone 3 in the PLP which is not considered to be a particularly sustainable location as bus services to the area are limited.
19. The site currently has a car parking space at the rear and at the time of my visit it was clear that it was only just able to accommodate one car. No parking provision is included in Appeal A. In Appeal B the width of the proposed garage at 2 metres provision falls short of an acceptable standard a fact that the appellant disputes. In fact, the clearance dimension between the pillars of the garage would be insufficient to accommodate all but the smallest of cars and I am not persuaded that the accessibility of the space would be improved with the roller shutter garage door remaining open whilst the garage was in use. Furthermore, the access to the garage for the flat occupier would not be convenient as access would involve the occupier exiting from the front of the building and travelling along Station Approach, Dunyeats Road and the rear access way to access the car space. This lack of convenient or useable provision would be likely to lead to an increased parking requirement in the immediate area. Parking at the front of the site is restricted to time limited spaces and whilst there is a public car park on the opposite side of Station Approach this is also limited between the hours of 8am to 10pm.
20. In either scheme the car parking provision is below that required by the Councils policies to provide safe convenient patterns of movement without causing a risk to highway safety; although given the magnitude of the development I consider that this risk would exist but would be relatively low. I am mindful that the position of the vehicular access/exit is very close to a busy traffic controlled junction which would increase risk for highway users from additional traffic movements from the development.
21. The Council points to other appeal decisions in the centre of Broadstone which were dismissed on highway grounds where the Inspector noted that Poole has one of the highest levels of car ownership in the UK. Their Parking SPD requires proposals including less than the optimal standard to demonstrate that the site can function without causing inconvenience or adding to the risk to highway safety. In contrast the appellant says that these are older appeal decisions which were determined under a different policy regime and prior to the 2019 Framework. However, from the limited evidence provided I am not persuaded that these cases have a bearing on my consideration of the appeal proposals.

22. No space has been made for cycle provision in either scheme; the appellant argues that this is not necessary as bike hire is available in close proximity to the site. That may be so, however there is no certainty that such facilities would always be available, and, in any event, provision would fall short of the requirement set out in the development plan.
23. I have noted that the appellant argues that the distance to walk to access the garage is not such that it would prevent occupiers from using it should they own a car or motorbike; they also point out that the Council have not provided any evidence to demonstrate that the occupier would in fact come to the site by bicycle car or motorbike. The Council are not obliged to provide such evidence, it is incumbent on the applicant to address a submission in the light of the adopted policies and to present a scheme which addresses those requirements.
24. The appellant highlights that the Framework at paragraph 109 states that permission should be refused on highway grounds only if there would be an unacceptable effect on highway safety, or the residual effects would be severe. Whilst each scheme in isolation which fails to meet the requirements of the development plan in relation to parking provision may only have a small impact, their cumulative effect should not be underplayed and the creation of new floorspace warrants careful attention to whether sufficient provision can be made to meet the needs of the development in accordance with the development plan.
25. Taking all these factors into account the development would conflict with Policies PP27, PP34, and PP35 of the PLP. These policies amongst other things seek to ensure that adequate provision is made to serve new development in relation to car and cycle provision in order to provide convenient and practical parking, servicing and bicycle storage, improve accessibility for all users to key services and to provide sustainable transport options.

Bin Storage and street clutter

26. The bin storage facility in either scheme would be 0.9 metres by 1.7 metres. In Appeal A it would be an open space beneath an external stair and in Appeal B within in an enclosed bin store between the garage and the kitchen entrance. Both would be at the edge of the site immediately adjacent to the access road. The Councils' concern is that the size would be below the minimum space requirements to serve both a commercial and a domestic use. In this regard and particularly given the extension takes up the whole of the site area at the rear of the property it would lead to bin storage being located outside the site area on the access road which would result in street clutter which could have highway implications for users of the rear service access. In this regard the proposal falls short of the minimal requirements.
27. The appellant argues that the Council have not substantiated their concern and highlight that there was no representation from the Environmental department either before the refusals or during the appeal. Whilst there is limited reference to the detail from the Council the development of the site to its fullest extent of its footprint would leave little opportunity for refuse to be effectively stored other than in the small bin store and in all likelihood it would have to stand on the highway on collection days as there would be no space for a commercial bin on the site outside the gated store. Even if the bin store were large enough for

a commercial and a domestic bin, the position of the bin store would not be convenient to use for the occupiers of the first floor flat as there would be no direct access to it from the flat. Whilst it is possible that the garage area could be used for domestic bin storage it is not large enough to accommodate a vehicle and domestic refuse bins.

28. Whilst I have not been provided with details of the particular size of the Councils standard for a commercial bin I have significant doubt that the space allowed would be sufficient to accommodate the commercial bin which I saw on site in addition to domestic provision.
29. As such the development would be contrary to that part of Policy PP27 of the PLP which requires that new development provides convenient and practical waste and recycling arrangements in accordance with the Councils standards which are designed to be in keeping with the existing pattern of development in the street.

Special Protection Area

30. The appeal site lies within 5 kilometres of the Poole Harbour SPA, a Site of Special Scientific Interest (SSSI) and Ramsar Site and within 5 km of the Dorset Heathlands SPA. In these areas development would have a significant adverse effect on heathland interests. In considering the effect of new development on any European designated site regard has to be had to the Habitats Directive which means that mitigation measures i.e. measures which are intended to avoid or reduce effects, should be assessed within the Framework of an appropriate assessment (AA) as it is not permissible to take account of measures intended to avoid or reduce the harmful effects of the plan or project on a European site at the screening stage.
31. As the decision maker is the competent authority, I would have to be satisfied that the proposal would comply with the Habitats Directive. As I am dismissing this appeal for other reasons it has not been necessary for me to consider this matter in any further detail. However, had I considered the development acceptable in all other respects, I would have sought to explore the implications of the directive and would have undertaken an AA.
32. Whilst the Appellant has stated a Unilateral Undertaking (UU) would be submitted to overcome reasons for refusal relating to the SPA. Documents were received only in respect of Appeal B which the Council confirm are acceptable to it. However in respect of Appeal A my decision must be based on its absence. Therefore, in respect of Appeal A as measures have not been secured to mitigate against harm to the SPA the development would be contrary to Policies PP32 and PP39 of the PLP which seek to protect designated SPAs.

Planning Balance

33. In accordance with paragraph 196 of the Framework where less than substantial harm to the significance of a designated heritage asset would occur, that harm should be weighed against the public benefits of the proposal. There would be a modest social and economic benefit from the addition of a residential unit in the case of Appeal A and two units in relation to Appeal B, there would also be a benefit in the upgrading of a building which is in need of

repair however these benefits are modest and are, in my view, insufficient to outweigh the harm which I have identified in relation to the main issues.

Other Matters

34. The appellant has taken issue with the way in which the case was handled and the lack of objections following consultation on the scheme. Furthermore, the lack of assessment of a qualified conservation or heritage officer or formal objection from consultees on anything other than transportation issues and with the lack of such comment the case officer was unable to make a balanced judgement and that the refusal was unsubstantiated and unreasonable as the Council have presented no formal evidence to back this up. The Council set out the policy basis for their reasons for refusal and was entitled to reach a decision on that basis. I have no evidence from the appellant that the Council reached this decision in conflict with any internal procedures. In any event even if this were to be the case this would be a matter for the Council.
35. The appellant highlights that the proposals would make efficient use of the land and that the density would match that of development in the area which is located within a built-up urban shopping and residential area. Whilst there may be a similarity in density this does not override the harm which I have found in relation to the main issues nor does it warrant the development of the site to the full extent of its footprint where policy conflict exists as identified above.
36. The appellant highlights that the size of the residential accommodation exceeds that set out in the Technical housing standards¹ (THS), this is noted however it is not a matter in dispute between the parties and compliance with the THS does not obviate the need for compliance with other policies in the development plan.
37. It is recognised that the appellant in making the revised submission has sought to overcome the issues identified by the Council in respect of Appeal A by the omission of the external access, the provision of a garage and the provision of a balcony to provide amenity space. I am mindful that given the restricted width of the garage for a vehicle it could alternatively provide cycle parking and a bin store however this would not be conveniently accessible for the flat given the lack of direct access. Similarly, the introduction of the balcony amenity space immediately adjacent to the service access would not provide quality amenity space for the future occupants. I have found Appeal B to be deficient for the reasons outlined and the amendments do not, in my view, produce a scheme which is compliant with the Councils' policies.

Conclusion

38. Accordingly, for the above reasons and taking into account all other matters raised, I conclude that both appeals should be dismissed.

Janet Wilson

INSPECTOR

¹ Technical Housing standards - nationally described space standards DCLG 2015