



Appeal Decision

Site visit made on 11 February 2020

by L J O'Brien BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 21 August 2020

Appeal Ref: APP/V1260/W/19/3240987

420B Lymington Road, Highcliffe, Christchurch BH23 5HE

- 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 and Mrs Woolley against the decision of Bournemouth, Christchurch and Poole Council.
 - The application Ref 8/19/0750/FUL, dated 28 March 2019, was refused by notice dated 15 August 2019.
 - The development proposed is alterations and conversion of ground floor retail unit into two self-contained flats.
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Decision

1. The appeal is dismissed.

Preliminary Matter

2. At the time the application was made, the Local Planning Authority was Christchurch Borough Council. However, prior to the Council's Decision Christchurch Borough Council was replaced by Bournemouth, Christchurch and Poole Council. Nevertheless, the relevant adopted Development Plan in this case still includes the Christchurch and East Dorset Local Plan Part 1 - Core Strategy, 2014 (CS).

Main Issues

3. The main issues are:
 - Whether or not the proposal would provide satisfactory living conditions for future occupiers with particular regard to privacy, light and ventilation, and outlook; and
 - The effect of the proposal on the vitality and viability of the Highcliffe secondary shopping frontage.

Reasons

4. The appeal property, 420B Lymington Road, is located on the north side of Lymington Road fairly close to the crossroad junction with Gordon Road, Lymington Road and Waterford Road. The property has recently been redeveloped to form two ground floor retail units (though one is now in A2 use as a financial/professional service use) with flats above; the evidence before me indicates that the new development is occupied apart from the ground floor unit the subject of this appeal.

Living conditions

5. The proposal is to convert the retail unit into two flats; flat 1 would be at the front of the unit with access from the existing front door and flat 2 would be to the rear, served by a new door at the back of the unit.
6. Flat 1 would retain the large glazed window and door which look out onto Lymington Road at ground floor level. Though passing footfall would be limited by the location of the building at the end of the retail frontage; the flat would, nevertheless, be situated on a fairly busy road where regular pedestrian and vehicular movements are to be expected. Despite soft landscaping providing some degree of separation, the windows and door to the flat are also situated in close proximity to the footway. As a result of this, the flat would have a limited level of privacy. This would be exacerbated by the semi-open plan nature of the internal layout of the flat.
7. The bedroom area would be sited at the rear of the flat, towards the centre of the existing unit overall. Consequently, levels of light reaching the bedroom area would be limited and whilst the large window at the front of the flat and semi-open plan nature of the layout would offer some degree of mitigation this would not be sufficient to allow an acceptable level of light to reach this area. Furthermore, the ground floor location of the only window serving the flat on a fairly busy road would, in my view, make it unlikely that the occupants would feel comfortable leaving a window open to allow effective ventilation of the flat, particularly overnight.
8. Flat 2 would be served by two smaller windows located at the rear of the property. The reasonably private location of the flat is such that ventilation from these windows could reasonably be achieved. However, these windows look directly onto a cycle and bin store at extremely close proximity creating an oppressive sense of enclosure and poor outlook from the only windows to the flat.
9. Moreover, in flat 2, the nature of the rear windows as set out above is such that the amount of light entering the property is minimal. As with flat 1, the bedroom area is situated in the central portion of the existing unit where natural light would be significantly reduced.
10. Accordingly, I consider that the proposal would fail to provide satisfactory living conditions for future occupiers with particular regard to privacy, light and ventilation in respect of flat 1 and light and outlook in respect of flat 2. The proposal would therefore fail to accord with Saved Policy H12 of the CS. Amongst other things this policy states that development will be permitted where the residential amenities of existing and future occupiers of dwellings are not adversely affected by loss of light or privacy.

Vitality and viability of the secondary shopping frontage

11. The appeal site is situated in a mixed-use town centre location within the Highcliffe secondary shopping frontage. Saved Policy CH7 of the CS states that proposals for the change of use of existing non-residential premises within the secondary shopping frontage of Highcliffe will be permitted providing two criteria are satisfied.
12. The first is that the proposed new use must be for a financial or professional service use, a food and drink use, a drinking establishment, a hot food

takeaway, a hotel or for non-residential institutions falling within Class D1 and leisure or entertainments uses falling within Class D2. The proposal would fail to meet this. The second criterion relates to living conditions of occupiers of neighbouring properties and on the evidence before me the proposal would meet this. However, as set out above both criteria must be met.

13. Prior to the recent redevelopment of the site a single retail unit was present on site which the appellant states had a total commercial floor area of 90.29 sqm. Under the current proposal one unit in A2 use would remain in situ within the building and the comparative approximate reduction in retail floorspace since 2016 would be relatively small at around 33.65 sqm.
14. The Council hold that the proposed additional loss of floorspace and differentiation of the frontage from its commercial characteristic would detract from the character of the shopping frontage to the detriment of its attractiveness as a shopping destination. However, a number of other residential properties at ground floor level are evident in the vicinity of the appeal site. Most notable are those at 407 and 409 Lymington Road, opposite the appeal site. Furthermore, the appeal site is located towards the edge of the retail frontage, where the character on the side of the road which accommodates the appeal property begins to blend into a residential character and appearance.
15. The appellant has provided an assessment and supplementary statement from Ross Nicholas and Company Estate Agents which set out the attempts to market the unit since 2017. Despite attempts to market the property over several years, the unit has remained vacant and currently does not make a contribution to the vitality and viability of the shopping frontage. In my view the location of the unit, at the edge of the retail frontage, is a limiting factor in marketing it as a viable retail opportunity.
16. Taking the above points together, the loss of a retail unit in this location would not, to my mind, reduce the attractiveness of Highcliffe as a shopping destination to an unacceptable degree or cause harm to the vitality and viability of the secondary shopping frontage. Furthermore, I am satisfied, on the basis of the appellants' evidence, that continued attempts to let the property have been unsuccessful and concur with the view that a long-term empty unit does not have a positive impact on the secondary shopping frontage.
17. Nevertheless, the proposal would fail to accord with Saved Policy CH7 of the CS which sets out the criteria for instances where non-retail uses would be acceptable within the Highcliffe secondary shopping frontage. However, a number of material considerations, as set out above, have been presented which cumulatively lead me to conclude that in this instance the overarching aims of the Council to protect the vitality and viability of the shopping frontage would be met and the direct conflict with the policy would be outweighed in this respect.

Other Matters

18. The Council also refer to Saved Policy HE2 and LN2 of the CS. However, in my reading, these policies are mainly concerned with the design of new development in respect of the effect on its surroundings (HE2) and on the design, layout and density of new housing development (LN2) and therefore

carry limited weight in my assessment of the scheme before me. Additionally, the Council make reference to Saved Policy LN1 of the CS in their reasons for refusal. This policy seems to refer to the need for new development to be of a size and type which reflects local need and also sets out the Council's intention to apply minimum space standards and the Homes and communities Agency (HCA) Housing Quality Indicators. The Council state, in the officer's report, that the proposal would comply with the simplified standards set out in the Council's adopted Housing and Affordable Housing Supplementary Planning Document (SPD) which they state are based on the HCA standards but simplified to unit size rather than room sizes. Therefore, I find no conflict with this policy.

19. I note the appellants' amended plan submitted as appendix H of their Appeal Statement. This plan indicates the appellants' willingness to add additional windows, one serving the bedroom area of each flat, along the side elevation of the unit. The appellants' hold that this could be secured by condition. However, whilst these additional windows would potentially overcome the ventilation issue for flat 1, in my view, due to their location looking onto a fairly narrow side alley they would provide a poor outlook and I am not satisfied that the levels of light would be increased to such a degree so as to become acceptable. Moreover, these windows would not overcome my concerns in respect of privacy for flat 1 and outlook for flat 2.
20. The application site is within the vicinity (within 5 km and beyond 400m) of Hengistbury Head which is notified as a Site of Special Scientific Interest (SSSIs) for the special interest of its heathland habitats and associated plant and animal species. Hengistbury Head is also part of the Dorset Heathlands Special Protection Area (SPA) and Dorset Heaths Special Area of Conservation (SAC) and Ramsar.
21. The Council has raised no objection in respect of the potential for the proposal to affect the sites and it would appear that it is a matter of agreement between the parties that, subject to appropriate mitigation, there would be no harm in this respect. Nevertheless, had I found the proposal otherwise acceptable an Appropriate Assessment (AA) to explore the specific impact of the scheme would have been required. Given that the appeal is going to be dismissed for other reasons, upon which an AA would have no bearing, it is not necessary to explore this issue any further.

Planning Balance

22. The officer's report sets out that the Council does not currently have a five year housing land supply. A presumption therefore exists in favour of granting planning permission unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits. The addition of new dwellings which would contribute towards the housing supply in the area would undoubtedly be a benefit of the scheme. I also acknowledge the economic benefits of engaging local professionals, trades and suppliers and the ongoing benefit of the occupiers of the proposed dwellings utilising local facilities. These benefits are, however, limited by the small scale of the proposal and must be considered in that context.
23. Whilst I have found no harm to the vitality and viability of the Highcliffe secondary shopping frontage, the proposed development would cause significant harm to the living conditions of future occupiers with particular

regard to privacy, light and ventilation in respect of flat 1 and light and outlook in respect of flat 2. I give this harm substantial weight.

24. Consequently, the cumulative benefits associated with the additional dwellings would not significantly and demonstrably outweigh the harm I have identified above.

Conclusion

25. For the reasons given above I conclude that the appeal should fail.

L J O'Brien
INSPECTOR