
Appeal Decision

Site visit made on 3 September 2020

by Benjamin Webb BA(Hons) MA MA MSc PGDip(UD) MRTPI IHBC

an Inspector appointed by the Secretary of State

Decision date: 11 September 2020

Appeal Ref: APP/V1260/W/20/3252394

15 R L Stevenson Avenue, Westbourne, Bournemouth, Dorset BH4 8ED

- 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 Andrew Noonan against the decision of Bournemouth Christchurch and Poole Council.
 - The application Ref 7-2020-26497-C, dated 20 January 2020, was refused by notice dated 11 March 2020.
 - The development proposed is described as alterations, extension and change of use of existing four storey dwellinghouse to create 4no. self-contained flats with parking for 1no. car, cycle storage for a minimum of 4no. cycles and refuse storage.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. The appellant submitted a revised site plan as part of the appeal. This shows an increased site area which includes the means of rear access. The Council's appeal statement does not appear to acknowledge this plan. I am satisfied nonetheless that the Council has had the opportunity to comment on it, and that the interests of no party would be prejudiced were I to use it in determining the appeal.

Main Issues

3. The main issues are:
 - whether the development would provide acceptable living conditions for future occupants with regard to privacy;
 - the effects of the development on the safe and efficient operation of the highway; and
 - the effects of the development on the character and appearance of the area, including whether the development would preserve or enhance the character or appearance of Westbourne Conservation Area (the Conservation Area).

Reasons

Living conditions

4. The main 'window' serving the rear bedroom in the basement flat would be a clear glazed panel set within what would, in effect, be the back door. This

- would indeed be the point of access to and entry from the back garden and cycle store.
5. The officer report states that views would be possible into the bedroom through this door, from the metal stairway serving the ground floor flat above. I agree that it is likely that limited views into the room would be possible through the guarding. However, the officer report also states that this issue could be resolved by the installation of obscure glazing. Though this would restrict the outlook from the bedroom, a clear outlook from the room would nonetheless be retained through the side window. As such installation of obscure glazing would be an acceptable solution.
 6. Despite the above, the Council proceeded to refuse planning permission partly on the basis that a poor living environment would be provided for occupants of the rear bedroom. No additional explanation has been provided.
 7. In further consideration of this matter, it is apparent that as the bedroom in question would host the back door, its occupants would enjoy little privacy from other occupants moving between the flat, back garden and cycle store. Indeed, the ordinary private use of the bedroom space would be wholly undermined by an access arrangement which would see it function as a main circulation space. The same would be true of the rear bedroom in the ground floor flat.
 8. In view of the fact that the above was not a matter explicitly identified by the Council, the parties were given the opportunity to comment during the appeal. I have taken any responses received into account.
 9. The appellant claims that the provision of rear access/entry through a bedroom is very common for small flats. However, I have not been provided with any evidence of this, and I am not aware of any. I have therefore considered the access/entry arrangements proposed on their own merits.
 10. It would be possible to respect the privacy of occupants of the bedrooms in question by moving between the flats, back gardens and cycle stores via the front doors of the flats. However, the circuitous walk required on each occasion would be clearly inconvenient, particularly when taking into account the need to leave the property, pass through security gates and walk into the street. It is therefore unlikely that this would serve as either a practical or desirable day-to-day solution, or therefore that it would be a means by which disturbance of privacy would be avoided.
 11. I accept that future occupants of the flats could use the bedrooms as something other than bedrooms. Nonetheless, use of the 2 rooms in question as bedrooms is what has been proposed, and it is therefore the basis upon which the appeal scheme is being assessed.
 12. I also acknowledge the general benefits of access to outdoor amenity space. However, in this case such benefits attract little weight on account of the adverse effect that the proposed access/entry arrangements would have on private use of the bedrooms in question. None of the points raised in favour of the proposed access/entry arrangements therefore persuade me that they are appropriate.
 13. For the reasons outlined above I conclude that the development would provide unacceptable living conditions for future occupants of 2 of the proposed flats in

relation to privacy. It would therefore conflict with Policy CS41 of the Bournemouth Local Plan: Core Strategy 2012 (the CS) which amongst other things seeks to secure a high standard of amenity for future occupants; and provisions of the National Planning Policy Framework (the Framework) relating to amenity.

Highways

14. According to the Parking Supplementary Planning Document 2014 (the SPD) the parking requirement for a development of the size proposed would be 4 off-road parking spaces. Taking account of the level of off-road provision both existing and proposed, there would be a shortfall of 2 spaces. It appears however that on bin collection days this could rise to 3 spaces. This is due to the likely need to vacate the sole parking space provided in order to enable the bins to be readied for collection without obstructing the pavement. These 2-3 vehicles would need to be parked somewhere other than on-site.
15. On-street parking is available on both sides of R L Stevenson Avenue. This is in marked bays which are either time limited or unrestricted. Due to the formation of frontage accesses at many properties along the street, the number of on-street spaces is limited relative to the length of the street itself. As use of time-limited bays would not offer a practical parking solution for future occupants, reliance would fall on the relatively small number of unrestricted spaces available.
16. At the time of my visit only one such space was free. As I used this to park, parking in all marked bays along the street was brought to capacity, and appeared to remain so for the duration of my visit. When parking availability within 100m of the site was surveyed in relation to a previous recent planning application, high demand was similarly noted throughout the day. In that context all the unrestricted spaces along R L Stevenson Avenue were occupied at all the times observed. I therefore have little reason to believe that parking at full capacity is an unusual occurrence along R L Stevenson Avenue, despite having been fortunate enough to find a space at the time of my visit.
17. During my visit I noted that several cars were parked outside marked bays; in all cases obstructing driveway accesses, and in one case also obstructing the pavement. I have no way of knowing whether the owners of vehicles blocked in, or prevented from parking, and those parked had informally agreed these arrangements. It was however apparent that parking outside marked bays along R L Stevenson Avenue cannot generally be achieved without impeding the means of access to off-road parking spaces. Such obstruction gives rise to potential conflict between different road users, and increases the likelihood of hazardous manoeuvring by vehicles in the highway to avoid obstacles.
18. Whilst there appears to be no particular reason why drivers parked outside marked bays have additional cause to occupy pavement/cross-over space, the fact that this evidently also occurs, gives rise to the likelihood of further conflict between road users and pedestrians.
19. There would be little alternative scope for future occupants to park along the sections of Seamoor Road and Alum Chine Road which immediately adjoin R L Stevenson Avenue, as in each case parking is again heavily restricted. Though it might be possible to find parking spaces located much further afield, there would be no certainty of this, and the arrangement would be neither

convenient nor practical for future occupants given the potential distances involved.

20. In view of the above, the increase in competition for parking space along R L Stevenson Avenue likely to result from the development, would also increase the likelihood of parking outside marked bays along the street. This would inevitably increase conflict between different users of the highway, with an unacceptably adverse effect on both the safety and efficiency of its use.
21. I accept the fact that overspill may currently arise from other properties along R L Stevenson Avenue which lack adequate parking. However, this does not justify the harm that would be caused by the additional overspill that would arise as a result of the development.
22. The appellant argues that the development should in fact be considered as 'car free'. In this regard I acknowledge that future occupants would have quick and convenient access to public transport, and to shops and services in Westbourne. Cycle stores would also be provided on site, and future occupants could use the local car club. However, whilst the accommodation might therefore appeal to future occupants who do not own a car, no mechanism has been presented which would secure the status of the development as car free, and none is obviously available. Consequently, there would be nothing to stop future occupants from owning a car, or to prevent their visitors from arriving by car. In each case the cars would need to be parked somewhere. In view of my reasons above, the likelihood is that this would be along R L Stevenson Avenue, within which very little capacity exists. I therefore attach very little weight to the appellant's car free argument.
23. I note the extracts from 2 appeal decisions referred to by the appellant, each of which are held to support car free development. However, in both cases the Inspectors identified public car parks as offering a convenient alternative to the provision of parking on-site. Furthermore, in one of these cases the Inspector also found little evidence to suggest that lack of parking provision would give rise to pressures in the surrounding neighbourhood. Whilst neither scheme therefore in fact appears to have involved 'car free' development, the circumstances of each case significantly differ from those in the current appeal. Neither of these appeal decisions therefore alters my findings above.
24. The appellant has also drawn my attention to paragraph 109 of the Framework. This states that development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe. Paragraph 109 thus provides 2 separate scenarios; there is no suggestion that both need to apply. In this case the first scenario is applicable given that, in view of my findings above, the development would have an unacceptable impact on highway safety.
25. For the reasons outlined above I conclude that the development would give rise to unacceptably adverse effects on the safe and efficient use of the highways. It would therefore conflict with Policy CS16 of the CS which states that parking provision shall be accordance with the adopted parking standards; Policy CS41 of the CS, which amongst other things seeks to secure development which contributes positively to the safety of the public realm; and the SPD.

Character and appearance

26. The appeal site is located within the Conservation Area. The Conservation Area is designated to cover the commercial centre of Westbourne, and adjacent residential streets; the latter principally R L Stevenson Avenue and Alum Chine Road. Insofar as it relates to this appeal, the significance of the Conservation Area lies in the planned layout of the nineteenth century townscape, and the collection and interrelationship of historic commercial and domestic buildings and associated spaces it contains.
27. R L Stevenson Avenue is itself characterised by a reasonably spacious layout of predominantly nineteenth century dwellings of various, but typically large size, set well back from the street frontage. In this context, the appeal property, which forms part of a larger building constructed around 1870, makes a prominent positive visual contribution to the streetscene.
28. Though front gardens and boundary enclosure remain important features along R L Stevenson Avenue, many frontages, including that of the appeal site, have been opened up and turned over to parking. This has harmed the character and appearance of the streetscene, undermining the integrity of the historic layout, and resulting in visual clutter.
29. The appeal scheme would see 2 commercial wheelie bins stored on the site frontage, in addition to a pair of metal cycle lockers. It is apparent that the 2 commercial bins would have a much greater physical and visual presence than the 2 small wheelie bins currently stored on the frontage. Though they would be contained within an open timber store, and some screening from the pavement would be provided by a block of planting to the front, the bin store itself would be clearly visible across the parking space. So too would be the cycle lockers. The planting, bin store and lockers would furthermore all require ongoing maintenance in order to remain both effective and tidy.
30. Even if an appropriate long-term maintenance plan was to be secured, the bins, bin stores and cycle lockers would form visually prominent additions that would clutter the frontage. This would be accentuated by their bulk, solidity, and proximity to the basement bay window. I have taken into account the fact that the store and lockers would replace a parking space and a small bin store which are current sources of clutter, as too the potential benefits of increased soft landscaping. However, the adverse visual effects of the proposed frontage treatment would, as a whole, be more intrusive than those which exist at present. Modest harm would thus be caused to the character and appearance of the streetscene, and for this reason the proposal would neither preserve nor enhance the character or appearance of the Conservation Area.
31. I acknowledge that bins are openly stored on the frontage of some other properties in the street. However, I see no reason why the harm that this causes should be held to justify the harm that I have identified above.
32. With reference to paragraph 196 of the Framework, I find that the proposal would cause less than substantial harm to the significance of the Conservation Area. I attach considerable importance and weight to this finding. In accordance with the Framework it is necessary to balance this harm against the public benefits advanced in favour of the appeal scheme.

33. Aside from additional soft landscaping, which has been addressed above, the considerations advanced in favour of the proposal are that it would provide additional dwellings in a sustainable location, both helping to address a shortfall in the Council's demonstrable 5 year supply of deliverable housing sites (5YHLS), and helping to satisfy an identified need for small family dwellings; and that the energy efficiency of the current building would be upgraded.
34. Neither party has provided any up-to-date information regarding the 5YHLS, therefore the extent of any shortfall is unclear. Nonetheless, whatever it may be, the 3 additional flats provided by the scheme would make no more than a limited contribution numerically. Moreover, 2 of the flats would provide unacceptable living conditions for their occupants, and the scheme as a whole would have an unacceptably adverse effect on highway safety. As such I can attach no positive weight to the social and economic benefits of housing provision. As it is clear that the energy efficiency of the building could be upgraded whether the development took place or not, this too does not attract any weight in favour of the scheme. Consequently, the benefits of the development would be insufficient to outweigh the harm that they would cause to the significance of the Conservation Area.
35. For the reasons outlined above I conclude that the development would have an adverse effect on the character and appearance of the area, including by its failure to preserve or enhance the character or appearance of the Conservation Area. The development would therefore conflict with Policy CS39 of the CS which seeks to protect designated heritage assets from proposals that would adversely affect their significance; saved Policy 4.4 of the Bournemouth District Wide Local Plan 2002 which seeks to preserve or enhance the character or appearance of conservation areas; Policy CS41 of the CS, which seeks to secure quality design, and which, amongst other things, states that development whose design would be detrimental to the built environment will not be permitted; Policy CS21 of the CS, which, with regard to intensification, states that proposals should contribute positively to the character of the neighbourhood; Policy CS6 of the CS which amongst other things seeks to ensure that local neighbourhoods are improved and enhanced, including through the way in which spaces are treated; and heritage policy set out within the Framework.

Other Matters

36. The lack of avoidance/full mitigation of the likely significant effects that the Council considers the development would have on the integrity of the Dorset Heathlands Special Protection Area and Ramsar sites, and the Dorset Heaths Special Area of Conservation, was a reason for refusal of planning permission. In each regard mitigation is covered by a combination of Community Infrastructure Levy payments towards infrastructure projects, and financial contributions towards Strategic Access Management and Monitoring (SAMM). The appellant indicates that a Unilateral Undertaking has been submitted which addresses this matter. However, I have not been provided with a copy. Had I been minded to allow the appeal, and the circumstances therefore existed in which planning permission could be granted, it would have been necessary for me to examine this matter in greater detail, and to undertake an Appropriate Assessment. However, as I am dismissing the appeal for other reasons, no further consideration is required.

37. In view of the Council's 5YHLS position, my attention has been drawn to the tilted balance set out in paragraph 11 of the Framework. However, given that, with reference to footnote 6 of the Framework, my findings in relation to heritage policy provide a clear reason for refusing planning permission, the tilted balance does not apply.
38. I note the appellant's criticism of the way in which the Council handled the application. However, this matter falls outside the scope of the appeal.

Conclusion

39. For the reasons set out above I conclude that the appeal should be dismissed.

Benjamin Webb

INSPECTOR