
Appeal Decision

Site visit made on 8 September 2020

by Janet Wilson BA (Hons) BTP MRTPI DMS

an Inspector appointed by the Secretary of State

Decision date: 18th September 2020

Appeal Ref: APP/V1260/W/20/3253614

Grove House, Milburn Road, Bournemouth BH4 9HJ

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a failure to give notice within the prescribed period of a decision on an application for outline planning permission.
 - The appeal is made by Mr J Payne of TCI Construction Ltd against Bournemouth Christchurch and Poole Council.
 - The application Ref 7-2020-5370-W is dated 31 January 2020.
 - The development proposed is described as: raise ridge and eaves of Grove House, Milburn Road to facilitate construction of three flats at first floor over rear of 76 Poole Road.
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Decision

1. The appeal is dismissed, and planning permission refused.

Preliminary Matters

2. On 1 April 2019, Bournemouth Borough Council ceased to exist and became part of a new Unitary Authority known as Bournemouth, Christchurch and Poole Council. The development plans for the merged Local Planning Authorities will remain in place for the area within the new Unitary Authority they relate to until such time as they are revoked or replaced. I shall therefore determine the appeal having regard to the policies of the Bournemouth Local Plan: Core Strategy (2012) (Core Strategy) and saved policies of the Bournemouth District Wide Local Plan (February 2002) (Local Plan).
3. The application is in outline with access, appearance, layout and scale to be determined now. Only landscaping is reserved for subsequent approval. I have therefore considered all the plans submitted with the application on this basis.
4. This appeal is against the failure of the District Council to make a decision within the prescribed period in respect of an application for outline planning permission. The Council in their statement of case set out putative reasons for refusal and the reasons why it considers that the scheme does not accord with the development plan. These are the basis for the main issues set out below.
5. The original application form describes the address as Grove House whereas elsewhere it is referred to as the rear of 76 Poole Road (No.76). Part of the application relates to No.76 (the upper/second floor) and separately to first floor over No.76. The application relates to No.76 (second floor) and to Grove House a physically connected but separate building fronting Milburn Road together with the alteration of the outbuildings between these two elements.

I have made my decision on the basis of all three elements in the context of the information on the submitted plans.

Main Issues

6. The main issues are the effect of the development on: a) the character and appearance of the area and whether it would preserve or enhance the character of the Westbourne Conservation Area; b) the living conditions of the future occupiers of the development and upon the occupants of existing residential units; and c) car parking provision and highway safety.

Reasons

Character and appearance

7. The site is part of a terrace of historic town houses many of which have a variety of attached structures of much smaller scale extending to the rear. Located within the boundary, though on the fringes, of the Westbourne CA the rear outbuildings are generally single storey. Notable two storey buildings are Grove House which is part of the appeal proposal fronting Milburn Road and a smaller mansard roofed extension a short distance to the east. Elsewhere on Milburn road to the north are two storey properties which are more domestic in scale.
8. The local plan highlights that this area was *'laid out in the 1860s as a gracious, low density residential area and has since been redeveloped, at a much higher density. To the north is a compact shopping area, of the late Victorian to Edwardian period, with two main shopping roads linked by a 'listed' arcade'*. The front part of the site forms part of that main shopping area where the original buildings display a wealth of architectural detail despite the later additions to them. These older buildings and their architectural character make a strong contribution to the significance of the CA even though the rear elevations are less formal than their frontages and have been altered over time. Whilst my attention has not been drawn to a character appraisal or management plan, the buildings, even though they are at the edge of the CA, warrant careful consideration.
9. Grove House itself has a generally utilitarian appearance; it is already a significant feature which distinguishes it from other lower level additions to the terrace. It is generally simple in form with some architectural detailing including parapets and decorative ridge tiles. Whilst it has been clearly altered over time it has some heritage merit. Its visual impact is emphasised by its prominence on Milburn Road. The appellants argue the development does not have a public frontage though it is plainly evident that Grove House fronts Milburn Road and lies opposite a large public car park and medical centre where there is significant activity and where Grove House has an aspect over public space. Overall, despite the arrangement of the buildings around the service yard and the alterations which have taken place, the terrace and Grove House make a positive contribution to the street scene on the edge of the CA.
10. The proposal involves a significant further addition raising the roof of Grove House by just shy of 2 metres to form a three-storey structure with the upper floor accommodation mainly contained within the roof space and lit by rooflights. It would also significantly increase the bulk and massing by the addition of a two storey link between No.76 Poole Road and Grove House in

order to create additional accommodation. Internal alteration in the upper part of No.76 would also reconfigure an existing flat blocking off windows in the north elevation of the three-storey terraced building.

11. However, the increased height, bulk and massing of this additional built form would be prominent and dominant; as would the elongated linked section which would be highly visible and dominant in relation to adjoining buildings. These additions would lead to a series of competing elements poorly related to one another or to the existing residential units on the site, alterations which would be both visually jarring and discordant.
12. The detailed design itself lacks any architectural quality or cohesion and would remove those details which exist at present. I find that the development would represent a design out of keeping with the form and character of the existing buildings and out of proportion with the modest additions which have been added to the rear of the original terrace. Consequently, the proposal would not be locally distinctive or reflect any sense of place in relation to surrounding buildings. I concur with the Councils view that the development would result in a contrived and jumbled assemblage of mismatched elements. Moreover, I consider the development would fail to improve or enhance the area nor would it reinforce local identity.
13. Accordingly the additions would have an adverse and harmful impact on the site and the character of the surrounding area which would fail to preserve or enhance the character of the site and the CA though that harm would, in the words of the National Planning Policy Framework (the Framework) be less than substantial. Paragraph 196 of the Framework requires that where less than substantial harm occurs this should be weighed against the public benefits of the proposal. This is a matter to which I will return.
14. Taking these factors into account the proposal conflicts with Policies CS6, CS16, CS21, CS39 & CS41 of the Core Strategy as well as saved Policy 4.4 of the Local Plan, and the provisions of the Framework. These, amongst other things, seek to ensure that development is of good design, contributes positively to the character of the area and the quality of the street scene, enhances character and local distinctiveness including the protection of heritage assets.

Living conditions

15. The additional volume added to the building would produce new flats which would be compact in nature. Existing windows would need to be blocked up to ensure privacy and amenity between units and to allow the linkage of the extensions to the rear of No.76. However, this would cause the units to be single aspect with limited access to sunlight due to their orientation. Similarly, the units would have their only outlook onto a service yard which would represent a poor-quality environment particularly given none of them would have any external private amenity space.
16. The effect of the development would be to squeeze these units between the original buildings creating poor quality units in respect of space, outlook and relationship with one another such as would create a poor living environment. There would also be an adverse impact on the living conditions of the existing occupants of Flat 2 above No.76 as three windows in the north elevation would be blocked up completely resulting in that unit also being dependant on a

single outlook, despite the building being around 9 metres in depth which would make the rear spaces dark and oppressive.

17. The Council refers to the Technical Housing Standards¹ (THS) in that all three flats are well below the minimum size requirement of 51.5m². The Council however readily accepts that the standards are not adopted and reference to them is by way of a guide to an appropriate quality of living.
18. I consider that the proposals due to their small size, configuration and single aspect would result in the creation of cramped accommodation which would significantly undermine the living conditions of future occupiers. This would fail to provide the quality of living accommodation as required by Core Strategy Policies CS21 and CS41 which seek to ensure that developments are of good design and ensures that the amenities of future occupants is considered.
19. In the absence of any development plan policy stipulating minimum space standards, the THS cannot be applied on a mandatory basis and this is not disputed by the Council. However, those standards are a good starting point for assessing whether the accommodation proposed is satisfactory. There is flexibility in the construction of any new building to ensure that good quality living accommodation is created and as the units fall short of these standards and have no access to external amenity space this leads me to the view that the deficiency weighs significantly against the scheme.
20. For these reasons the proposals would lead to a harmful change to the living conditions of the occupants of the existing flat and to the creation of poor living conditions for occupants of the proposed new flats which would be detrimental to their living conditions.
21. For these reasons the proposal is considered contrary to the aims of Policies CS21, CS41 of the Core Strategy as well as saved Policy 4.4 of the Local Plan, and the provisions of the Framework. These policies together seek to ensure good design, respect residents' amenities and provide for the amenities of future occupants.

Parking and highway safety

22. Policy CS16 of the Core Strategy requires parking provision for new development to be in accordance with the Council's adopted parking standards. These standards are set out in the Bournemouth Parking Supplementary Planning Document (SPD) 2014. The SPD adopts a zonal approach in its assessment of local parking standards which reflects advice in paragraph 105 of the Framework, including the accessibility of the development and local car ownership levels.
23. The basis for the Councils' concern is that the provision and layout of car parking is insufficient to accommodate the additional onsite requirement for the development which would also displace parking on-street and exacerbate parking stress on nearby roads. This is said to lead to inconsiderate and illegal parking which would prejudice highway safety.
24. I note that the highway authority take issue with the dimensions of the parking spaces indicating that the 8 spaces provided would be too restricted and that 5 spaces would be the maximum that could be provided. Concern is also raised

¹ Technical Housing standards - nationally described space standards DCLG 2015

with regard to the displacement of existing users of the site. Nonetheless no mention is made by the highway authority of the public car parking provision adjacent to the site.

25. The area around the site is subject to a high demand for car parking with on street parking in the area mostly subject to restrictions and in places prohibited. The site boundary along Milburn Road is subject to restricted parking with double yellow lines on both sides of the road. There is no ability to provide additional provision in the courtyard where spaces appear to be at capacity. There is nonetheless a large public car park immediately opposite the site and to this extent parking provision is available for both existing and any future occupants in very close proximity to the site. Similarly, the site is close to public transport links and occupiers would know that on-site parking would be limited and would be able to make their decisions to occupy the flats in the light of this knowledge.
26. I am conscious that the parking standards are adopted and are supported by a development plan policy and the addition of three units of accommodation would lead to a deficiency against the agreed standard. However, there is limited evidence that any parking problems locally has increased the risk to highway safety and the availability of public car parking spaces is a material factor. Whilst there would be conflict with policy CS16 in respect of a deficiency of parking on the site the availability of public parking immediately opposite leads me to conclude that the development would not have an unacceptable impact on highway safety and the residual cumulative impacts on the road network would not be severe. In this respect, there would be no conflict with the approach to such matters as set out in paragraph 109 of the Framework and insufficient reason to warrant the refusal of 3 additional units on highway safety grounds.
27. My attention has been drawn to an allowed appeal² in a location around 3 miles away where the Inspector took the view that the availability of parking provision in the immediate vicinity made it reasonable for it to be relied upon to serve the development. I do not have the specific circumstances of that case and whilst similar conclusions were drawn, I have reached my decision only on the evidence available to me in relation to this appeal site.

Other matters

28. The appellants highlight an identical application which was deemed to be withdrawn but which was dealt with under finally disposed of powers³. The appellants now seek the determination of what is said to be an identical scheme as the Council have again failed to make a decision. Whilst I note the handling of the first application caused frustration to the appellants, its handling is a matter for the Council and is not germane to this appeal.
29. Attention has been drawn to the planning history of the site and prior approvals which have been granted for parts of the existing building. I have not been provided with full details of these approvals which do not appear to have been implemented but which the appellants emphasise remain extant. The appellants state that the principle of residential development is established by those prior approvals. That may be the case, but they do not lead me to a

² APP/V1260/W/19/3233402

³ section 40(13) of the Town and Country Planning (Development Management Procedure) (England) Order 2015.

different conclusion in relation to the appeal proposal which I have considered on its own merits.

30. The appellants refer to the encouragement given in paragraph 121 and 127 of the Framework that a positive approach should be taken for alternative uses of developed land. Likewise, encouragement is given by paragraph 118 for upwards developments and to use the airspace above existing premises for new homes. This encouragement is noted however developments should also deliver a high standard of design and maintain a strong sense of place especially in areas which are sensitive such as the CA. For the reasons already outlined I have found that not to be the case with this appeal.
31. I note that the appellants states that the site is within 5km of the Dorset Heathlands Special Protection Area (SPA). In these circumstances the Dorset Heathlands Planning Framework establishes a mitigation payment contribution to contribute to Strategic Access Management and Monitoring. The appellants have indicated they are willing to enter into such an agreement to ensure compliance with Policy CS33 and indicates a deed will be provided though no such deed or obligation has been received.
32. The consequence of such proximity to such European sites (SPA) would mean that the determination of the appeal should be undertaken with regard to the requirements of the Conservation of Habitats and Species Regulations 2010. Although the Council have not raised the proximity of the appeal site, this is a matter which as decision maker, had I been minded to allow the appeal I would have had to undertake an Appropriate Assessment (AA) under the Habitats Regulations to consider the implications of the development on the SPA. Because I am dismissing the appeal for other reasons, it is not necessary for me to undertake an AA on this occasion.
33. Affordable housing has been referred to by the appellant however the quantum of units proposed falls below the threshold for affordable housing to be a requirement of the scheme.

Planning Balance

34. The starting point for any planning decision is Section 38(6) of the Planning and Compulsory Purchase Act 2004 which requires decisions to be made in accordance with the development plan unless material considerations indicate otherwise.
35. I have a statutory duty under s.72⁴ to give special attention to the desirability of preserving or enhancing the character or appearance of the CA. The Framework specifies that development proposals which cause less than substantial harm to the significance of a designated heritage asset should be weighed against the public benefits of the proposal.
36. The appeal building is in an accessible location, close to facilities and services and public transport connections and where the principle of residential development is not at issue. The residential provision would also bring economic and social benefits and add three units to the local housing supply which would contribute to unmet housing need in the area. Whilst these benefits weigh in favour of the scheme, in my view, they are significantly and demonstrably outweighed by the harm the development would cause to the

⁴ Under the Planning (Listed Building and Conservation Areas) Act 1990 (as amended)

heritage asset, to the character and appearance of the area, and to the living conditions of existing and future occupants. The benefits do not therefore justify a decision other than in accordance with the development plan.

37. The appellant's submissions question the Council's interpretation of windfall sites regarding housing land supply and argue that the Council cannot demonstrate a five-year supply. The Council has not sought to address this interpretation in their statement however on the basis of the information put forward by the appellants, it appears there may be questions as to whether the Council is currently able to demonstrate a 5-year supply of deliverable housing land, as is required by the Framework and the tilted balance may apply. Nonetheless even if the tilted balance set out in paragraph 11(d)(ii) of the Framework were to apply in this case, I consider that the harm to the CA and the adverse impacts on the living conditions of occupiers, would significantly and demonstrably outweigh the benefits which would arise from the construction of three flats of the size proposed in the appeal scheme.
38. Consequently, and notwithstanding my conclusion in relation to parking matters the proposal conflicts with the development plan and the appeal fails.

Conclusion

39. For the reasons set out and having regard to all other matters raised the appeal is dismissed.

Janet Wilson

INSPECTOR