
Appeal Decision

Site visit made on 15 September 2020

by M Bale BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 21 December 2020

Appeal Ref: APP/V1260/W/20/3250257

Park Place, North Road, Poole BH14 0LY

- 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 M Maccarty, Primetower Care Homes Poole Ltd against Bournemouth, Christchurch and Poole Council.
 - The application Ref APP/19/00816/P, is dated 20 June 2019.
 - The development proposed is demolition of the existing buildings and the erection of an extra care (use class C2) development consisting of 126 assisted living apartments with a range of support services and facilities including treatment rooms, medical care, accommodation management, restaurant and laundry services.
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Decision

1. The appeal is dismissed and planning permission for demolition of the existing buildings and the erection of an extra care (use class C2) development consisting of 126 assisted living apartments with a range of support services and facilities including treatment rooms, medical care, accommodation management, restaurant and laundry services is refused.

Applications for costs

2. An application for costs was made by Mr M Maccarty, Primetower Care Homes Poole Ltd against Bournemouth, Christchurch and Poole Council. This application is the subject of a separate decision.

Preliminary Matters

3. The application is made in outline. Approval is sought for access, appearance, layout and scale, so I have considered the submitted plans as firm parts of the proposal.
4. The application was amended while under consideration by the Council. This reduced the number of proposed apartments to 126, which is reflected in my heading.

Main Issues

5. The main issues are:
 - a) The effect on the character and appearance of the area;
 - b) The effect on the setting of the Grade II listed Civic Centre;
 - c) The effect on Highway safety;

- d) The effect on the living conditions of neighbouring residents and future occupiers of the site; and
- e) The effect on European sites, designated for their nature conservation importance.

Reasons

Character and appearance

6. The surrounding area contains a mix of residential and commercial uses. Along this part of Commercial Road are a number of large buildings with accommodation over several floors. These include a number of other bulky buildings on Commercial Road and 'The Lookout', formerly Crown Buildings, that, despite its separation, the site is seen in context with. There are more under construction, such that there is ongoing change to the character and appearance of the area. Although the proposed building would be larger than others nearby, and sited close to the road frontage, its general form would nevertheless reflect the existing and emerging character of the locality.
7. The main entrance to the building would be sited at the corner of Commercial Road and North Road. It would have a two-storey glazed section, announcing the entrance and providing legibility to the building. The Commercial Road elevation, whilst long and high, would be stepped back part way along and include a further significant step forward before the building dropped in height close to the boundary with No.23 Commercial Road. Changes in material part way up the elevation, together with projecting windows and recessed balconies would provide further relief and articulation to the façade.
8. On the North Road frontage, the building would follow the curve in the road, providing articulation and would drop in height close to the boundary, which would avoid dwarfing No.8 North Road. Accommodation would be provided over a wide vehicular access. The height of this entrance would not reflect the smaller scale of the surrounding residential dwellings. However, it would replace an existing commercial-scale access and be set back from the highway frontage in an area heavily influenced by other large buildings and wide highway junctions. In this context, the proposed form and detailing would cause no harm.
9. Alongside living accommodation, the building would contain a number of communal elements including a restaurant, swimming pool, gym, hair/nail studio, café and library facilities. The opportunity has not been taken to give these facilities an outward face that could create a more active street frontage.
10. However, the facilities are clearly intended to be for the benefit of the residents and given the general acceptability in appearance that I have found, the inward facing facilities would not harm the character and appearance of the area. Nor would a proposed service/loading bay on the Commercial Road frontage, that would be read as part of the adjoining service road and bus stopping facilities.
11. It is clear that the Council considers that a previous permission at the site would result in a superior development. However, for the reasons given, I find that this proposal would not harm the character and appearance of the area and there would be no conflict with those aims of Policies PP27 or PP28 of the Poole Local Plan 2018 (LP) which seek to ensure a good standard of design that respects the characteristics of the area.

Heritage assets

12. The Civic Centre is described in the List Description as a prominent and accomplished civic building which has a distinct quality and presence. Its historic interest is as a symbolic expression of Poole's civic identity during the inter-war years. The building has a strong presence with grand entrance facing Parkstone Road. The urban form either side impresses upon this part of the setting, including the ongoing development of a large building at 1-3 Commercial Road. In that context, any views that there may be of the proposal from Parkstone Road would not harm the setting of the listed building.
13. On its other side, an existing multi-storey car park with roof mounted solar array, the development at 1-3 Commercial Road and the former Sloop Public House have a great influence over the setting of the Civic Centre. The car park obscures most views of it from the site. On approach along Commercial Road, the proposal would largely be seen in association with the Car Park, rather than the Civic Centre. For these reasons, and as I have found no harm would arise to the character and appearance of the area generally, the proposal would not harm its setting.

Highway safety

14. A slip Road alongside the site gives access to Nos.19 and 21 Commercial Road and serves as a bus priority lane around the junction with Park Road. A service layby would be provided to serve a commercial entrance to the building alongside this lane, but as it would be outside the existing carriageway, vehicles stopped there, including any short-term visitors to the main entrance, would not obstruct bus traffic.
15. However, as only busses may proceed along Commercial Road, all visiting traffic would have to turn in the slip road, where there is already an existing turning head. Such manoeuvring could momentarily obstruct the slip road, but, with regard to a reduction in movement from the removal of the accesses to Nos.19 and 21, there is no substantive evidence that this would occur with such regularity as to have a significant effect on the high frequency bus services that ply the route.
16. Exiting the service road, traffic would have to join the busy 3-lane highway which I understand can be congested at times. However, visibility is good and there is no substantive evidence that this manoeuvre would harm highway safety. It is also possible that some drivers may wish to take short-term stopping risks on North Road, but given the existing stopping restrictions, proposed dedicated car park and service bay, this is unlikely to occur with any significant frequency. I, therefore, attach only limited weight to that prospect.
17. With regard to the above, I find that the proposal would not cause demonstrable harm to highway safety or the efficient operation of the highway network. The highway authority has confirmed that sufficient car parking would be provided to meet the needs of the development. There would, therefore, be no conflict with LP Policies PP34 and PP35 which seek to ensure safe access to the highway and secure reliable alternatives to the private car.

Living conditions

18. No.8 North Road has windows facing the site. The building, while close, would be set back from the frontage such that outlook would be retained from the

front rooms of No.8, which appear to have a dual aspect. Outlook from a rear bedroom window would be significantly affected, but this would only be a part of the dwelling and so would cause limited harm to the overall living conditions of the occupants.

19. The building would be further away from No.23 Commercial Road, but still in close proximity. Flats in this building have windows facing towards the site that currently enjoy an open outlook across the gardens of Nos.19 and 21 and parking areas at Park Place. Due to the proximity of the proposal and scale of the flank wall, the outlook from these windows would be significantly affected. There is no substantive evidence that these windows do not serve habitable rooms and while a similar situation was allowed on the opposite side of No.23 the reasoning associated with that appears to suggest that proposal was further away than an existing structure. However, the separation would be sufficient to maintain a degree of space outside the windows and so, whilst, there would be harm to outlook, the resultant harm to the living conditions of occupiers would be limited.
20. There are a number of dwellings that face the site across North Road. Notwithstanding the scale of the building proposed, with regard to the openness of the highway around the site, the separation distances would be sufficient to avoid unacceptable harm to their outlook.
21. Some of the proposed units, most notably CA8 and CA9 would face out onto a small courtyard surrounded by the full height of the building and retaining walls to the car parking area. Their outlook would, therefore, be restricted and they could have reduced privacy from access steps and a communal dining terrace. There would also be other units in close proximity to the active parts of the building around the care village hub and communal facilities.
22. However, the spaces would be a managed environment within a specialist facility. Given the appellant's experience in developing similar projects, there is no substantive evidence that the proposed relationships between uses would give rise to harmful living conditions. Although the courtyard area around units CA8 and CA9 is likely to be shaded, it would not be an oppressive environment when viewed from the internal spaces.
23. Some of the staff facilities and working areas would not have natural light. Nor would some of the resident's facilities at lower ground floor level such as the gym and nail/hair facilities. However, given the intended uses of those parts of the building, these shortcomings would not give rise to harmful living or working conditions.
24. A number of units at the lower levels, including the visitor suite, would be close to traffic passing through a busy part of the local road network. However, there is no substantive evidence that any noise disturbance would be so significant as to harm living conditions.
25. With regard to the above, I conclude that there would be no harm to the living conditions of future occupiers of the site. There would be some harm to the living conditions of the occupiers of No.8 North Road and No.23 Commercial Road, which would result in a limited conflict with that part of LP Policy PP27 that seeks to protect the amenity of neighbouring residents.

European sites

26. The site is within 5km of the Dorset Heathlands Special Protection Area (SPA) and Ramsar site, and the Dorset Heaths Special Area of Conservation (the Dorset Heathlands European sites). It is also in close proximity to the Poole Harbour SPA and Ramsar site (the Poole Harbour European sites). Additional impacts arising from a greater number of residents in the area, in combination with other development, means that likely significant effects to the integrity of these European sites could arise. Appropriate assessment under the Conservation of Species and Habitats Regulations 2017 (the Habitats Regulations) is, therefore, required.
27. The Dorset Heathlands European sites host protected priority habitats and species. Qualifying features include Dartford Warbler, Nightjar, Woodlark, Hen harrier and Merlin as well as other typical species of lowland heathland, wetlands and dunes. Their conservation objectives are to ensure the integrity of the sites is maintained, and that the sites contribute to achieving the favourable conservation status of their qualifying features.
28. The Dorset Heathlands Planning Framework 2020-2025 Supplementary Planning Document (DHPF), indicates that the associated increases in population, in combination with other development, are likely to place increased pressure upon the protected heathland, including through increases in wild fires, damaging recreational uses, the introduction of incompatible plants and animals, loss of vegetation and soil erosion, and disturbance by humans and their pets.
29. Similarly, increased recreational pressure on parts of Poole Harbour is likely to have a significant effect upon the Poole Harbour European sites. These features are designated for their internationally important populations of regularly occurring species and migratory species. Particular features of interest include Common Shelduck, Pied Avocet, Black-tailed Godwit, Mediterranean Gull, Common Tern, Little Egret, Eurasian Spoonbill, and Sandwich Tern. There is also an internationally important assemblage of waterfowl including Dunlin, Redshank and Brent Goose, as well as supporting habitats for seagrass, shallow inshore waters including coastal lagoons, intertidal sediments, saltmarsh, and reedbeds.
30. The DHPF sets out that mitigation for impacts on the Dorset Heathlands European sites can be achieved through the delivery of Heathland Infrastructure Projects (HIPs) and Strategic Access Management and Monitoring Measures (SAMMs). The Poole Harbour Recreation 2019-2024 Supplementary Planning Document sets out that Poole Harbour Infrastructure Projects (PHIPs) and SAMMs can avoid significant adverse effects on the integrity of the Poole Harbour European sites from recreational impacts.
31. In addition, extra nitrogen loading on Poole Harbour, including from human sewage discharge has been shown to contribute to growth of wide spread algal mats through eutrophication. The mats restrict the growth, distribution and variety of important food available for wading birds and affect other important features and processes.
32. The Nitrogen Reduction in Poole Harbour Supplementary Planning Document 2017 sets out a package of mitigation measures to ensure nutrient neutrality across new developments, such as improving nitrogen stripping at Sewage Treatment Works and offsetting the increase through converting high nitrogen input land uses to low input uses.

33. A unilateral undertaking planning obligation would provide contributions towards HIPs, PHIPs, SAMMs and nitrogen reduction methods. However, the contributions have been calculated based on an increase in accommodation from the previous permission and are insufficient to mitigate the full effect of the development.
34. Although the Council's comments on this matter were received after the deadline given by the Planning Inspectorate, that does not diminish my responsibility as competent authority under the Habitats Regulations to ensure that adverse effects will not occur. The appellant has been afforded suitable opportunity to respond and so will not suffer injustice by my consideration of this matter.
35. It may well be that there is no impediment to the construction of the previous permission and it may have comparable impacts on the integrity of the European Sites as the present scheme with the proposed mitigation. The effects of that permission cannot be revisited but that does not indicate harm should be allowed as a consequence of this development and I must consider all material considerations now.
36. The proposal is not an addition to that in the previous permission, it is a different development. While some of the accommodation types in the previous scheme may be comparable to the present one, they are part of a single development with a mix of accommodation. The overall proposals are not comparable so I attribute little weight to the prospect that this different development could result in similar harm. Moreover, as competent authority under the Habitats Regulations, I may only agree to this project after having ascertained that it will not adversely affect the integrity of the sites, in combination with other development. In the absence of sufficient mitigation, I cannot conclude that.
37. Therefore, following appropriate assessment, I conclude that the proposal, in combination with other development, would lead to adverse impacts on the integrity of the European Sites and a conflict with LP Policy PP32 that requires development to mitigate its impacts on the European Sites.

Other Matters

38. The proposal does not allow for sufficient refuse storage when assessed against the Council's standards. The appellant has clarified that additional storage could be made through internal changes and I have no reason to disagree. A planning condition could be used to secure appropriate storage and access arrangements and compliance with the part of LP Policy PP27 that requires practical waste and recycling arrangements, if permission were granted.
39. Further details are required in respect of surface water drainage. However, the Council's officer report clarifies that the ground should be suitable for soakaways and that other sustainable drainage systems could be incorporated. There is no substantive evidence before me to suggest that appropriate details could not be secured through planning conditions.
40. The LP indicates that there is a need for some 3425 units of specialist housing over the plan period, equating to some 25% of the overall housing target. It clarifies that delivery is reliant on the market bringing forward appropriate

sites. The Council's Head of Strategic Commissioning has clarified that that there is a need for additional units in Poole and the wider area.

41. The appellant also contends that the Council cannot demonstrate a 5 year supply of deliverable housing land. If I were to accept this, then there would be additional significant benefit from the delivery of additional housing in an accessible location. However, while I attribute substantial weight to the benefits, as set out in Paragraph 177 of the National Planning Policy Framework (the Framework), the presumption in favour of sustainable development would not apply by virtue of my findings in respect of European sites.

Planning Balance

42. I have found that no harm would arise in respect of the first 3 main issues. Other matters could be dealt with through planning conditions. While there would only be some limited harm to the living conditions of the neighbouring residents, there would also be harm to the integrity of the European sites.
43. give substantial weight to the benefits of the scheme. However, the Framework indicates that if significant harm to biodiversity cannot be avoided or adequately mitigated, then planning permission should be refused. As such, and given my duty as competent authority under the Habitats Regulations my conclusions in respect of the European sites are determinative and result in a conflict with the development plan, taken as a whole.

Conclusion

44. For the reasons given, I conclude that the appeal should be dismissed.

M Bale

INSPECTOR