



Appeal Decision

Hearing Held on 16 and 17 November 2020

Site visit made on 10 November 2020

by M Bale BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 29 December 2020

Appeal Ref: APP/V1260/W/20/3244385

The Horse and Jockey, Wimborne Road, Bournemouth BH10 7AA

- 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 Dreamland Bournemouth Limited against the decision of Bournemouth, Christchurch and Poole Council.
 - The application Ref 7-2019-4650-F, dated 5 March 2019, was refused by notice dated 26 September 2019.
 - The development proposed is demolition of the existing public house and the erection of a block of 28 flats with car parking and vehicular access.
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Decision

1. The appeal is allowed and planning permission is granted for demolition of the existing public house and the erection of a block of 28 flats with car parking and vehicular access at The Horse and Jockey, Wimborne Road, Bournemouth BH10 7AA in accordance with the terms of the application, Ref 7-2019-4650-F, dated 5 March 2019, subject to the conditions in the attached schedule.

Procedural matter

2. An application for Costs was made by the appellant and subsequently withdrawn. I have, therefore, not considered this any further.

Main Issues

3. The main issues are:
 - (i) The effect on heritage assets;
 - (ii) The effect on the character and appearance of the area;
 - (iii) The effect on the living conditions of the occupiers of Nos. 1114 Wimborne Road and 3 The Circle, with particular regard to outlook and privacy;
 - (iv) The effect on the living conditions of the future occupiers of the site, with particular regard to the size of the accommodation and the availability of outdoor space;
 - (v) The effect on the availability of community facilities; and
 - (vi) The effect on highway safety.

Reasons

Heritage

4. The existing building is a purpose-built public house, constructed close to the beginning of the 20th century. It includes much original architectural detailing and presents an elegant façade to Wimborne Road. It is on the site of an earlier public house and, along with the limited number of other similar establishments elsewhere, including by the same architect, helps to explain the history of the area, and the former villages that pre-date Bournemouth. On this basis, the existing building should be considered a non-designated heritage asset. It would be totally lost, resulting in substantial harm to its significance.
5. The building is of good architectural quality with a pleasing appearance and its character as an early 20th century public house is evident. However, the Council confirmed at the hearing that the architecture was not unique to Bournemouth. While it may be part of the history of the Redhill area and have some meaning to local residents, there is no substantive evidence that it played an important role in the development of the surrounding townscape, is part of the identity of the town, or that the value of similar establishments elsewhere is strongly affected by the existence of this one.
6. Therefore, I find that the building has low significance overall as a heritage asset. Nevertheless, its loss would result in a conflict with the aims of Policies CS40 and CS6 of the Bournemouth Local Plan: Core Strategy 2012 (CS) that seek to protect local heritage assets and retain features that contribute to each place's heritage.

Character and appearance

7. The existing public house is set to the side of an area of bungalows with simply designed flats to the rear. However, the overall area is visually dominated by wide highway infrastructure and a retail park, and the building is seen against steeply rising ground. As such, although it may be something of a way marker on Wimborne Road, it is not prominent and does not make a significant contribution to the area's character and appearance.
8. The density of the proposed development would be higher than that of the immediately surrounding, suburban area considered as a whole. This indicates that there would be a significant concentration of development at the site, but that would not, in itself, result in harm to the character and appearance of the area. As there are a mix of uses in the area, including flats, the use or typology of housing would not harm the character and appearance of the area.
9. The replacement building would be a considerably larger development than the public house, with accommodation spread over four floors. However, articulation in the façade, including a recessed entrance and varying roof lines would prevent a bulky appearance from Wimborne Road. Although it would be close to bungalows on the opposite side of Portswood Drive, the surrounding topography and open setting provided by the expanse of Wimborne Road, which also sets it apart from the more formally arranged two-storey suburban housing development on the opposite side of Wimborne Road, means that the site could accommodate the building without appearing excessively dominant.
10. Portswood Drive has the character of a secondary service road, dominated by substantial boundary structures and the large blocks of flats at Redhill Court.

All of this is set against a verdant backdrop provided by Redhill Common and a mature tree close to the site boundary. The scale of the building would be more apparent from here, but the vehicular accesses, bin stores and bulk of the building would not appear incongruous with the somewhat functional urban context. The otherwise verdant setting and trees would be unharmed.

11. Notwithstanding the modern form, the building would include a number of architectural devices that echo more historic building styles. While their incorporation into the building may not have the elegance of the existing building, I find that they would not be inconsistently used, compete with one another, nor would they result in a building that somehow masked or was dishonest to its modern form. Ultimately, the detailed design would not result in a building that was at odds with the mixed appearance of the area in which it was set.
12. I, therefore, find that the proposal would not harm the character and appearance of the area. As such, it would not conflict with those parts of CS Policies CS21 and CS41, or Policy 6.10 of the Bournemouth District Wide Local Plan (LP) that seek to ensure that development promotes good design, respects the character of the area and local distinctiveness.

Neighbouring residents

13. A number of windows are proposed facing No.1114 Wimborne Road, which has side windows facing the site. While the closest windows would be bedrooms, their future use as such cannot be safeguarded and the distances between them and the windows in No.1114 are not sufficient to avoid intervisibility. However, there is a first floor window in the existing building that faces towards No.1114.
14. Whilst I understand that the occupiers of No.1114 may have agreed with occupiers of the public house that the facing room is used infrequently, such cannot be safeguarded. There are also views through the window of No.1114 from the footway on Portswood Drive, so this element of internal space is not entirely private. Therefore, although the increase in the number of facing windows would increase the potential for overlooking, it would not result in significant harm to the living conditions of the occupiers of No.1114.
15. The garden area for No.1114 is largely private, set away from existing windows and obscured from the highway by boundary structures. Proposed upper floor windows would afford some views over the space, but the largest, secondary windows to the living spaces would be obscure glazed. Given the distances from the smaller windows that are indicated as serving kitchen and dining areas, a significant loss of privacy would not occur. The effect on the privacy of outdoor spaces relating to No.3 The Circle would be less than for No.1114.
16. The increased size of building relative to the existing public house would be clearly noticeable to the neighbouring residents at Nos. 1114 and 3. However, the proposed roof form and increased set back from Portswood Drive means that the overall built form of the front part towards the Wimborne Road frontage would not be significantly closer or more present on the internal spaces of No.1114 than the existing public house.
17. The rear section would result in significantly more built form close to the external spaces of Nos. 1114 and 3. However, the main parts of these gardens

are not otherwise strongly enclosed and the positioning of the proposal away from the boundary on the opposite side of Portswood Drive would not result in a harmful overbearing presence.

18. There would, therefore, be some adverse effect on the privacy of No.1114, but not to the extent that it would harm living conditions. There would, therefore, be no conflict with those aims of CS Policy CS21 and LP Policy 6.10 that require proposals to respect living conditions.

Future occupiers

19. A number of the units would not meet the Nationally Described Space Standards (NDSS). Although most do not fall far short, I was told at the Hearing that one of the units would be 17 square metres below, with its accommodation further compromised by its location within the roof space. I also heard that 6 of the units would not provide adequate internal storage.
20. The NDSS are an indication of appropriate spaces, but there is no substantive evidence that failure to meet them in this case would necessarily result in substandard living accommodation. Although it would be far from spacious, the plans indicate that basic furniture to meet the day to day needs of one or two occupants could be accommodated within the smallest unit.
21. Very few of the units have any private outside space. The development would include some two-bedroom units and Residential Development: A Design Guide (2008) indicates that private gardens are particularly important where a development includes family units. A small external grassed area is proposed, but much of it slopes steeply and it is far from clear how it would be easily accessed by future residents. It would, therefore, not provide usable recreation space.
22. However, the site is very close to Redhill Common which includes opportunities for walking and sitting. Although off-site space could not provide the same level of amenity to future occupiers as would be obtained from stepping directly out into it, in this case, the space is sufficiently close to provide easily accessible outdoor space.
23. With regard to the above, therefore, although a less dense development could allow for bigger units and more outdoor space, in the absence of a specific development plan policy requirement to provide external space or meet the NDSS, I find that the development would provide adequate living conditions for future occupiers. Nevertheless, adequate is not the policy requirement and the shortcomings mean that it would fail to meet the aims of CS Policy 41 which require a high standard of amenity to meet the day to day needs of future residents.

Community facilities

24. CS Policy CS12 sets out that proposals which would lead to the loss of premises or sites used, or last used, for a community use will not be permitted unless one of 4 criteria are met. The second criterion is that there are adequate alternative facilities available locally.
25. The appellant has pointed to a number of public houses, but the Council confirmed at the Hearing that, due to the topography, only one of those was

within an appropriate walking distance, and that was at a distance at the upper end of acceptable limits.

26. However, although the Policy is written in the plural, such that it reads as requiring more than one alternative facility, there are others that are only a little further on foot and the appellant's suggestion that they could be easily accessed by public transport was not disputed. Therefore, I conclude that there would be one accessible facility available locally, another that could be accessed by those willing or able to tackle the intervening gradient, and other further choice relatively nearby if public transport were used. I find such to be adequate alternative facilities, that would meet the relevant test in Policy CS12.

Highway safety

27. The drawings propose an undercroft car park with a steep access ramp. The lack of transition ramp with a slacker gradient at its bottom end could lead to a risk of vehicles grounding. Such would deter use and could result in parking on nearby roads causing obstructions to carriageways and footways, and other highway dangers.
28. The appellant contends that a planning condition could be used to secure a suitable alternative arrangement, and that, if details had to be agreed prior to the commencement of the development it could not proceed if a suitable solution could not be found. The Council is concerned that it may not be possible to accommodate the amendments without significant alterations to the built form. That is to say that it would render any permission granted for the current proposal unimplementable.
29. The appellant has not provided any substantive evidence that a solution may be achievable and there is no certainty that an appropriate scheme can be designed. Amendments to the access ramp could have knock on effects for the whole undercroft parking layout, but it was confirmed at the Hearing that one space could be lost and the required parking standards could still be met. There is, therefore, some flexibility to the layout within the parameters of the current built form.
30. It would be unreasonable to impose a condition which would nullify the benefit of the permission but the condition would not prevent use of the building as proposed, provided a solution were found. Planning Practice Guidance (PPG) indicates pre-commencement conditions should only be used where there is clear justification, which is likely to mean that the requirements of the condition are so fundamental to the development permitted that it would otherwise be necessary to refuse the whole permission.
31. I am, therefore, satisfied that onerous conditions relating to fundamental matters of a scheme's acceptability can be dealt with by planning conditions. In this case, the appellant has suggested the condition, engaged in open discussion at the Hearing and so understands and accepts the burdens that it would place on development. The use of the condition would avoid the need to refuse permission for this reason, and so would assist with the efficient and effective delivery of development as advocated by the PPG.
32. On this basis, no harm to highway safety would result from the parking layout. There is no substantive evidence that the access roads could not accommodate the likely increase traffic or lead to safety concerns at the junction of

Portswood Drive and Wimborne Road. Therefore, the proposal would comply with CS Policies CS16 and CS18 that require parking provision to accord with adopted standards and avoidance of harm to local walking networks.

Planning Balance

33. There would be harm to the area's heritage through the loss of the non-designated heritage asset. The standard of amenity for future occupiers would be adequate, but not high. This would result in a conflict with the development plan, considered as a whole. Against this, there are benefits associated with the scheme in terms of housing delivery and associated economic benefits during construction and occupation.
34. The Council has confirmed that, with a 20% buffer, it can only demonstrate a 2.9 year supply of deliverable housing land. Therefore, Framework Paragraph 11(d) must be considered. Although the proposal would only provide one- and two-bedroom units, it was confirmed at the Hearing that there is a need for that type of accommodation in Bournemouth and that the development would not result in an imbalance of accommodation types in the surrounding neighbourhood. In this context, the delivery of housing proposed is of very significant benefit.
35. Framework Paragraph 197 requires a balanced judgement to be made having regard to the scale of any harm or loss and the significance of the non-designated heritage asset. Total destruction of the heritage asset equates to very substantial harm, but I have found its overall heritage significance to be low. It may well be that some similar benefits could be derived from a scheme that retained the existing building, possibly involving its conversion to flats. I understand that this has been done nearby by the same appellant developer and there is only unsubstantiated assertion that such an approach would not be viable here. Be that as it may, I must weigh the benefits of this scheme against the harm.
36. The Framework also indicates that development should provide a high standard of amenity for existing and future residents. However, in the absence of harm in this regard and with regard to the significance of the heritage asset described above, the very significant benefits from the supply of housing and the Framework's support for the use of previously developed land, the adverse impacts of granting permission do not significantly and demonstrably outweigh the benefits when assessed against the policies of the Framework taken as a whole. Therefore, the presumption in favour of sustainable development outlined at paragraph 11 of the Framework applies. As Government Policy, I attribute the Framework is substantial weight.
37. I have identified that the proposal would be in conflict with the development plan. However, for the reasons given, the weight that I attribute to the conflict with those policies in terms of heritage and living conditions is limited. Therefore, material considerations in this case indicate a decision otherwise than in accordance with the development plan.

Appropriate assessment

38. The site is within 5km of the Dorset Heathlands Special Protection Area and Ramsar, and Dorset Heaths Special Area of Conservation (the European Sites). An increase in the number of residents in the area could lead to additional

impacts from recreational activities on the European Sites so likely significant effects on their integrity could arise. Appropriate assessment under the Conservation of Habitats and Species Regulations is, therefore, required.

39. The 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 ensuring that the sites contribute to achieving the favourable conservation status of their qualifying features.
40. 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.
41. The DHPF sets out that mitigation measures can be achieved through the delivery of Heathland Infrastructure Projects (HIPs) and Strategic Access Management and Monitoring Measures (SAMMs). A Unilateral Undertaking has been provided that would make financial contributions towards the necessary SAMMs. HIPs would be funded through the Community Infrastructure Levy.
42. Having sought the views of Natural England as Statutory Nature Conservation Body, and following appropriate assessment, I am satisfied that the mitigation outlined in the various supplementary planning documents, funded through CIL and the unilateral undertaking, would ensure that significant adverse effects to the integrity of the European Sites would not arise from this development, alone or in combination with other development in the area. The measures would be delivered by the Council, to provide appropriate mitigation at the point at which the dwellings were occupied.

Conditions

43. A plans condition is required in the interests of certainty. To safeguard living conditions and in the interests of highway safety a construction management plan should be secured, including hours of construction activities.
44. In the interests of the character and appearance of the area, details are required of external surfaces, a tree protection and landscaping scheme, and it is necessary to remove permitted development rights for the erection of fences around the development. To prevent any increase in off-site flood risk, a detailed drainage scheme should be approved and a condition is necessary to secure this. To provide a record of the area's heritage, a condition is necessary to secure a full record of the building, prior to its demolition.
45. To ensure that adequate and usable parking facilities are provided in the interests of highway safety, full details of the access ramps, parking layout, new accesses from Portswood Drive, closure of access on Wimborne Road, and cycle parking facilities are required. Visibility splays must be provided and a widened area of public footway provided. The Highway Authority has requested a condition requiring the widened footway to be dedicated to as publicly maintained highway. However, the PPG indicates that conditions cannot require

that land is formally given up (or ceded) to other parties, such as the local highway authority. My condition, therefore, simply requires it to be provided to a standard approved by the Council.

46. To protect the living conditions of neighbouring residents the secondary windows in the closest living rooms should be obscure glazed, as suggested by the appellant. To ensure adequate facilities are provided for future occupiers, the bin store must be provided and measures put in place to ensure future collection. I have made some revisions to the Council's suggested conditions in the interests of clarity and to ensure compliance with the Framework and PPG.

Conclusion

47. For the reasons given above, I conclude that the appeal should be allowed.

M Bale

INSPECTOR

Appearances

For the appellant:

Darryl Howells BTP BA (Hons) MRTPI – Director Pure Town Planning

For the Local Planning Authority:

Alexis Edwards MRTPI MTPS – Transport Development Team Leader
Sophie Leon MRTPI Dip Urban Design – Urban Design Officer
Ruth Povey BSC (Hons) MA MRTPI IHBC – Heritage Officer
Charles Raven BSc (Hons) DipTP MRTPI – Senior Planning Officer

Documents submitted at the hearing

- 1) Email from Darryl Howells proposing condition relating to access ramp design.
- 2) Email from Charles Raven detailing the Council's approach to mitigating the effects on European Sites, including Dorset Heathland's Planning Framework 2020-2025 SPD and the Council's Appropriate Assessment dated 6 June 2019.
- 3) Email from Charles Raven proposing a condition relating to building recording.

Schedule

- 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans: 3311-P-01 A; 3311-P-02 D; 3311-P-03 D; 3311-P-04 B; 3311-P-05 C; 3311-P-06 C; 3311-P-07 C; 3311-P-08 C; 3311-P-09 C; 3311-P-10-B; 3311-P-11 C.
- 3) Prior to its demolition, the Public House shall be fully recorded at level 3 (in accordance with the Historic England publication 'Understanding Historic Buildings: A Guide to Good Recording Practice'). The record shall be submitted to and approved in writing by the Local Planning Authority prior to any works of demolition to the building commencing on site.
- 4) No development shall take place, including any works of demolition, until a Construction Method Statement has been submitted to, and approved in writing by the Local Planning Authority. The Statement shall provide for:
 - i) the parking of vehicles of site operatives and visitors;
 - ii) loading and unloading of plant and materials;
 - iii) storage of plant and materials used in constructing the development;
 - iv) methods to minimise noise during construction operations; and
 - v) delivery, demolition and construction working hours shall be restricted to the hours of 0800 to 1800 Monday – Friday and 0800 to 1300 on Saturdays and not at all on Sundays, Public and Bank Holidays unless otherwise agreed in writing with the Local Planning Authority.

The approved Construction Method Statement shall be adhered to throughout the construction period for the development.

- 5) No site clearance or development work shall commence until there have been submitted to and approved in writing by the Local Planning Authority an arboricultural method statement and detailed drawings showing:
 - i) The specification and position of fencing and other measures such as temporary surfacing, for the protection of the roots and crown spread of trees, groups of trees and other vegetation to be retained on and adjoining the site. Protective fencing should accord with the recommendations of BS 5837:2012: Trees in relation to design, demolition and construction. Recommendations;
 - ii) the programme for the erection and maintenance of protective fencing and the installation of any other protective measures; such programme will include details of supervision by an arboriculturist;
 - iii) details of any proposed alterations in existing ground levels and of the position of any proposed excavation and constructional details of any drainage, hard surfacing, foundations, walls and similar works within the protected area;
 - iv) details of contractors' compounds and areas for storage; and
 - v) schedule of proposed tree works.

The details contained in the arboricultural method statement shall be thereafter implemented on site and the protective fencing and other protective measures shall be maintained during the course of construction.

- 6) Notwithstanding the submitted details, prior to the commencement of the construction of the new building, a scheme for the whole site providing for the disposal of surface water run-off and incorporating sustainable urban drainage systems (SUDS), shall be submitted to and approved in writing by the Local Planning Authority. The drainage works shall be completed in accordance with the approved details prior to occupation of the development or in accordance with a timetable to be agreed in writing by the Local Planning Authority and shall thereafter be maintained as such. The scheme shall include the following as appropriate:
 - i) A scaled plan indicating the extent, position and type of all proposed hard surfacing (e.g. drives, parking areas, paths, patios) and roofed areas;
 - ii) details of the method of disposal for all areas including means of treatment or interception for potentially polluted run-off;
 - iii) scaled drawings including cross section, to illustrate the construction method and materials to be used for the hard surfacing (sample materials and literature demonstrating permeability may be required).
- 7) Prior to the commencement of the construction of the new building, details of the specification (a typical cross section of the surfacing is required) of the access and area for parking, including the marking out of spaces shall be submitted to and approved in writing by the Local Planning Authority. These areas shall be constructed and surfaced in accordance with the approved details and made available for use prior to the occupation of the development and shall thereafter be permanently retained and kept available for the residents, visitors or staff of the development on an unallocated basis at all times.
- 8) Prior to the commencement of the construction of the external walls, details and/or samples of the materials to be used on the external surfaces of the proposed development shall be submitted to and approved in writing by the Local Planning Authority. Development shall be carried out in accordance with the approved details and shall thereafter be maintained as such.
- 9) Prior to the occupation of the development hereby permitted, full details of soft landscape proposals shall be submitted to and approved in writing by the Local Planning Authority. The details should include where appropriate:
 - i) Planting plans;
 - ii) schedule of plants;
 - iii) implementation timetable;
 - iv) 5 year maintenance schedule.

The approved soft landscape scheme shall be implemented in full prior to occupation or use of the development commencing and shall thereafter be permanently retained unless otherwise agreed in writing by the Local Planning Authority.
- 10) Prior to the occupation of the development hereby permitted, details with specifications of the widened area of footway along Portswood Drive, the lowering of the kerb and footway at the proposed access crossings of the highway at Portswood Drive, and the closing and reinstatement of full height kerbs of the redundant vehicle crossover of to the site at Wimborne Road shall be submitted to and approved in writing by the Local Planning Authority. These areas shall be constructed and surfaced in accordance with the

- approved details, and made available for use by occupiers, visitors to the development and the public, prior to occupation of the development and shall thereafter be maintained as such.
- 11) Notwithstanding any submitted details, prior to the occupation of the development hereby permitted pedestrian inter-visibility splays of 2m x 2m shall be provided to either side of each of the vehicle accesses at Portswood Drive and shall thereafter be maintained as such. The depth shall be measured from the back of the (widened) footway into the development site, the width of the splay measured outwards from the edge of the access, and the splays shall be constructed in accordance with a scheme that shall have been submitted to and approved in writing by the Local Planning Authority beforehand. No fence, wall or other obstruction to visibility over 0.6m in height above ground level shall be erected within the area of the splay at any time.
 - 12) Prior to the occupation of the development hereby permitted, details of a cycle store for a minimum of 31 cycles, including location, elevations, internal layout and construction materials, shall be submitted to and approved in writing by the Local Planning Authority. The approved cycle store shall be completed prior to the occupation of any part of the development granted by this permission and shall be thereafter retained, maintained and kept available for the occupants of the development at all times.
 - 13) Prior to the occupation of the development hereby permitted, the bin stores shown on the approved plans shall be constructed in accordance with the approved details and shall thereafter be maintained as such.
 - 14) Prior to the occupation of the development hereby permitted a Refuse Management Plan shall be submitted to and approved in writing by the Local Planning Authority. The plan shall include: details of the management company to be set up; the employment of a private contractor to collect the refuse; measures to be taken if no private contractor is available at any time in the future (such as the employment of a person or persons to ensure bins are wheeled to the collection point); and that bins will not be stored in the open or at the collection point apart from on the day of collection. The refuse management plan shall thereafter be implemented in accordance with the approved details, unless otherwise approved in writing by the Local Planning Authority.
 - 15) Prior to the occupation of units 12, 19 and 26, the living room windows in the 'Portswood Drive Part Elevation' as identified on drawing 3311-P-07 C, serving those units shall be non-opening and fitted with obscure glazing of a type that shall have been submitted to and agreed in writing by the Local Planning Authority beforehand and shall thereafter be maintained as such.
 - 16) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015 (or any Order revoking and re-enacting that Order with or without modification) no gates, fences, walls or other means of enclosure or physical division to delineate separate areas of ownership within the grounds of the application site shall be erected.