



Appeal Decision

Site Visit made on 26 January 2021

by Martin Small BA (Hons) BPI DipCM MRTPI

an Inspector appointed by the Secretary of State

Decision date: 18th February 2021

Appeal Ref: APP/V1260/W/20/3262202

4 Western Road, Poole, BH13 7BJ

- 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 planning permission.
 - The appeal is made by Fayrewood Property Limited against Bournemouth Christchurch and Poole Council.
 - The application, Ref APP/20/00932/F, is dated 21 August 2020.
 - The development proposed is demolish the existing building and erect a block of 4 apartments together with associated parking and access.
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Decision

1. The appeal is dismissed and planning permission is refused to demolish the existing building and erect a block of 4 apartments together with associated parking and access at 4 Western Road, Poole, BH13 7BJ in accordance with the terms of the application, Ref APP/20/00932/F, dated 21 August 2020, and the plans submitted with it.

Application for costs

2. An application for costs was made by Fayrewood Property Ltd against Bournemouth, Christchurch and Poole Council. This application is the subject of a separate Decision.

Procedural Matters

3. The results of the 2020 Housing Delivery Test were published on 19 January 2021. The results show that Poole delivered 73% of its housing requirement over the preceding 3 years. The main parties have been afforded the opportunity to comment on the implications of these results for this appeal and I have had regard to their comments in my decision.
4. The appeal site lies within 5 km of the Dorset Heathlands which comprise the Dorset Heathlands Special Protection Area (SPA) and Ramsar site, the Dorset Heaths Special Area of Conservation (SAC) and the Dorset Heaths (Purbeck and Wareham) and Studland Dunes SAC. The site is also within the 'Poole Harbour Recreation Zone'. Poole Harbour is a SPA and Ramsar site.
5. During the appeal process the appellant submitted a signed and dated S111 undertaking with an upfront payment of both Heathland and Harbour Recreation Strategic Access Management and Monitoring contributions. These contributions are towards mitigation measures for the likely significant effects of the proposal on the integrity of the designated sites. The Council has confirmed the receipt of these contributions. I return to this matter below.

Main Issues

6. The Council failed to determine the appeal within the prescribed period and provided no appeal statement within the required timescale. However, having considered all the written evidence including the planning history of the site, the representations of interested parties and the Council's response to the appellant's application for costs and having undertaken a site visit, I consider the main issues to be the effect of the proposed development on:
- i) the character and appearance of the area; and
 - ii) the living conditions of the occupiers of neighbouring properties, with particular regard to overlooking and loss of privacy.

Reasons

Character and appearance

7. The appeal site is located in an area characterised by 4 storey flatted buildings set in large communal landscaped grounds with extensive tree cover resulting in a spacious and sylvan character. The appeal site itself is an irregularly shaped plot set back from Western Road that was formerly part of the grounds of Fineshade, a 4-storey block of flats fronting Martello Park to the south of the site.
8. The site is occupied by an existing single-storey dwelling sited towards the rear of the plot which is not prominent and therefore has a very limited effect on the character and appearance of the area. To either side are the communal gardens of two other 4-storey apartment blocks, Martello House and Tree Tops, whilst to the rear are garages and a parking court for Fineshade.
9. The height and overall massing of the proposed development would be significantly less than that proposed in a previous outline application for the erection of a 4-storey block of 6 flats with parking and vehicular access¹ which was refused. However, the plot is substantially smaller than those of the other flatted blocks around the appeal site. The proposed development would still be tight to the southern and western boundaries and partly to the eastern boundary with little room for planting.
10. The north-west corner of the proposed building would be very close to the site boundary and the communal grounds would be fragmented across the plot by the building itself and the access, resulting in the only realistically useable space being in the south-eastern corner of the site. This would be at odds with the more extensive grounds at the surrounding properties.
11. As a consequence of the size and configuration of the site and the footprint of the proposed building, the development would be cramped. The constricted nature of the site is exacerbated by the proximity of trees to the site boundaries, three of which trees would need to be pruned to accommodate the proposed building. Therefore, although lower than the surrounding blocks, the proposed development would not respect the spacious pattern of development characteristic of the area.
12. The proposed building would be set back from Western Road and partially screened by existing trees and shrubbery from the street. However, it would

¹ APP/19/00009/P

be clearly visible from the surrounding properties due to its proximity to the site boundaries. The constrained nature of the plot and cramped form of development would be apparent.

13. The proposed predominantly undercroft parking would be atypical of the other parking provision for the surrounding flatted properties and result in the upper floors of the proposed building being supported on columns. However, being at ground floor level, the parking and columns would be reasonably discreet and not harmful in themselves to the character and appearance of the area.
14. Nevertheless, for the reasons set out above, I conclude that the proposed development would be harmful to the character and appearance of the area. Accordingly, in this respect, the proposal would conflict with Policies PP27 and PP28 of the Poole Local Plan 2018 (the Local Plan). In combination and amongst other things, these policies require a good standard of design in all developments, including in layout, built site coverage and scale, and that, for flats, the resultant plot coverage respects that which prevails in the street where the site is located.

Living conditions

15. Large glazed areas to the living / dining rooms of the flats in the eastern elevation of the proposed building would face the side elevation and afford views over the communal gardens to the side and rear of Tree Tops. Bedroom windows in the western elevation would look towards the communal gardens to the rear of Martello House. Balconies on the northern elevation of the proposed building would look over the grounds to the side of Martello House with oblique views to the grounds to the front of Tree Tops. The balconies on the southern elevation would look primarily towards the northern elevation of Fineshade, over the garages and parking courts to the rear of Fineshade and its neighbouring property, Killock.
16. Consequently, the main outlook for the proposed flats would be over adjoining properties rather than over their own communal grounds. Being at first and second floor level, the windows and balconies would be closer to the canopies of the surrounding trees, such that these would provide some screening. Views directly into the flats in the surrounding blocks would also be limited by the angle of view and distance between the proposed building and existing flats.
17. Nevertheless, views would be possible through the tree canopies and between the trunks. The proposal would thus result in a significant degree of both actual and perceived overlooking with a consequent loss of privacy for the occupiers of Martello House, Tree Tops and Fineshade. This could not be overcome by additional planting on the appeal site given the limited room for such planting and, in any event, planting is not a secure means of addressing overlooking issues. Although the gardens of these other properties are communal, given the established character of the area, the users of those gardens have a reasonable expectation of not being overlooked by other properties.
18. I therefore conclude that the proposal would be harmful to the living conditions of the occupiers of Martello House, Tree Tops and Fineshade. Accordingly, in this respect, the proposal would conflict with Policy PP27 of the Local Plan, which amongst other things, seeks to protect the living conditions of local residents, including privacy.

Other Matter

19. The Dorset Heathlands SPA is an extensive and complex network of lowland heaths used by Hen harrier, Merlin, European nightjar, Woodlark and Dartford warbler. The Dorset Heaths Special Area of Conservation (SAC) and the Dorset Heaths (Purbeck and Wareham) and Studland Dunes SAC comprise a range of important habitats with populations of Southern damselfly and Great crested newt. Poole Harbour is a large natural harbour comprising extensive tidal mudflats and saltmarshes together with associated reedbeds, freshwater marshes and wet grasslands supporting a waterbird assemblage including Little egret, Eurasian spoonbill, Common shelduck, Sandwich tern and Common tern.
20. It is known that the habitats and species of these sites are vulnerable to disturbance from human activities, including recreation, within the zones of influence of the SPAs and SACs. Any net increase in residential development within 5 km of the Dorset Heathlands or within the Poole Harbour Recreation Zone is considered by Natural England to have an adverse effect on the integrity of the designated sites. The proposal would result in a net increase of 3 dwellings. I therefore conclude that, in combination with other residential development projects, the proposal would have a likely significant effect on the integrity of these designated sites.
21. The Conservation of Habitats and Species Regulations 2017 (as amended) (the Habitats Regulations) require the decision maker to undertake an Appropriate Assessment (AA) before giving any permission where there are likely significant effects on the integrity of a designated site, either alone or in combination with other plans and projects. I return to this matter below.

Planning Balance

22. The delivery of housing in Poole is substantially below its housing requirement. Consequently, in accordance with paragraph 215 c) and footnote 7 of the National Planning Policy Framework (the Framework) paragraph 11 d) of the Framework is engaged.
23. The site is within an existing settlement and so there are no objections to the provision of new homes on it. The effective use of land should be made in meeting the needs for homes and small and medium sized sites can make an important contribution to meeting the housing requirement of an area. The proposal would result in a modest social benefit from the small contribution of 3 additional dwellings to the overall supply of housing. It would also result in modest economic benefits from the construction of the development and the contribution of future occupiers to the local economy. The combined benefits are therefore moderate and these are all factors in the scheme's favour, collectively attracting significant weight.
24. However, set against these benefits is the considerable harm I have identified to the character and appearance of the area and the living conditions of the occupiers of adjacent properties. The Framework sets out that the desirability of maintaining an area's prevailing character should be taken into account and that planning decisions should ensure that developments are sympathetic to local character. The Framework also seeks the creation of places with a high standard of living conditions for existing and future users. Consequently, the proposal would result in both environmental and social harm.

25. I consider that the considerable cumulative adverse impacts would significantly and demonstrably outweigh the moderate benefits of the proposal, when assessed against the policies of the Framework taken as a whole. Therefore, permission should not be granted.
26. Had the proposals been acceptable in all other respects, it would have been necessary for me to undertake an AA. In doing so, I would have had regard to the S111 undertaking submitted by the appellant. However, as I am dismissing this appeal for other reasons, this has not been necessary.

Conclusion

27. I have found that the proposed development conflicts with the development plan taken as a whole. There are no considerations, including the policies of the Framework, that indicate that a decision should be made other than in accordance with the development plan. Accordingly, the appeal is dismissed.

Martin Small

INSPECTOR