

---

## Appeal Decision

Site visit made on 2 March 2021

**by David Wildsmith BSc(Hons) MSc CEng MICE FCIHT MRTPI**

**an Inspector appointed by the Secretary of State**

**Decision date: 12<sup>th</sup> March 2021**

---

**Appeal Ref: APP/V1260/W/20/3260243**

**St Christopher's Garage, 1191-1201 Christchurch Road, Bournemouth, BH7 6BW**

- 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 & Mrs O'Connell against the decision of Bournemouth, Christchurch and Poole Council.
  - The application Ref 7-2019-1807-R, dated 17 September 2019, was refused by notice dated 5 August 2020.
  - The development proposed is demolition of the existing garage and construction of a 2.5 storey block of 18 flats.
- 

### Decision

1. The appeal is dismissed.

### Preliminary points of clarification

2. The application was submitted in outline, with only matters of access, layout and scale to be determined at this stage. Matters relating to appearance and landscaping are reserved for later determination.
3. The application and appeal forms are both clear that the development proposed is a '2.5 storey block of 18 flats'. However, the Council's Delegated Report, Decision Notice and Appeal Statement all refer to the proposed development as a '2-3 storey block of 18 flats'. This difference is not specifically commented on by either the appellants or the Council. In these circumstances there is no firm evidence to cause me to move away from the description set out on the application form and confirmed on the appeal form – namely that the appellants are seeking to construct a 2.5 storey block of flats on this site. I have therefore determined this appeal on that basis.
4. As initially submitted, 'appearance' was also to be determined at this stage, and it is clear that some discussion has taken place between the appellants and the Council on this matter. Reference has been made to a design incorporating 3 separate front and rear gables, linked by a subservient roof structure that would run the width of the building and would include areas of flat roof between the gables. However, no agreement could be reached on these matters and it was therefore decided that 'appearance' should also be a reserved matter. That said, the plans before me for determination still show the outline of the building as originally proposed, together with the floor plans of the units proposed for each of the 3 floors. I have therefore had regard to these matters in the context of the scale and layout of the proposal before me.

## **Main Issues**

5. The main issues are the effect of the proposed development, firstly, on the character and appearance of the surrounding area; and secondly, on the living conditions of future occupiers, with particular reference to room sizes, amenity space, outlook and privacy.

## **Reasons**

6. The appeal site lies on the south-eastern side of Christchurch Road, to the east of the Boscombe East local centre. It is currently occupied by St Christopher's Garage, a former petrol filling station which now operates as a car sales business, along with an MOT station, car repair workshop and servicing centre. The immediately surrounding area is characterised by residential properties, mainly comprising 2-storey, hipped-roof, semi-detached dwellings, but there is also a larger 3-storey block of flats opposite the appeal site, again with a hipped roof, but also with some small gable-fronted dormers. There are also a few commercial premises to the north-east and north-west of the appeal site, with the main commercial area lying some little distance to the south-west, along Christchurch Road.

## ***Effect on character and appearance***

7. The Council indicates, in its first reason for refusal, that by seeking to place a single, wide building on this site the appeal proposal would fail to take the opportunity to knit the plot into the wider area. In this regard I also note the Council's preference, set out in its Delegated Report, that the proposed building should be sub-divided, or if that proves to be unachievable, that the building should be smaller, thereby allowing more space around it.
8. It is clearly the case that the appeal site is appreciably wider than the majority of other nearby plots, and the planning history indicates that a garage has existed on this site for in excess of 30 years. Therefore, although the Council refers to the garage as somewhat of an anomaly, a plot of this size has been a part of the street-scene for many years. Because of this, I am not persuaded that it is essential for development on this site to knit this plot into the grain of the area, by such means as the construction of a number of separate buildings.
9. Indeed a much larger, deeper and taller building is already a part of the local street-scene, in the form of the 3-storey, hipped-roof block of flats opposite the appeal site. But as this building's form and appearance are clearly not typical of the immediate locality, I see no good reason why its presence should necessarily be used to guide future development on the appeal site.
10. Nevertheless, with these points in mind I see nothing intrinsically wrong with a proposal to construct a single building on the appeal site. What is important is that any new building should assist in delivering sustainable communities and be of good, high quality design that contributes positively to the character and function of the neighbourhood and maintains and enhances the quality of the street scene, as required by Policies CS6, CS21 and CS41 of the Bournemouth Local Plan Core Strategy (the CS), adopted in 2012; and Policy 6.10 of the Bournemouth Local Plan (BLP) adopted in 2002.
11. With these points in mind I note that the submitted layout plan shows the proposed building would have reasonable separation distances to the adjoining properties either side, at least at first floor and roof level, and in this regard it

would accord with the general spacing of buildings on this side of the road. Furthermore, as the second floor accommodation would be largely within the roof-space, the building would be of a comparable height to the buildings either side, and noticeably lower than the 3-storey block of flats opposite.

12. However, although I acknowledge that appearance is now a reserved matter, it is difficult to see how a total of 18 flats, laid out as shown on the submitted plans, could be accommodated on this site without front and rear-facing gables. These gables would make the proposed building very bulky at roof level and, as such, it would have a discordant appearance when seen alongside the predominantly hipped-roof and more modestly proportioned buildings along this side of Christchurch Road. It would also sit a little forwards of the building line created by the adjacent dwellings, and in my assessment this would emphasise the building's bulk and presence, making it appear unacceptably dominant and prominent in the street-scene.
13. I have noted the appellants' comment that the front elevation of the building could be articulated, with recessed sections. But whilst that would serve to break up the appearance a little, any such gaps would likely be quite narrow – as shown on the layout and floor layout plans, such that I do not consider they would be particularly effective in breaking up the building's overall mass.
14. In terms of site layout, I have noted the Council's view that a reduction in the size of the building and the number of residential units would provide greater scope for an increased amount of landscaping. This is undoubtedly the case, but whilst acknowledging that landscaping is a reserved matter, the submitted plans indicate that the publicly-seen front area of this plot could be provided with a range of trees, shrubs and green areas, comparable to those which currently exist at nearby properties.
15. But notwithstanding my favourable finding on this latter landscaping point, my adverse findings with regards to the size and massing of the proposed building mean that my overall conclusion on this first main issue is that the proposed development would have an unacceptable adverse impact on the character and appearance of the street-scene and the surrounding area. Because of this the proposal would be at odds with the development plan policies to which I have just referred.
16. In coming to this view I note and accept the appellants' point that CS Policy CS21 states that urban intensification will take place in areas that are well served by sustainable modes of travel, with one such area being within 400m of a district centre, as here. However, I see no good reason why a building providing increased residential density could not be constructed on this site, whilst not being harmfully out of keeping in the street-scene.

### ***Effect on living conditions of future occupiers***

17. In terms of the living conditions of future residents, the amount of proposed private amenity space seems to be reasonable and acceptable, and I note that all units would satisfy the Government's Nationally Described Space Standard. However, on the basis of the submitted plans it is unclear how the restricted headroom would affect the usability of the second floor flats. Moreover, headroom and liveability could be further compromised for these second floor units if, as a result of detailed consideration of the appearance of the building at reserved matters stage, the front and rear facing gables implied by the floor

layout plans are modified or even dispensed with. This clearly cannot be established with any certainty at this stage, but it does lead me to conclude that the standard of living conditions in some of the proposed units could be poor.

18. In addition, the currently proposed layout shows that there would be very limited opportunities for landscaping either side of the driveway which would run along the north-eastern side of the appeal site, to serve the proposed parking area to the rear. This is of particular concern for the side adjacent to the proposed building, because without the provision of appropriate landscaping or any defensible private amenity areas along the driveway, the bedroom windows of the 2 ground floor flats which would face onto this driveway could clearly be seen into by those using the driveway, from less than a metre away. This would result in poor living conditions for future occupiers of those units.
19. Whilst this potential loss of privacy could possibly be addressed by blinds or curtains, it does highlight an inherent problem with the proposed layout, and lends weight to the Council's contention that too much development is being proposed on this site.
20. In terms of outlook for future residents, it is difficult to see how it could be materially improved for those units which would face onto Christchurch Road. Clearly, more landscaping is proposed at the front of the building than to the rear, but the outlook would still be mainly onto a busy road. It would, however, be no different to the outlook available to other existing units along this road, and in this regard I do not consider that it would be objectionable.
21. I accept that the area to the rear would be dominated by hardstanding and parked vehicles and, as such, would not provide a particularly attractive outlook in its own right. But nor do I consider it would be so objectionable as to make this proposal unacceptable for this reason alone, especially as this area to the rear would be relatively spacious, and ground floor units would look onto private amenity areas, whilst the first and second floor units would have a more wide-ranging outlook than just the rear area of the proposed building itself.
22. But although I have not found against this proposal in terms of the amount of private amenity space proposed, or outlook, my adverse findings concerning general room layouts and privacy mean that I conclude, on balance, that the appeal proposal would result in poor and unacceptable living conditions for some future occupiers. As such, it would fail to provide the high quality of design required by the development plan policies to which I have already referred. It would also be at odds with BLP Policy 4.25 which, amongst other things, requires development proposals to include sufficient land for planting and landscaping

### ***Other matters***

23. Financial contribution towards Dorset Heathlands etc. The appeal site lies within 5km of a designated Dorset Heathlands Special Protection Area and Ramsar Site, and the Dorset Heaths candidate Special Area of Conservation. In areas such as this the Council has taken the view that the determination of any application for additional dwellings, resulting in increased population and likely increased numbers of domestic animals, should be undertaken with regard to the requirements of the Habitat Regulations 1994. The Council further considers that an appropriate assessment could not clearly demonstrate that there would not

be an adverse effect on the integrity of the aforementioned sites, particularly upon bird and reptile habitats within the SSSI.

24. All such applications for additional residential accommodation within the borough are therefore subject to a financial contribution towards mitigation measures towards these designated sites, to be put towards Strategic Access Management and Monitoring, in accordance with a Supplementary Planning Document<sup>1</sup>, prepared with advice from Natural England. No such financial contribution had, however, been received by the time the Council made its decision on this application, and this resulted in a further reason for refusal.
25. In order to address this situation for the consideration of this appeal, I understand that the appellants have been liaising with the Council, as they have been experiencing some difficulties in securing the necessary planning obligation. However, the fact remains that no completed obligation was before me at the time of my site visit, or at the time of completing this decision. The securing of an acceptable financial contribution would remove this further objection to the appeal proposal, but as it would simply address the impacts arising from this proposed development, it would not result in any material benefits, or add any weight in the proposal's favour. In these circumstances I see no need to delay my decision to await the securing of the appropriate financial contribution as it would not alter my overall conclusion.
26. Living conditions of neighbours. I have noted the concerns regarding potential overlooking, expressed by some interested persons who live in dwellings on Corhampton Road, which abut the rear, south-eastern boundary of the appeal site. However, these properties have rear gardens some 17m in length, and the proposed building would be sited about 15m from the common boundary. The resultant separation distances mean, in my opinion, that no unacceptable loss of privacy would arise.
27. Parking provision. I have also had regard to the numerous representations from interested persons to the effect that the currently proposed 16 parking spaces, including 1 disabled parking space, would be insufficient for a development of this size. However, the amount of parking proposed would accord with the Council's parking standards in place at the time the planning application was made, and the local highway authority has indicated that it is content with the proposed level of parking, which could be secured as unallocated spaces by means of a condition attached to any permission.
28. I have also been mindful of the Council's recently adopted Parking Standards Supplementary Planning Document (SPD), which indicates that the minimum parking standard for 1 and 2 bedroom flats, as proposed here, is now reduced to 0 spaces. This means that notwithstanding the representations from interested persons, a lower level of parking than currently proposed would still accord with this up-to-date SPD. With these points in mind, the level of parking provision does not weigh against this proposal.
29. Weight to be given to development plan policies. Although I have found this proposal to be at odds with a number of development plan policies, I am also mindful of the fact that the Council cannot currently demonstrate a 5 year supply of deliverable housing land, as required by the National Planning Policy Framework (the Framework), with the latest figures provided showing that it can

---

<sup>1</sup> The Dorset Heathlands Planning Framework 2020-2025

only demonstrate a supply of 2.9 years. In these circumstances paragraph 11 of the Framework indicates that the policies which are most important for determining the application have to be considered out-of-date; and that planning permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole.

30. However, the fact that policies have to be considered out-of-date does not mean that they can carry no weight. To carry weight, policies must be consistent with the Framework, as explained in its paragraph 213 which, amongst other things, explains that the closer the policies in the plan are to the policies in the Framework, the greater the weight that may be given to them. As such, it is perfectly possible for policies which are deemed out-of-date for reasons of an inadequate housing land supply to still carry significant weight. I consider that to be the case here, as the policies cited in the Council's first reason for refusal primarily deal with aspects of high quality design, and ways of achieving it.
31. Such policies accord with the objectives of the Framework, with its paragraph 124 stating, amongst other things, that *'the creation of high quality buildings and places is fundamental to what the planning and development process should achieve'*; and *'good design is a key aspect of sustainable development, creates better places in which to live and work and helps make development acceptable to communities'*. In summary therefore, despite the policies cited in the Council's first reason for refusal being deemed out-of-date, I consider that they should still all carry significant weight in the determination of this appeal.

### **Planning balance and overall conclusion**

32. In assessing the likely benefits and disbenefits of this proposal I have also considered how it would perform against the objectives of achieving sustainable development, as set out in paragraph 8 of the Framework. The proposal would assist in achieving the economic objective, as economic benefits would arise from the construction of the proposed 18 residential units, with some temporary benefits to the construction industry and more permanent benefits arising from increased spending in the local economy by future residents. The very fact that much-needed new housing would be provided would also be a clear benefit, especially at a time when the Council cannot currently demonstrate a 5 year supply of deliverable housing land. In view of these points the appeal proposal would satisfy the economic objective of sustainable development.
33. The first part of the social objective, as set out in the Framework, is to support strong, vibrant and healthy communities by ensuring that a sufficient number and range of homes can be provided to meet the needs of present and future generations. Notwithstanding the Council's comment that the mix would be improved by the inclusion of some 3-bedroom units, the proposed development would go some way towards satisfying this objective, by providing a mix of 1 and 2-bedroom residential units. However, I have already concluded that the proposal would result in poor and unacceptable living conditions for some future occupiers, and accordingly it would not provide a high quality environment for all future residents. This would be a disbenefit of the proposal, meaning that, overall, it would not satisfy the social objective of sustainable development.
34. A main part of the environmental objective of sustainable development is to contribute to protecting and enhancing the natural, built and historic environment, including making effective use of land and using natural resources

prudently. As the proposed development would take place on previously developed land, it would accord with the thrust of this objective, and this would be a clear benefit of the proposal. However, under the first main issue I have concluded that the proposed development would fail to provide a high quality design and, accordingly, would have an adverse impact on the character and appearance of the surrounding area. With this in mind, I do not consider that the proposal could be considered to protect and enhance the built environment, and this has to be seen as a disbenefit of the proposed development. In view of these points I conclude, on balance, that the proposal would not satisfy the environmental objective of sustainable development.

35. Drawing all the above points together, I consider that whilst the proposed development would give rise to some economic, social and environmental benefits, the failure to fully satisfy either the social or environmental objectives of sustainable development means that this proposal cannot be considered to represent sustainable development. Moreover, I have found that the proposal would not be of a high quality design, but would have an adverse effect on the character and appearance of the surrounding area. It would also result in poor living conditions for some future occupiers.
36. In my assessment, these adverse impacts of the proposal would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework as a whole. For these reasons, and having had regard to all other matters raised, I conclude that this appeal should be dismissed.

*David Wildsmith*

INSPECTOR