
Appeal Decision

Site visit made on 28 April 2021

by Katie Peerless Dip Arch RIBA

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 13th May 2021

Appeal Ref: APP/V1260/W/20/3264479

17 -23 Holdenhurst Road, Bournemouth BH8 8EH

- 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 Stonehaven Holdings and Fortitudo Ltd against the decision of Bournemouth, Christchurch and Poole Council.
 - The application Ref 7-2019-7689-K, dated 13 May 2019, was refused by notice dated 05 June 2020.
 - The development proposed is the erection of a thirteen-storey building comprising ground floor commercial unit and student accommodation with underground and surface car parking.
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Decision

1. The appeal is dismissed.

Procedural matters

2. The application is in outline with the scale of the development together with the access to it to be considered at this stage. Appearance, landscaping and layout are to be reserved for subsequent determination.

Main Issues

3. I consider the main issues in this case are:
 - (i) the effect of the proposed development on:
 - (a) The character and appearance of the surrounding area with particular reference to the setting of nearby designated and non – designated heritage assets;
 - (b) The living conditions of occupiers of nearby properties with particular reference to overbearing impact, loss of privacy and poor outlook and
 - (c) The provision of employment or tertiary teaching accommodation.
 - (ii) Whether sufficient mitigation to offset the impact on the Dorset Heathlands SPA (Special Protection Area), Ramsar Site and Dorset Heaths SAC (Special Area of Conservation) has been provided.
 - (iii) Whether the proposed development would promote walking and cycling by providing sufficient cycle parking and pedestrian facilities.
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Procedural matters

4. During the course of the application, the appellants submitted revised drawings and the Council has confirmed that it made its decision based on these. However, the appellants have since submitted drawings with further revisions, and I am asked to consider these amended drawings as part of this appeal. I am satisfied that they do not fundamentally change the nature of the scheme considered by the Council and I will therefore proceed on that basis.
5. The appellants have also submitted an updated Viability Appraisal (VA) and the Council also objects to the submission of the document at this stage. The matter of whether or not to accept the VA will be considered under the section of the Decision dealing with provision of employment or tertiary teaching accommodation.
6. The appellants have, in their submissions, made contradictory references to the matters being considered under this outline application. For example, in paragraph 3.1 of their Statement of Case it is confirmed that it is scale and access only that is under consideration, whereas in their comments on the Council's Statement they say that the only matter for determination is access and that the Council acknowledges that scale is a matter reserved for future submission. The application form shows scale as a matter to be considered and both parties acknowledge that access was also included before the application was determined and, for the avoidance of doubt, these are the matters that I have considered in this appeal.

Site and surroundings

7. The site lies within the existing built-up area and town centre of Bournemouth and within the Lansdowne Employment Area as designated in the Bournemouth Local Plan: Core Strategy 2012 (CS). To the north of the site there is high-rise development comprising commercial and university buildings, including the five/six-storey Telecom House which lies adjacent to the appeal site. Beyond this is the 19 storey block at 13-19 Oxford Road/adjacent 35 Holdenhurst Road.
8. To the south, the properties are predominantly 3½ storey traditional terraces with shops, cafes and bars on the ground floors with residential accommodation above. The site is adjacent to the terrace at nos. 3 -15 Holdenhurst Road and opposite the terrace at nos. 4 - 44 Holdenhurst Road (which includes the Grade II listed former fire station). Nos. 3-15 is a non-designated heritage asset.

Planning history

9. On 16 January 2014 the Council confirmed that Prior Approval is not required for a change of use of offices (Class B1(a)) at ground and first floor levels of no.17 Holdenhurst Road to 20 flats (Class C3). Planning permissions for two storey extensions over the existing two-storey office block at the rear of the site, to provide 14 flats with bin and cycle stores (7-2008-5065-V and 7-2009-5065-W) have been lawfully implemented under Lawful Development Certificate approval 7-2018-5065-AC, dated 08 February 2019.
10. Prior approval was granted for the conversion of part of the first and second floors of no.19 Holdenhurst Road from offices (Class B1(a)) into five flats under Prior Approval application 7-2018-7689-J dated 05 November 2018 and this, I am told, has been implemented.

Reasons

Character and appearance

11. The proposed development would provide student accommodation above commercial premises at street level in a highly sustainable location in the town centre, close to other such existing facilities.
12. The Council has confirmed that there would appear to be no objection in principle to the redevelopment of the site, which also lies within a 'tall buildings area' as identified in the adopted Bournemouth Town Area Action Plan (AAP). Tall buildings are defined as those that are substantially taller than their neighbours or are taller than 6 commercial storeys.
13. The appeal proposal would clearly meet this definition and should therefore be judged against the design criteria set out in policies D4 and D5 of the APP which include the requirements to be of a high standard of design, have a good relationship with its context, including a positive relationship with the historic environment and be of high architectural quality.
14. The new block would be about 9 storeys higher than the adjacent terrace and be over 6 storeys taller than Telecom House, its closest neighbours. The area to the north is characterised by tall modern blocks that have a very different character to the older, lower level properties in Holdenhurst Road. As the appeal site is on the extreme edge of the tall buildings area it seems to me that any development on it would need to relate to both the taller buildings to the north and the more intimate scale of the historic Victorian era buildings to the south, providing a transition between these two distinct areas.
15. The fact that the 'tall building area' excludes the terrace and the buildings on the opposite side of the road, including the listed fire station, indicates that the qualities of this part of the town centre have been identified as worthy of retention and protection from redevelopment with taller blocks.
16. The location of the new block would be only a few metres from the flank wall of the terrace in Holdenhurst Road, which would, in my opinion, create a cramped and uncomfortable relationship between the two developments, which would be exacerbated by the substantial difference in height between them. From many angles, this development would be seen as a somewhat monolithic block that would be completely out of scale with the older buildings. As shown at present, the block would occupy virtually the full width of the plot and although there would be set-backs in the side elevations further back into the site, these would not be readily apparent from many public viewpoints.
17. The space between the new block and Telecom House would be wider than that adjacent to 15 Holdenhurst Road and, while I realise that this space is outside the appeal site and could not therefore be utilised in the scheme, the degree of separation would mean that the new block would appear somewhat divorced from the taller blocks to the north. This would cause it to be more readily associated visually with its southern neighbours and this would further accentuate its height in relation to the adjacent terrace.
18. For these reasons, I consider that a block of this height in this location would fail to relate to the context of either of the adjacent character areas and would appear as an awkward and clumsy insertion that would harm the appearance of the locality.

19. This locality includes the Grade II listed former fire station and the locally listed terrace, which is noted as being of interest as a part of the historic development of the area, for the architectural merit and general aesthetics of the buildings and their group, social and communal value. Paragraph 197 of the National Planning Policy Framework (the Framework) requires any effect on the setting of a designated or non-designated heritage asset to be taken into account when determining applications for development. A balanced judgement needs to be made on the scale of any harm against the significance of the asset.
20. The fire station is set opposite Telecom House and is therefore already in proximity to a tall building. I therefore consider that its setting would not be adversely affected to any significant degree, given its distance from the site.
21. Turning to the impact on the setting of the terrace, the appellants consider that having a building of a strongly contrasting scale and built form adjacent to it would allow the terrace to be seen as a stand-alone entity and there would be an acceptable juxtaposition between the new and existing.
22. I accept that there is no reason why new should not stand next to old, but I consider that the degree of contrast in this case would be a problem, with the new building being of such a large scale that it would dominate and distract from the more domestic and human scale of the terrace and its detailing. The proposed development would bring about a significant change to the street scene immediately next to 3 – 15 Holdenhurst Road that, it seems to me, would have a harmful impact on the setting of these buildings, particularly in views from the north and from directly opposite, where they would be directly seen in the context of the new block.
23. In these respects, the proposed development would fail to comply with policy CS40 of the CS which seeks to protect local heritage assets. It would also be at odds with the requirements set out in paragraph 192 of the Framework, which includes the desirability of new development making a positive contribution to local character and distinctiveness and notes the positive contribution that heritage assets can make to sustainable communities.
24. Whilst the application is in outline, with design reserved for later approval, scale has been included for consideration at this stage on the application form and I nevertheless consider that the plans and submitted elevations serve to illustrate how the appellants see the final concept developing. They confirm that they consider the scale and footprint to be acceptable and I consider that if outline planning permission were to be granted for the application as it stands, it would be difficult to secure any significant amendments to these factors at a later date.
25. The appellants criticise the Council for not setting out exactly what alterations they would call for to ensure the scheme would be acceptable at outline stage. However, it is for the parties to discuss such matters outside the appeal process.
26. While I agree that the development in principle of the site is acceptable and that there is no requirement to match the height of the adjoining terrace, I nonetheless consider that a 13 storey building of the footprint proposed and set so close to buildings of considerably lower scale would fail to demonstrate good design that respects its context.

27. This conflicts with the requirements of CS policy CS41 which seeks to ensure that, through its scale, density, layout, siting, character and appearance, new development should be designed to respect the site and its surroundings. It would also conflict with Chapter 12 of the Framework where it seeks to achieve good design that is sympathetic to local character and would maintain a strong sense of place and policies D4 and D5 of the APP as set out above.

Living conditions

28. The Council is concerned that the proposed new block would appear overly dominant from nearby residential properties, particularly those in Sybil House and Jayne House in Landsdowne Mews to the to the west, from the upper floors of 11 – 15 Holdenhurst Road and from the residential upper floors of the properties on the opposite side of Holdenhurst Road.
29. It is the case that the site is in an area of generally high density development where outlook from residential properties is likely to be onto other buildings. However, as previously noted the site lies within a 'tall buildings area' and any development on it that is higher than the current buildings would have some impact in this regard. Nevertheless, given that I have found that 13 storeys would be too high in terms of the impact on the character of the area, I also find that it would be preferable to limit the height of any building on the site in order to reduce the sense of enclosure that it will create within the buildings noted above.
30. In terms of overlooking and loss of privacy, it is the case that there is an extant permission for residential development that, from its west elevation would have windows looking towards Landsdowne Mews, but these would not impact on Sybil House. The proposed block would, however, be wider and would therefore be considerably more prominent in views from Sybil House and there is the possibility of some inter-visibility between the 2 properties.
31. The upper floor of the new block would also have views towards the rear windows of Holdenhurst Road and down onto the roof windows of Jayne House which I am told serve habitable rooms. Whilst all these windows may already be subject to some overlooking, either from existing development or from that with extant permission, again the proposed block would worsen the existing situation by increasing both the actual and perceived degree of overlooking, thereby reducing the privacy and general amenity of the occupants.
32. Although the final design of the block is not before me for consideration, it seems inevitable that a new block of 13 storeys on the footprint shown on the plans would have an impact on privacy and thereby conflict with CS policy CS41 which, amongst other things, calls for designs to provide a high standard of amenity to meet the day to day requirements of future occupants. Although this may be a limited degree of harm, it must nevertheless be weighed in the planning balance.

Provision of employment or tertiary teaching accommodation

33. As the site lies within a designated employment area, CS policy CS8 expects new development in such areas to fall principally within use class B1(business) (now new class E(g)) or tertiary teaching development. Some other uses may be allowed, provided the function and integrity of the principal use is not compromised. These subsidiary uses are set out in order of preference and student accommodation is the last of these.

34. For such residential use to be deemed acceptable, it must be demonstrated that other employment generating uses are not viable, but it is assumed that a residential use would be a minor percentage of the scheme. The appellants submit that policy CS8 is out of date and has already been shown to be unworkable. As previously noted, they submitted a VA with the application and this concluded that a scheme that included 50% employment uses together with the ground floor retail element would not be viable. The model was re-run with one floor of office space and 11 floors of residential and still found not to be viable. This report was reviewed by consultants for the Council who concluded that 4 storeys of office and 8 storeys of student accommodation could be viable.
35. Even if the consultants' VA is preferred to that of the appellants, it nonetheless confirms the appellants' view that policy CS8 could not be complied with in terms of a development of this scale being able to provide a viable mixed use scheme that is primarily employment based, with subsidiary retail and residential elements. As previously noted, the opportunity to develop the site is not opposed by the Council but, in these circumstances, it seems that a development that complies with CS8 is unlikely to come forward.
36. I have also been referred to other appeal Decisions where Inspectors have allowed appeals without compliance with policy CS8. Whilst each case must be judged on its own merits, I nonetheless consider that this evidence demonstrates the continued difficulty of meeting the requirements of the policy. If this site is to be redeveloped, I consider that the best use should be made of the space available, subject to compliance with the design policies noted above, and that this may mean that non-compliance with CS8 would not necessarily be fatal to proposals for this site.
37. The demand for office space appears likely to fall following the Coronavirus pandemic and the growing practice of people working from home and the Framework, published after the Core Strategy was adopted, encourages strategic policies (such as CS8 which relates to the allocation of an employment area) to look ahead to anticipate and respond to long-term requirements.
38. The revised VA submitted with the appeal comments on and expands the previous version considered by the Council. The original version was the subject of an independent assessment commissioned by the Council but which, I understand, was paid for by the appellants as part of the application process. The Council objects to the submission of this second VA, considering it to be a new document, commissioned from a different company and to which it is unable, through lack of funding, to be able to have professionally assessed.
39. In the circumstances, I would agree that the second VA should be able to be independently assessed as part of a revised planning application but this does not change my view that the first VA, which has been commented on, together with the independent VA, both demonstrate that the policy could not be complied with if a scheme with a majority of floorspace in an employment use were to be insisted upon for this site.

Mitigation measures

40. The appellant has indicated that they are willing to comply with the requirement to make a financial contribution towards the mitigation of the impact of the development on the Dorset Heathlands SPA and say that they are in the course of preparing a Unilateral Undertaking (UU) to provide this.

41. However, I have not, at the time of writing, been given a finalised copy of this document. At present, the scheme fails to comply with the requirement of policy CS33 which requires, amongst other things, all residential development to make provision for mitigation measures designed to avoid adverse effects on the Dorset Heaths. Until a suitable UU is in place, footnote 6 of paragraph 11 of the Framework indicates that the proposal should not be granted permission.

Cycle provision

42. The appellant has provided a further set of revised plans that demonstrate how sufficient cycle parking and pedestrian access could be provided. Although the Council object to the submission of these plans through the appeal process, I consider that the amended versions contain only minor alterations that do not fundamentally affect the development applied for. I therefore consider that they can be taken into account for the purposes of this appeal and that they would overcome the reason for refusal relating to cycle parking and pedestrian facilities.

5 year housing land supply

43. The Council conceded that it cannot at present, demonstrate a 5 year housing land supply (HLS) and the appellants believe that, in these circumstances, paragraph 11 of the Framework is invoked and that the presumption in favour of sustainable development applies. They submit that the Development Plan policies are out of date and that planning permission should therefore be granted for the proposal.
44. The Council submits that, while the presumption in favour of sustainable development has been triggered in Bournemouth, the policies against which the proposal should be judged are still in conformity with those of the Framework and the Development Plan.
45. I consider that, although the Council cannot demonstrate a 5 year housing land supply, the objections I have found to the scheme indicate a conflict with relevant Development Plan policies that are in accordance with those of the Framework. These are those relating to the impact of the scale of the development on the character and appearance of the area and residential amenity. I have also found that there would be harm to a non-designated heritage asset.
46. The benefits of the proposal, which include the supply of additional residential accommodation to help meet the HLS will therefore need to be weighed against the provisions of the adopted Development Plan. If there is conflict with the Development Plan sufficient to indicate that the proposal does not represent sustainable development, then the application should be refused.

Planning Balance and Conclusions

47. I consider that the relevant policies set out above, with which I have concluded the proposed development would conflict, are not out of date as they are consistent with those in the Framework.
48. I give significant weight to the provision of additional residential floor space in a situation where there is no 5 year housing land supply. Nevertheless, I have found that the concept of this proposal, even at outline stage, does not provide the opportunity to deliver a final scheme that would be acceptable in terms of

its adverse impact on its surroundings and would not meet the high standard of design sought by the Development Plan and the Framework. Consequently, I consider that the harm that I have identified above would significantly and demonstrably outweigh the benefits of providing the level of student accommodation proposed in the application.

49. I accept that insistence on compliance with policy CS8 could prevent the bringing forward of a site which both parties agree is otherwise suitable for redevelopment. I also note that the impact on the Dorset Heath SPA could be mitigated, through the submission of a UU to provide a suitable financial contribution but there is no such guarantee in place at present. I also accept that the cycle parking issue could be resolved, but these are requirements, not benefits of the proposals to be weighed in its favour.
50. I have considered the conditions suggested by the parties but conclude that these would not overcome the objections to the proposal and therefore, for the reasons given above I conclude that the appeal should be dismissed.

Katie Peerless

Inspector