



Appeal Decision

Site visit made on 29 June 2021

by Mrs H Nicholls FdA MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 19 July 2021

Appeal Ref: APP/V1260/W/21/3271597

8A Milburn Road, Bournemouth BH4 9HJ

- 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 Stonehaven Holdings Ltd against the decision of Bournemouth Christchurch and Poole Council.
 - The application Ref 7-2020-23956-E, dated 6 October 2020, was refused by notice dated 30 November 2020.
 - The development proposed is alterations and formation of new 2nd floor flat with pitched roof, parking, bin and cycle store.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The description of the proposal relates to the formation of a new flat on the second floor though no flats exist at the present time. A fallback scheme¹ allows for the conversion of the existing commercial unit into two flats, albeit in a different arrangement to that proposed and without external changes.

Main Issues

3. The main issues are:
 - the effects of the proposal on the character and appearance of the area and whether it would preserve or enhance the character and appearance of Westbourne Conservation Area;
 - whether adequate living conditions would be created for the future occupants of Flat No 1, with particular regard to outlook, privacy and noise;
 - whether an adequate waste, recycling and cycle storage solution would be provided; and
 - the effects on the Dorset Heathlands Special Protection Area, Ramsar Site and Dorset Heathlands Special Area of Conservation (the Protected Sites).

Reasons

Conservation Area Effects

4. The appeal building is sited within Westbourne Conservation Area (CA) which is characterised by its traditional high streets (Poole and Seamoore Roads) and the

¹ Prior approval ref: 7-2019-23956-C

surrounding residential streets. Within the shopping streets, shopfronts populate the ground floors of vernacular buildings. The upper storeys above shopfront level include ornate detailing on the traditional buildings. The surrounding residential streets (Alum Chine Road and R L Stevenson Avenue) accommodate a mix of terraced, semi-detached and detached dwellings, of two and three storeys and of a similar period to the shopping streets. Dwellings also include repetitious elements such as gable roof projections, bay windows and brick window detailing that draw them in as part of the wider CA. Red brick and painted render are the predominant walling material in the area.

5. Under Section 72(1) of the Listed Building and Conservation Areas Act 1990 (LBCA Act), as amended, I am required to pay special attention to the desirability of preserving or enhancing the character or appearance of the CA.
6. Milburn Road lies within the CA but forms the northern edge of it. It is a secondary street behind the Poole Road high street and has a mixed character with both commercial and residential properties and a varied scale of buildings. The appeal building is currently a two storey, flat roof, rendered block building with an entrance door and high level windows in its front elevation. Its eastern elevation contains the greatest number of large high level windows. Its mildly 'art deco' form and appearance do not reflect the CA's vernacular buildings and its appearance and condition currently detract from the CA.
7. The adjoining building to the west (No 9) is relevant insofar as it is similarly commercial in its use, and its second storey is set largely within its pitched roof, set on a north-south alignment with a gabled frontage. It is also modestly narrower than the appeal building but also far shorter. There is another commercial building, No 11, slightly to the west which observes a similar front building line to the appeal building but has its second storey set within the roof with a gabled frontage. It is lower and narrower than both the appeal building and No 9. To the east, No 7 is a recently adapted 3 storey building with a gabled frontage but set back a distance from the highway and building line of Nos 8A, 9 and 11. Its second storey is also set back from the ground and first floors with a parapet wall enclosure.
8. There are other buildings in the streetscene along Milburn Road, but the appeal building reads most obviously with those aforementioned buildings which have gabled frontages and which are more commercial than domestic in character and appearance.
9. The appeal proposal seeks to add a second storey within a new pitched roof, aligned north-south to make the building gable fronted. The roof form would be set back approximately 2.2 metres from the front wall. New or reinstated windows and new roof windows would be inserted within all elevations of the building that do not adjoin existing buildings. Internally, the building would accommodate three flats.
10. Due to the existing forward siting and scale of the building, the addition of a pitched roof above the existing eaves level would make the building appear uncharacteristically dominant and incongruous within the streetscene. The fully glazed apex of the gable would exacerbate its prominence and the incongruity of the resultant building when considered alongside its more modest neighbouring counterparts. Though larger buildings exist to the immediate south of the site, the layered effect of the streetscene means that the building reads separately of them and the existence of larger buildings would not

mitigate the effects of the overall domineering scale, siting, form and appearance of the appeal building in its immediate streetscene. Similarly, the permission for a substantially scaled building outside of the CA some distance from the appeal site does not alter my duties in respect of the proposal under S72(1).

11. The appellant has referred to a previous lapsed permission for alterations to the roof of the appeal building to form a pitched roof and alterations to form integral garage granted in 2009². That permission has lapsed but, from the evidence, related to a building with a ridge height of around 8.3 metres in height. The appeal proposal would be around 9 metres to the ridge, set back from the main building line. A key difference, however, would be that the appearance of the appeal proposal would be more of a three storey building with a distinctive glazed gable feature. Furthermore, the difference of around 700 mm is not immaterial when considering the scale of the appeal building in context with a building of a far lower scale and smaller proportions to which it is directly adjoined.
12. The more minor details in relation to the black slate roof material and use of grey bricks and black slender window units would, in themselves, not be harmful to the character and appearance of the CA, given the examples of such in the wider area and similar features within the existing building. However, these features would not sufficiently offset the harm to the streetscene from the imposing scale, form and appearance of the proposal.
13. Despite the current unconventional character of the building and its poor condition, the proposal would still amount to harm to its character and appearance, that of the surrounding area, and also that of the Westbourne Conservation Area, thus harming its significance, contrary to, in particular, Policies CS6, CS21, CS39 and CS41 of the Bournemouth Local Plan Core Strategy (adopted 2012) (Core Strategy) and Policy 4.4 of the Bournemouth District Wide Local Plan (adopted 2002). These Policies collectively seek to ensure that development is of a good design, maintains the quality of the streetscene and preserves or enhances the character or appearance of conservation areas.
14. Due to the harm to the significance of the CA, the proposal would conflict with Section 72(1) of the LBCA Act, and with the National Planning Policy Framework (the Framework). Under the terms of the Framework, the harm to the designated heritage asset would be less than substantial and towards the lower end of the spectrum of such harm. The Framework sets out that great weight should be given to the conservation of heritage assets and also that less than substantial harm to such should be weighed against the public benefits. I return to this matter below.

Living Conditions for Future Occupants

15. The proposal would deliver three units of accommodation, essentially one per floor but with Flat 1 sited towards the rear of the ground floor behind the garage and storeroom. Each unit would have adequate internal living space to ensure the amenities of future occupiers.

² Under planning permission reference 7-2009-23956-A

16. The outlook, light and privacy levels afforded to Flats 2 and 3 would be acceptable. Flat 1 would be a single aspect unit and its windows would be alongside the alley that would provide access to all flats, and adjoins an access to another building with a low block wall. The height of the wall is sufficiently low to allow more open views towards the open area in front of and beside No 7 Milburn Road. Despite the limited number of windows, its single aspect nature and the likelihood of people regularly passing the window which may necessitate the use of internal privacy measures, on balance, given the scale and form of accommodation that would be provided, I do not consider that the living conditions for future occupiers would be unsatisfactory.
17. Similarly, though I note the proximity of windows to Unit 1 to the adjacent point of access to the upper flats and neighbouring units, I do not consider that the noise effects on future occupiers would be so likely or harmful to an extent that would be unexpected in such an urban environment.
18. In view of the above, the proposal would create adequate living conditions for the future occupiers of Flat 1, in accordance with Policies CS38 and CS41 of the Core Strategy. These Policies collectively seek to ensure development provides a high standard of amenity to meet the day to day requirements of future occupants, and minimise potential pollution by way of noise, odour, light, effluent, vibration and any other waste materials.

Waste Storage Design

19. Despite the satisfactory quantum of storage space that would be provided for bikes and bins, the Council allege that the design of the storeroom would have shortcomings insofar as it could not be accessed internally, would lack ventilation and would have an outwardly opening garage/security-style door. However, the Council accepts that a condition could prevent the doors, and also those on the adjoining garage, from opening outwards in order to avoid potential conflict and inconvenience for highway users.
20. In my view, the manner in which the storeroom would be accessed via its users from an external door on the front elevation would be illogical and is suggestive of a poor design outcome. This lack of integration with the units has the potential to make it less attractive to use. The robust style of the door opening would also be unattractive, alongside the proposed garage door, restricting the interaction of the front elevation of the building with the streetscene at ground floor level in an area where enhancements in this regard are warranted and have been achieved elsewhere, i.e. at No 7. Whilst it is alleged that the shortcomings with this element would not represent a planning harm, I consider that poor design is a relevant factor that should be considered.
21. In view of the above, the proposal would fail to deliver an adequate waste, recycling and cycle storage solution, in conflict with Core Strategy Policy CS41 which seeks to ensure that all development is well designed, high quality and provides a high standard of amenity for future occupants.

Protected Sites

22. The appeal site is within the 5km Zone of Influence of the Dorset Heathland Protected Sites which comprise a range of heathlands designated under the Habitats Regs³. Residential developments within 5km are likely to have adverse

³ Conservation of Habitats and Species Regulations 2017, as amended

- effects on the integrity of the Protected Sites, either alone or in combination with other similar developments, through increased recreational pressures from additional residents.
23. The adopted Dorset Heathlands Planning Framework Supplementary Planning Document 2020 - 2025 (SPD) sets out the approach to dealing with effects on the integrity of the Protected Sites. Contributions secured under the Community Infrastructure Levy (CIL) Regulations⁴ are put towards Heathland Infrastructure Projects (HIPs), such as the provision of Strategic Alternative Green Spaces to reduce the pressure on the Protected Sites. Additional contributions are also necessary via Section 106 Planning Obligation towards Strategic Access Management and Monitoring measures (SAMM) to be directed towards educational programmes, employing wardens to manage visitor behaviour and monitoring the effectiveness of such measures.
24. The proposal is not required for the management of the Protected Sites and it is accepted by the parties that it would, without mitigation, give rise to adverse effects on the integrity of the same. Whilst I have assumed that there would be no exemption from CIL that would ensure the HIPs contribution were paid, the appellant has submitted a Unilateral Undertaking (UU) made as a deed under Section 106 of the Town and Country Planning Act 1990. The UU provides for the requisite contribution to cover the SAMM elements as specified by the SPD (total £1588) along with the administrative fee.
25. Insofar as the UU and assumed CIL liability would secure the necessary mitigation, adverse effects on the Protected Sites would not arise and compliance with Core Strategy Policy CS33 and the Habitats Regs would be achieved.

Other Matters

26. The Council's decision notice refers to an inadequate parking provision for the proposed units. Following the adoption of the Bournemouth Christchurch Poole Parking Standards Supplementary Planning Document in January 2021, given the site's location, the proposal would no longer be required to provide parking. As such, I have not considered this aspect further.

Planning balance and conclusion

27. Insofar as the proposal would fall short of the expected standard of design and would be harmful to the character and appearance, and thus, significance of the CA, it would conflict with the development plan when considered as a whole.
28. The appellant alleges that the presumption in favour of sustainable development, or the 'tilted balance' set out in paragraph 11 d) of the Framework is engaged by virtue of the Council being incapable of demonstrating an adequate five year supply of housing land. The data suggesting that there is only a 2.9 years supply of housing land does not appear to be particularly recent, but nothing further has been provided by the Council in this regard. However, footnote 6 to paragraph 11 d) i) of the Framework states that the application of some Framework policies, such as those that protect areas or assets of particular importance, may provide a clear reason for refusing the development proposed.

⁴ Community Infrastructure Levy Regulations 2010, as amended

29. Whilst I have found that adequate mitigation would avoid adverse effects on the Protected Sites, I find that the harm to a designated heritage asset provides a clear reason to prevent the engagement of the tilted balance.
30. The public benefits of the scheme include the delivery of three units of accommodation against an acknowledged shortfall of housing in the plan area. There would also be construction phase benefits and the economic benefits from the future occupiers' use of local facilities and services. Considered against the fallback scheme which would deliver two units, the addition of one unit would be a minor benefit. Considered in isolation, three units would still be a minor, but beneficial increase.
31. The appellant also promotes the benefits of improved living conditions and the provision of waste/recycling and bike storage when compared to the fallback scheme which would have been deficient in both respects. Though I concur that these aspects would be better than the fallback scheme, this brings into question the likelihood of its implementation and tempers the weight that I attribute to these minorly beneficial factors.
32. Drawing all of the above factors together, I do not consider that the public benefits outweigh the identified harm to the significance of the designated heritage asset, contrary to the policies of the Framework. There are no other considerations of such materiality that dictate that the decision should be taken, other than in the manner outlined above.
33. Consequently, the appeal is dismissed.

Hollie Nicholls

INSPECTOR