



Appeal Decision

Site visit made on 14 December 2021

by S Leonard BA (Hons) BTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 07 January 2022

Appeal Ref: APP/W1715/W/21/3275951

103 Bournemouth Road, Chandler's Ford SO53 3AE

- 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 Mr Dan Randall (Pickwick Estates) against the decision of Eastleigh Borough Council.
 - The application Ref F/19/85629, dated 12 April 2019, was refused by notice dated 11 December 2020.
 - The development proposed is demolition of existing commercial building and construction of a part three-storey and part two-storey block of flats comprising of 6no. 2 bed units and 2no. 1 bed units, with associated parking, landscaping and access from Bournemouth Road.
-

Decision

1. The appeal is dismissed.

Procedural Matters

2. The description of development is taken from the appeal form and decision notice, since this description more accurately describes the proposal than that of the application form, and reflects the changes made to the scheme during the course of the determination of the planning application.
3. Since the refusal of the planning application and the submission of this appeal, a revised version of the *National Planning Policy Framework* (the Framework) was published on 20 July 2021. I have taken the revised Framework into account where relevant to my decision.
4. The Council has confirmed that, since the refusal of the planning application and the submission of this appeal, progress on the *Emerging Eastleigh Borough Local Plan 2016-2036* (the Emerging Local Plan) has advanced. The Council has carried out public consultation in June and July 2021 in respect of main modifications to the Emerging Local Plan. Having regard to the advanced stage reached, I have afforded a high degree of weight to the relevant Emerging Local Plan policies referred to in the Council's reasons for refusal in the determination of this appeal.

Main Issues

5. The main issues are:
 - The effect of the appeal scheme on the living conditions of future occupiers of the development, having regard to private and communal outdoor amenity space, noise impacts and air quality;

- The effect of the appeal scheme on the living conditions of the occupiers of 105 Bournemouth Road and 331 Leigh Road, having regard to privacy impacts;
- The effect of the appeal scheme on the character and appearance of the area;
- Whether the appeal scheme provides adequate access and on-site parking, having regard to the transport needs of the development and highway safety; and
- The effect of the appeal scheme on the integrity of European Protected Sites (EPS).

Reasons

Living conditions - future occupiers

6. The proposal would provide 8 units of flatted development, 6 of which would comprise 2 bedrooms. It is reasonable to expect the development to provide an amount of outdoor amenity space appropriate to the needs of the potential occupiers. The proposed communal outdoor amenity area comprises a rectangular-shaped area to the rear of the building. This amounts to less than half the communal open space requirement as set out in the Council's adopted *Quality Places Supplementary Planning Document* (2011) (the QPSPD). Whilst this document is not part of the development plan, it was adopted by the Council following public consultation to support the delivery of the development plan, including Saved Policy 59.BE of the *Eastleigh Borough Local Plan 2001-2011* (2011) (the Local Plan). It is also specifically referred to in the supporting text to Policy DM1 of the Emerging Local Plan. As such, I find the QPSPD to be a material consideration in the determination of this appeal.
7. 6 of the 8 flats would have individual private outdoor amenity space consisting of a balcony or terrace, which would provide for sufficient sitting out space. However, the occupants of 2 flats would have no private outdoor amenity space. In this respect, and having regard to the under-provision of communal outdoor amenity space in respect of the QPSPD requirement, I do not find the size of the proposed combined provision of private and communal outdoor amenity space to be sufficient to serve the needs of future occupiers of the proposed development.
8. In addition, the ability of the proposed communal open space to provide useable outdoor amenity space for the residents, having regard to typical requirements, which include sitting/eating outside and the provision of outdoor drying facilities, would be considerably restricted, due to both its size, which is significantly below that required by the QPSPD, and its layout, which incorporates the main footway linking the communal entrance/hallway of the building and the car and cycle parking, together with a notable amount of tree and hedge planting.
9. Moreover, having regard to the evidence before me in respect of high noise levels and poor air quality at the appeal site arising from the amount of road transport within the vicinity of the site, and my observations during my site visit in regard to the high volume of traffic passing through and queuing at the traffic-lighted junction, I find that high noise levels and poor air quality impacts would combine to reduce the amenity value of the proposed private outdoor

amenity areas, thereby limiting their ability to function well for their intended purpose of outdoor amenity. This would be particularly the case in respect of the upper balconies, notably that serving flat No.8, which would be less screened by building fabric than the proposed ground floor outdoor amenity areas.

10. Whilst access to nearby public open space could potentially address a deficiency of on-site outdoor living space, the location of the site is such that there is no easily accessible public open space that could provide a compensatory alternative to on-site outdoor amenity space provision.
11. In considering the requirements for outdoor amenity space, I have also taken account of the need to incorporate appropriate noise and air pollution mitigation measures into the design of the building to ensure appropriate internal living conditions for future residents. On the basis of the evidence before me, it appears possible to provide satisfactory internal living conditions through the provision of measures such as non-opening windows in the road-facing elevations, and the inclusion of a system of Mechanical Ventilation with Heat Recovery (MVHR) to the flats. However, such measures would impact on the way future residents would experience living in the dwellings, and would reinforce the need for outdoor amenity space provision of an appropriate size, quality and position.
12. For the above reasons, I therefore conclude that the proposal would not provide satisfactory living conditions for future occupiers of the development, having regard to private and communal outdoor amenity space, noise impacts and air quality. As such, the development would not accord with Local Plan Saved Policies 59.BE, 30.ES, 31.ES and 33.ES, Emerging Local Plan Policies DM1 and DM8, and the QPSPD. These policies and guidance, amongst other things, require development proposals to ensure that there is no unacceptable impact on the residential amenities of new residents, including loss of amenity through noise or air pollution, and that new development provides appropriate useable private and/or communal outdoor amenity space.
13. This is generally consistent with guidance within the Framework, which seeks to ensure that developments will function well and promote a high standard of amenity, health and well-being for existing and future users (Paragraph 130).

Living conditions – neighbours

14. Notwithstanding that the Council has no adopted standards for separation distances in respect of new windows facing side-on or obliquely to neighbouring properties, the position and design of the new building would be such that the appeal scheme has potential to impact upon the privacy of the occupiers of neighbouring dwellings south and east of the site.
15. 105 Bournemouth Road is a two-storey house which forms part of a row of detached houses set back from Bournemouth Road behind a shared access drive and parking areas serving the dwellings. Its front garden, and part of the side of the house, abut the southern boundary of the appeal site. The southern end of the new building would more directly align with the access road and parking in front of No.105, than the dwelling itself. However, whilst the proposed first floor windows at the southern end of the new building would not directly face the front of No.105, having regard to the distance between the new building and the neighbouring property, I find that there is potential for

the proposed full height first floor glazing, serving an open plan living, kitchen and dining area within flat 6, to give rise to materially harmful overlooking to the front elevation windows of No.105, which include 2 large bay windows, as well as to the front garden of this property.

16. In making this judgement, I have taken account of the large size of the proposed glazing, notwithstanding the proposed partial screening of the windows with a louvred screen, its southerly aspect, and its function serving the principal open plan living space within flat 6. As such, I consider that it would comprise an important factor contributing to the day-to-day enjoyment of flat 6 by its future occupiers. I have also considered the proposed removal of existing mature conifers on the appeal site, which currently provide effective screening along the southern boundary, and I do not consider it appropriate to rely upon the installation, and retention thereafter, of the proposed new boundary landscaping to satisfactorily eliminate overlooking impacts associated with first floor height windows.
17. 331 Leigh Road is a detached two-storey house whose site abuts the full length of the eastern boundary of the appeal site. The southern-most projecting element of the new building would be separated from No.331 by the proposed amenity area and car parking serving the new development. Notwithstanding this gap, I find that, due to a combination of the proposed significant length of projection of the southern arm of the building, in a roughly parallel position with the majority of the length of the rear garden of No.331, combined with a large number of first and second floor bedroom and living room/kitchen/dining room windows and a first floor balcony, the proposal would result in a materially harmful degree of perceived overlooking by the occupiers of No.331. This would particularly apply when the occupants are utilising their private rear garden area. Due to the extent of the length of proposed new building and the large number of proposed rear elevation windows serving principal rooms, this would not be satisfactorily mitigated by the proposed inclusion of a louvred screen across part of the balcony of flat 5, nor by the presence of an outbuilding in the rear garden of No.331 adjacent to the appeal site.
18. For the above reasons, I therefore conclude that it has not been satisfactorily demonstrated that the proposal would not materially harm the living conditions of the occupiers of 105 Bournemouth Road and 331 Leigh Road, having regard to privacy impacts.
19. As such, the development would not accord with Local Plan Saved Policy 59.BE and Emerging Local Plan Policy DM1, which amongst other things, require development proposals to not have an unacceptable impact on, and where possible enhance, residential amenities of existing residents, and avoid unduly interfering, disturbing or conflicting with adjoining uses in terms of overlooking.
20. This is generally consistent with Paragraph 130 of the Framework, which seeks to ensure that developments will function well and promote a high standard of amenity, health and well-being for existing and future users.

Character and appearance

21. Notwithstanding a car dealer site on the opposite side of Leigh Road, the appeal site lies within a predominantly residential area. The prevailing residential character comprises modest scale dwellings, of a maximum two-storey height, and having a spacious relationship with their road frontages.

Brick and render walls, under pitched or hipped tiled roofs are characteristic of the traditionally designed houses which surround the appeal site.

22. East of the site, there are 20th century residential properties comprising a mix of single storey, chalet and two-storey dwellings which are set back from the road frontage behind low frontage walls/fences/hedges and are visible within the street scene.
23. In terms of its height, scale, mass, roof form and materials, the existing building, although in commercial use, forms an extension of this pattern of built development. Whilst sited in close proximity of the site frontage, it forms a perceived extension of the built form to the east, respecting the established building line onto Leigh Road. The shallow depth of the building and its angled front façade which addresses the corner of the site, together with its two-storey, domestic-scale, hipped roof design, mean that it sits comfortably on the site. It occupies a relatively unassuming presence within the street scene, maintaining a spacious relationship with neighbouring properties, whilst being sufficiently large in scale to reflect its visually prominent corner position. The undeveloped land to the south of the building means that the existing property clearly visually relates to the Leigh Road townscape and is notably separate from the residential development to the south of the appeal site.
24. The dwellings to the south of the site, and on the opposite side of Bournemouth Road are predominantly two storey, and are more discretely positioned in relation to the road than those which front Leigh Road. They are set further from the site frontage, behind mature landscaping, which is a prevailing characteristic of the street scene of this part of the road.
25. The introduction of a larger, 'landmark' replacement building onto the appeal site is acceptable in principle, having regard to its prominent corner location and existing underutilised nature. However, the appeal scheme would introduce an uncharacteristically large and cramped form of development into the prevailing townscape, due to its combined significant footprint which extends along the majority of both site road frontages, its mainly two-storey and part three-storey height, and its close proximity to the site boundary with 331 Leigh Road and the Leigh Road and Bournemouth Road frontages.
26. These factors would combine to give the building an unduly visually prominent and overbearing impact within the street scene. It would appear at odds with the more spacious, modest scale development which surrounds the site. The building would present a hard built edge close to the site frontages, which would be out of keeping with the more spacious set-back and soft landscaped frontages which surround the site. This would be highly evident in public views of the site from both roads, particularly when approaching the site from the north along Bournemouth Road, where both street-facing elements would be visually apparent together.
27. Whilst a more contemporary building design than that which is characteristic of surrounding residential development is acceptable in principle, I find that the visually dominant and incongruous impact of the new building upon the public realm would be exacerbated by its proposed design detailing. In particular, notwithstanding the flat and partially in-set roof form, the proposed vertical design emphasis of the zinc roof panels, louvred screens and window glazing would serve to exaggerate the overall height of the building, thereby adding to its visual dominance.

28. The over-dominant impact of the building would also be emphasised by large, unrelieved areas of brickwork and zinc sheeting on the front-facing facades, which would contribute to the imposing nature of the building within the townscape, and would not be sufficiently broken up by the proposed inclusion of areas of projecting and lattice screen brickwork, or the use of a different material for the upper floor.
29. Moreover, although new landscaping is proposed in front of the building, the proposed proximity of the building to the site frontage would restrict the amount of meaningful planting that could be undertaken and thereafter maintained, particularly in respect of the southern-most projection of the building fronting onto Bournemouth Road. I am not persuaded that the proposed knee rail fence or railing and landscaping indicated as part of the submitted landscape proposals, would comprise sufficient soft landscaping to sufficiently mitigate the visual impact of the large amount of built development proposed adjacent to the street. The existence of an adjacent grassed highway verge would not outweigh my concerns in this respect. As such, the large expanse of street-facing building would be at odds with the maturely landscaped street frontages which characterise this part of Bournemouth Road.
30. A large part of the site would be dominated by buildings, parking and internal access routes, with little space to incorporate sufficient meaningful landscape planting to soften the development. This includes the large parking area to the rear of the building, which, whilst largely screened by the building, would be visible from the public realm via the site access. The incorporation of contrasting materials for the parking spaces and the proposed narrow areas of landscaping around the parking spaces would not address my concerns in this respect. The result would be an overly intensive coverage of the site with new built development, which would be incongruous within its more spacious and soft-landscaped surroundings.
31. For the above reasons, I therefore conclude that the appeal scheme would cause significant harm to the character and appearance of the area. As such, it would be contrary to Local Plan Saved Policy 59.BE, Emerging Local Plan Policy DM1, and the QPSPD. These policies and guidance, amongst other things, seek to ensure that new development is well-designed, is appropriate in mass, scale, materials, layout, density, design and siting in relation to adjoining buildings, spaces and views, and provides a high standard of landscape design and appropriate planting where required.
32. For similar reasons, the proposal would also be contrary to Policies of the Framework which seeks to ensure high quality design as set out in Chapter 12.
33. The Council's third reason for refusal also refers to Local Plan Saved Policy 182.LB. This policy primarily relates to the retention of the primarily residential character of the Bournemouth Road Special Policy Area, within which the appeal site is located. Since the proposal would be residential in nature, I do not find this policy to be directly relevant to this reason for refusal, which is concerned with the impact of the appeal scheme on the character and appearance of the area.

Access and parking

34. The proposal would utilise the existing, modified, vehicular access located at the southern end of the site frontage, and the additional access further north

along this frontage would be blocked off. I acknowledge the Council's concerns regarding the position of the access partially opposite a traffic light refuge on Bournemouth Road, and the ability of drivers to exit the site safely, particularly when turning right, without impeding the free flow of traffic, with a resulting risk of danger to highway users.

35. The appellant has provided tracking drawings demonstrating that it is technically possible for vehicles to turn left and right when entering and exiting the site, without compromising highway safety. The appellant has also provided a trip generation assessment which shows that the proposal would result in a decrease in average vehicular movements compared to the existing lawful uses of the site. These conclusions are not disputed by the Council, and the Council has not put forward any cogent evidence in support of its concerns in respect of the likely impact of the proposed access upon highway safety. As such, on the basis of the evidence before me, I am not persuaded that highway safety would be harmed as a result of the proposed access.
36. In respect of on-site parking provision, the Council is concerned that the proposal falls short of the Council's adopted *Residential Parking Standards Supplementary Planning Document* (2009) (the RPSSPD), since, in accordance with the requirements of fully allocated parking, 1.6 spaces of visitor parking provision would be required, but is not proposed. Whilst the site is located at a busy traffic light junction where on-street parking is prohibited, there is no evidence before me of existing on-street parking problems within the site vicinity beyond this junction. Nor did I witness any evidence that on-street parking is particularly difficult within a reasonable parking distance of the appeal site, at the time of my site inspection which took place during a mid-week afternoon.
37. Moreover, the Council has confirmed that, should the parking be fully unallocated, a lesser number of spaces would be required, which would be met by the proposal. With this in mind, and also taking account of the accessibility of the site to facilities and services by means of transport other than the car, which would be encouraged by the proposed inclusion of on-site cycle storage facilities within the development, I am not persuaded that either the proposed amount of allocated parking, or alternatively, unallocated parking, which would rely on crossover of use, would result in materially harmful impacts in respect of convenience of future occupants and their visitors and highway safety.
38. For the above reasons, I therefore conclude that the appeal scheme would provide adequate access and on-site parking, having regard to the transport needs of the development and highway safety. As such, the development accords with the objectives of Local Plan Saved Policies 59.BE, 102.T, 104.T, and 182.LB, Emerging Local Plan Policies DM1, DM13 and DM14 and the RPSSPD. These policies and guidance, amongst other things, seek to ensure that new development provides a safe and convenient means of access, does not interfere with the safety, function and standard of service of the road network, and provides adequate off-road parking in terms of highway safety/traffic management, taking account of the adopted RPSSPD.
39. For similar reasons, the appeal scheme would accord with Policies of the Framework which require safe and suitable access to development proposals and the promotion of sustainable transport modes (Paragraph 110) and states that development should only be refused on highway grounds if there would be

an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe (Paragraph 111).

40. The Council's second reason for refusal also refers to Emerging Local Plan Policy DM1. This policy sets out general criteria for new development and is not directly relevant to access and parking requirements, which are dealt with under Policies DM13 and DM14.

Solent EPS

41. The Council's fourth reason for refusal relates to the failure of the appeal scheme to mitigate the 'in combination' effects of the development upon the Solent EPS, having regard to increased levels of nutrients from wastewater from new dwellings entering the Solent and causing eutrophication at the designated sites which impacts on the protected habitats and bird species.
42. Since the refusal of the planning application, the appellant has submitted a signed and dated Section 106 Unilateral Undertaking (UU) to secure a Nitrates Mitigation Contribution in accordance with the Council's adopted mitigation scheme, which enables new housing development to achieve nitrate neutrality through the purchase of 'nitrates credits' used to enable the Council to purchase existing agricultural land and remove it from a nitrate intensive use.
43. The Council has confirmed that the submission of a satisfactory UU would address the fourth reason for refusal. Within the context of this appeal, the responsibility for assessing the effects of the proposal on the European designated sites fall to me as the competent authority. Had I been minded to allow the appeal, and the circumstances therefore existed in which planning permission could be granted, it would have been necessary for me to examine this matter further and to undertake an Appropriate Assessment of the implications of the appeal scheme for the European designated sites. However, as other main issues provide clear reasons for dismissing the appeal, the outcome of any such Appropriate Assessment would have no bearing on the overall outcome of this appeal. There is therefore no need for me to consider this matter any further as part of my decision, since any findings on this issue would not change the appeal outcome.

Other matters

44. When judged against some of the core planning principles of the Framework, the appeal proposal would perform well, in that it would make an efficient use of land to provide new housing. It would be in an urban area where access to facilities is likely to be greatest. Also, there would be a small social benefit in providing 8 additional housing units, and economic benefits as a result of the construction and occupation of the new dwellings.
45. The aforementioned harm to the living conditions of future occupants and neighbours, and the character and appearance of the area, would be significant, and, when assessed against the policies in the Framework taken as a whole, the adverse impacts would significantly and demonstrably outweigh the benefits. Therefore, the proposal would not be a sustainable form of development. The conflict with the development plan is not outweighed by other considerations including the Framework.
46. I have noted that the appellant has sought to work collaboratively with the Council, and that the proposal represents an amended scheme from that which

was originally submitted as part of the planning application, having regard to comments from Council Officers and the Design Review Panel. Whilst the changes to the scheme have been noted, including a reduction in the number of dwellings proposed, a reduction in building scale, an increase in set-back from the Bournemouth Road frontage and changes to the internal room layouts, this does not alter my findings with respect to the appeal scheme.

47. Notwithstanding that the Framework encourages Local Planning Authorities to approach decisions in a positive and creative way, this is not unqualified, and would not address, or outweigh, the aforementioned harm that I have identified in respect of some of the main issues.
48. I note the appellant's intentions to incorporate sustainable design elements and drainage measures, and to enhance on-site biodiversity. However, these are requirements of national and local planning policies in any case, and do not outweigh my conclusions on the first three main issues.

Conclusion

49. For the reasons given above, I conclude that the appeal should be dismissed.

S Leonard

INSPECTOR