

Appeal Decision

Site visit made on 15 November 2021

by Mr S Rennie BSc (Hons), BA (Hons), MA, MRTPI

an Inspector appointed by the Secretary of State

Decision date: 21 January 2022

Appeal Ref: APP/V1260/W/21/3275872

Stanton Lacey, 4 Martello Park, Poole, BH13 7BA

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant prior approval required under Article 3(1) and Schedule 2, Part 20, Class A of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended).
 - The appeal is made by Fortitudo Ltd against the decision of Bournemouth Christchurch and Poole Council.
 - The application Ref APP/21/00130/PA, dated 25 January 2021, was refused by notice dated 5 May 2021.
 - The development proposed is to erect a two storey extension to the roof of Stanton Lacey, to provide two additional 3-bed flats. Access to be provided through extending existing internal stairwell and lift system. Additional parking to be provided within the curtilage of Stanton Lacey. Waste storage to be shared with existing flats.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. Under Article 3(1) and Schedule 2, Part 20, Class A of the Town and Country Planning (General Permitted Development) (England) Order 2015 as amended (the GPDO), planning permission is granted for works for the construction of up to two additional storeys of new dwellinghouses immediately above the existing topmost residential storey on a building which is a purpose-built, detached block of flats. This is subject to limitations and conditions set out in Paragraph A.1., Paragraph A.2. and Paragraph B.
3. There is also an appeal for a similar development at South Lodge on Martello Park which I have taken into account with this appeal (ref: APP/V1260/W/21/3275874).

Main Issues

4. The main issues are whether prior approval should be granted, having regard to the effect of the proposal on:
 - (i) The external appearance of the building proposed.
 - (ii) The impact on the amenity of the existing building and neighbouring premises including matters of overlooking, privacy and the loss of light.

Reasons

External Appearance of the Building

5. The condition under paragraph A.2(e) of Part 20, Class A of the GPDO, requires that the developer must apply to the Local Planning Authority for prior approval of the authority as to the external appearance of the building. Although the Council has discussed concerns about how the building once extended would appear within the context of other neighbouring buildings, for example, the reason for refusal concentrates on how the development would affect the appearance of the Stanton Lacy building alone. This shall be the focus of my assessment.
6. Currently the building has four storeys with the top storey recessed with pitched roof. The building is particularly wide which, together with the fenestration, results in a clear horizontal emphasis to its appearance.
7. The proposal would result in two additional storeys above the recessed top storey. It would, from a design perspective, be a continuation upwards of the current top floor flat in terms of fenestration and materials, with a new pitched roof similar to existing. However, the proposal would result in a significant change to the proportions of the building.
8. The recessed third floor with the pitched roof currently appears as an appropriately designed top section of the building. It is subservient due to its recessed nature to the extent that the building can appear as three storeys from street level.
9. The lower three storeys currently make up the main mass of the overall building, which is a wide but not tall building, with the horizontal emphasis. The proposal for the additional storeys would result in a much taller building, but with still the substantial width. This would result in a much bulkier building. The upper three storeys would still be recessed but would not be particularly subservient as this upper section would be of a similar height to the lower three storeys.
10. The recessed upper section would no longer appear as a subservient relatively minor section of the building but would appear to have a considerable visual presence and be overly dominant over the lower three storeys, which does not accord with the original design approach. The extra height would be such that the additional storeys would not be inconspicuous even when viewed from street level. Furthermore, the horizontal emphasis would remain even though this would become such a tall building, which in my opinion would appear an inappropriate aspect of the design. There also appears to be large areas of the elevations without fenestration or any other detailing, which would be a negative aspect of the building's appearance. The result of the proposal would be a poorly designed and overly bulky building.
11. As such, the proposal would be harmful to the external appearance of the building for the reasons given above.
12. I acknowledge that the relevant permitted development rights do allow for upward extensions of up to two storeys which could help with boosting housing numbers and be an efficient use of land. I also have considered the appeal decision raised by the appellant which does address this matter. However, the permitted development order includes the required process of applying for prior

approval and allows for the consideration of the external appearance of the building and how the additional storeys may affect this aspect. In different circumstances there will be occasions where two additional storeys on top of existing flats meet with the permitted development criteria and conditions, but in this case the resultant external appearance of the building would not be acceptable.

Living Conditions

13. A condition under paragraph A.2(g) states that prior approval is required relating to the potential impact on the amenity of the existing building and neighbouring premises including overlooking, privacy and the loss of light.
14. The Council reason for refusal relates to the potential overlooking impact to the penthouse flat as a result of building additional storeys on top of the penthouse. From my assessment there would be no other neighbour that would have a significant effect to their living conditions from the proposed development.
15. Currently, the penthouse flat appears to have a relatively private terrace area. The proposal would introduce flats above this with windows that would allow views to the terrace which would likely result in a harmful reduction in privacy levels for the occupants of the penthouse. It may be that some of the penthouse external areas would not be overlooked, but from the evidence before me there would still be a significant level of overlooking and loss of privacy for existing occupiers. There is also no substantive evidence to suggest that privacy levels would not be diminished as occupants of the proposed flats would be looking to the wider view or not viewing out from close to the windows.
16. The appellant has suggested the use of oblique glazing and horizontal louvres. However, it is not clear which windows these would apply to and how this would affect the living conditions of future occupiers of the proposed flats. I am not satisfied that a condition requiring such mitigation would be reasonable or sufficient to overcome the potential overlooking harm.
17. It may be that there is often a high level of overlooking and limited privacy for occupants of flats, but in this case the penthouse has an existing amenity area which enjoys a good level of privacy. As such, when considering the impact on the amenity of the existing building and neighbouring premises, there would be a significant erosion of privacy for the living conditions of those occupying the penthouse flat as a result of the proposed additional storeys, which is not reasonable or appropriate in this case.

Other Matters

18. I acknowledge the comments made by the Council and interested parties with regards to the question of whether the proposed additional storeys would be to the 'principal part' of the building, in accordance with the permitted development criteria. The additional storeys would be built above the existing top floor, which in this case is recessed from all elevations. However, I am satisfied that this would be additional storeys to the principal part of the building, rather than an extended section for example.
19. The site is within 5km (but not within 400m) of the Bourne Valley 'Site of Special Scientific Interest' (SSSI), which is also part of the Dorset Heathlands

Special Protection Area (SPA) and Dorset Heaths Special Area of Conservation (SAC) and Ramsar. Natural England have advised that the proposed net increase in dwellings would not be acceptable without appropriate mitigation as they would have a 'Likely Significant Effect' on these International wildlife sites arising from the increase in urban related pressures such as recreational access. The Dorset Heathland Planning Framework sets out how financial contributions can mitigate the potential harm.

20. A similar contribution is also required as the site is within Poole and near the Poole Harbour Special Area of Protection (SPA) and Ramsar site, which are affected by increased recreational impact and additional nitrogen from new dwellings in the area.
21. The appellant has acknowledged that the development must not commence until the developer has received separate written notification of the approval of the Local Planning Authority and that a contribution is required. It is clear that the appellant is not challenging the need to address these matters.
22. If I was to be allowing the appeal, I would go back to the parties on this issue to ensure that all was in place as needed to address these issues. However, as I am dismissing the appeal, I have not considered these matters further.

Conclusion

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

Mr S Rennie

INSPECTOR