



Appeal Decision

Site Visit made on 16 November 2021

by L J O'Brien BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 12 May 2022

Appeal Ref: APP/V1260/W/21/3280301

7 Chaddesley Glen, POOLE, BH13 7PA

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission under section 73 of the Town and Country Planning Act 1990 for the development of land without complying with conditions subject to which a previous planning permission was granted.
 - The appeal is made by AJ Land Consultancy Ltd against the decision of Bournemouth Christchurch and Poole Council.
 - The application Ref APP/21/00774/F, dated 12 May 2021, was refused by notice dated 9 July 2021.
 - The application sought planning permission for demolishing existing building and erect block of 8 flats with basement parking without complying with a condition attached to planning permission Ref APP/20/00677/F, dated 27 November 2020.
 - The condition in dispute is No 2 which states: The development hereby permitted shall be carried out in accordance with the following approved plans: Site Location, Block Plan and Proposed Site Plan ref: 9325/100 revision H received 09/10/2020, Proposed Lower Ground, Upper Ground and First Floor Plans ref: 9325/101 revision F received 07/10/2020, Proposed Second and Third Floor Plans and Roof Plans ref: 9325/102 revision D received 07/10/2020, Proposed Elevations ref: 9325/103 revision H received 07/10/2020, Proposed Indicative Street Scene and Bin and Cycle Store Plans and Elevations ref: 9325/104 revision G received 07/10/2020, Proposed Visuals and Plans and Elevations for Bin and Bike Store ref: 9325/106 revision F received 07/10/2020.
 - The reason given for the condition is: For the avoidance of doubt and in the interests of proper planning.
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Decision

1. The appeal is dismissed.

Background and Main Issues

2. In 2020 planning permission was granted, subject to a number of conditions, for demolishing existing building and erect block of 8 flats with basement parking. This included a condition specifying the approved plans (condition two). The current proposal seeks removal of condition two and replacement with a condition specifying the plans that reflect an amended design to facilitate the addition of a roof terrace to serve Unit 8.
3. However, the Council refused the application and consider the condition remains necessary, citing that the proposed amendments to the approved drawings would result in an awkward addition to the approved scheme which would fail to respect the rhythm of development and would be harmful to the character and appearance of the area. The Council's reasons for refusal also state that the amended proposal would be likely to result in harmful

overlooking and loss of privacy to existing residents in the neighbouring flats at Havenhurst.

4. Consequently, the main issues are whether the condition requiring the development to be carried out in accordance with the submitted plans is necessary having regard to the effect of the amended scheme on:
 - the living conditions of the occupiers of neighbouring properties with particular regard to privacy; and
 - the character and appearance of the area.

Reasons

5. At the time of my site visit the appeal site was a construction site and work on the permitted scheme appeared to have begun. The site is situated on a residential street characterised by large properties and flats set within large plots. The buildings are diverse in design terms and are set back from the road behind garden areas.
6. The proposal would facilitate the addition of a roof terrace to serve Unit 8 of the permitted scheme.

Living conditions of neighbouring occupiers

7. The appeal building is close to the neighbouring building, Havenhurst, and, consequently, the proposed roof terrace would be in close proximity to windows and balconies serving the flats within that building. The proposed roof terrace would be set in as it follows the steps in of the rest of the building. Nevertheless, the proposed terrace would be large and would differ from the previously approved balconies within the building as it would occupy a larger area and run along the side of the neighbouring building for a significant depth. The size of the proposed roof terrace would also facilitate more intensive use than other smaller balcony areas.
8. The proposed terrace would have a 1.8m obscure glazed privacy screen on three sides. However, despite the privacy screens, it would still be possible for some of those standing on the roof terrace to look over the balustrade into nearby properties at close proximity. Moreover, the privacy screen to the front of the proposed terrace would be only 1.1m in height and would allow clear inter-visibility between those using the proposed terrace and neighbouring flats.
9. I note the appellant's willingness to accept a condition to add an additional panel of 1.8m high obscure glazing. However, in my view, given the close proximity of the proposed terrace to neighbouring flats I do not consider that this would be sufficient to overcome the harm I have identified.
10. For the reasons set out above I consider that the proposed roof terrace would cause harm to the living conditions of neighbouring occupiers in respect of privacy. As such, the condition requiring the development to be carried out in accordance with the submitted plans is necessary having regard to the effect of the amended scheme on the living conditions of the occupiers of neighbouring properties with particular regard to privacy.
11. The proposal would therefore fail to comply with Policy PP27 of the Poole Local Plan, 13 November 2018 (LP) which sets out that development will be

permitted provided that it is compatible with surrounding uses and would not result in a harmful impact upon amenity for both local residents and future occupiers considering privacy.

Character and appearance

12. Chaddesley Glen is a fairly quiet residential street which comprises a range of buildings in terms of design and scale. Buildings are set back from the road behind front boundary treatments and garden areas. Though the design of buildings varies, many are of a distinctly modern character and appearance with glass balustrades and balconies. Large buildings are not uncommon and many are flat-roofed in appearance with multiple storeys which step in as the building increases in height. The properties surrounding the appeal site are typical of this.
13. The proposed roof terrace would represent an addition to the approved building which would result in a moderate increase to the height and visual bulk of the property. The glass balustrade would be set in from the edge of the roof so as to ensure that it would not appear as a large or prominent addition to the building. Furthermore, the building would be largely viewed in the context of other similar, large buildings with expanses of glass balustrading and would, therefore, assimilate comfortably within this setting. When viewed in wider shoreline views the additional roof terrace would not appear visually jarring and would be seen as a minor element of the wider cluster of buildings.
14. Consequently, I consider that the amended scheme would respect the character and appearance of the building and the wider area and would not cause harm in this regard. Insofar as this issue is concerned, the proposal would accord with Policy PP27 of the LP which requires a good standard of design that reflects or enhances local patterns of development and neighbouring buildings as well as, for extensions or alterations, respecting and relating to the existing building.

Other Matters

15. The Council also refused the application on the basis that the application would have an adverse effect on a Site of Special Scientific Interest (SSSI) which is part of the designated Dorset Heathlands Special Protection Area (SPA) and Ramsar Site and on the Dorset Heathlands Special Area of Conservation (SAC) and the Poole Harbour SPA, SSSI and Ramsar site.
16. Had I found the proposal otherwise acceptable an Appropriate Assessment (AA) to explore the specific impact of the scheme would have been required. Given that the appeal is going to be dismissed for other reasons, upon which an AA would have no bearing, it is not necessary to explore this issue any further.
17. I have noted a number of other issues raised. However, as this proposal is going to be dismissed for other reasons and the other concerns expressed do not have a direct bearing on the main issues, it is not necessary for these to be explored further as part of this appeal.

Conclusion

18. The proposal would not accord with the development plan when it is considered as a whole and I have not identified any material considerations which indicate

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

L J O'Brien

INSPECTOR