



Appeal Decision

Site visit made on 23 August 2022

by R E Jones BSc (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 10 October 2022

Appeal Ref: APP/V1260/W/21/3289586

98-102 Charminster Road, Bournemouth BH8 8US

- 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 Gulf Nites Ltd against the decision of Bournemouth, Christchurch and Poole Council.
 - The application Ref 7-2020-6039-AV, dated 21 September 2020, was refused by notice dated 21 October 2021.
 - The development proposed is structural alterations to terraced area (retrospective)).
-

Decision

1. The appeal is dismissed.

Preliminary Matters

2. The site has a lengthy planning history which includes an appeal decision issued in 2018¹. I have had regard to this background in my assessment.
3. The application was retrospective, and I saw during my site visit, that the proposal had already been erected and was substantially complete externally.

Main Issues

4. The main issues are:
 - the effect of the proposal on the character and appearance of the host building and the surrounding area;
 - the effect of the proposal on the health of patrons and workers within the host building, with particular reference to maintaining a "smoke-free" environment; and
 - the effect of the proposal on the living conditions of nearby occupiers, with particular reference to noise and disturbance;

Reasons

Character and appearance

5. The appeal site comprises a corner property with a frontage onto Nortoft Road, a mostly residential street with rows of traditional terrace properties of comparable scale and design. The busy Charminster Road with its mix of shops, cafes and restaurants, is directly adjacent to the appeal site. The officer's report describes the premises as a shop, however, from my site

¹ APP/G1250/C/18/3196633, dismissed on 9 October 2018

inspection it appeared to be a café. This has also been confirmed by the appellant.

6. The proposal consists of a single storey addition that extends across the frontage, while projecting around 2m outwards towards the road. The elevations comprise a lower brickwork course, a UPVC entrance door, double glazed windows, white metal shutters and additional timber cladding. The elevations support a single pitch polycarbonate roof. The submitted drawings and photographs indicate that the proposal has replaced a canopy held up by columns.
7. The proposal's width and projection give it a significant scale that noticeably projects beyond the front elevations of the nearby terrace dwellings along Nortoft Road. In contrast to the largely open canopy it has replaced, the proposed structure, appears more solid and bulky, while the assortment of materials used in its construction give it a somewhat muddled appearance that accentuates its discordance in the street.
8. There are many front additions and projections nearby along Charminster Road. These are smaller in scale and primarily consist of partially open seating areas with canopies above. The proposal's scale, level of projection and appearance is noticeably different when seen in context with those nearby commercial frontages, such that it will appear visibly discordant and unfamiliar to the detriment of the character of the host building and the street.
9. The appellant has referred to the similarities between the proposal and a scheme granted by the Council in 2009². I do not have the full details of that case or the drawings that the Council approved, therefore I am unable to draw any comparisons between the schemes.
10. Taking the above factors into account, the proposed development appears as a bulky and incongruous addition to the premises and the street scene, that fails to harmonise with the other buildings in the area. It will therefore have a harmful effect on the character and appearance of the host building and the locality. On this basis it will fail to accord with Policy CS41 of the Bournemouth Local Plan: Core Strategy and the Council's guidance document "Shop Fronts". Together these require proposals to respect the character and scale of the area in terms of appearance, scale and layout. The proposal will also fail to align with the National Planning Policy Framework's objective of achieving well-designed places.

Health of patrons and workers

11. The smoking of shisha pipes will take place within the enclosed terrace area. The appellant indicates that this activity takes place when the door, shutters and windows are fully open.
12. The openings referred to will cover a large portion of the structure. But I do not have any specific calculations that demonstrate that cumulatively their area will comply with legislation that requires the protection of the health of workers and visitors from passive smoking³. Therefore, without those details I cannot be certain that the terrace will be a smoke-free environment. Failure to satisfy that requirement could have harmful consequences on the health and amenity

² LPA Decision Ref - 7-2008-6039-AG.

³ The Health Act 2006

of workers and patrons at the premises through inhalation of smoke within a poorly ventilated environment.

13. I have considered the use of a condition for the submission of measurements and calculations that confirm the building meets the Council's requirements. However, that could result in additional modifications to the building which may not be reasonable in other respects.
14. In conclusion, the absence of any firm evidence on whether the proposal will be a smoke-free environment, means I cannot rule out there being an unacceptable effect on the health of patrons and workers within the host building. It will therefore fail to comply with Policies CS38 and CS41 of the Local Plan where they require proposals to minimise pollution and to protect the health and general amenity of occupants.

Living conditions

15. The proposal will form an extension to the café's floorspace at the site. It extends over an area that was previously permitted for the display of retail goods. Therefore, historically this area along with the adjacent thoroughfare outside the premises has attracted comings and goings together with people perusing goods for sale. This activity will have likely resulted in a degree of noise and activity emanating from the property. Similar activity takes place along Charminster Road given the variety of commercial uses. Therefore, nearby occupiers, including those in residential properties, are likely to experience some levels of background noise and disturbance from passing pedestrians and vehicular traffic in any event.
16. During my site visit, patrons were observed sitting and chatting within the terraced area. Although this was a snapshot in time, that level of noise and disturbance will likely be consistent with daily activity at the premises. In this respect the additional noise and disturbance is likely to be largely assimilated into general background noise associated with other nearby commercial uses. Moreover, I am satisfied that the materials used in the construction will to some extent contain the general sound and chatter within the appeal building.
17. Therefore, the proposal will not materially harm the living conditions of nearby occupiers, with particular regard to noise and disturbance. It will accord with the provisions of Policies CS38 and CS41 of the Local Plan, where they require schemes to minimise noise and to protect general amenity of nearby occupiers.

Other Matters

18. According, to the appellant, the proposal makes the property's frontage more secure from littering and vandalism, factors which he considers had resulted in a reduction in customers frequenting the premises. However, I consider that there are visually less harmful ways of protecting the property than the works proposed, and as such the matter attracts little weight.
19. The appellant also considers that the proposal will enhance the area's function, vitality and viability and accord with Policy CS9 of the Local Plan. However, there is little evidence of how those requirements are met and how such benefits overcome the visual harm I have identified. The matter is therefore given limited weight.

Conclusion

20. I have found that the proposal will not harm the living conditions of nearby occupiers. Nonetheless this does not overcome my concerns in relation to the proposal's effect on the character and appearance of the host building and area and the health of patrons and workers within the host building. For these reasons, and the resultant conflict with the development plan, I conclude that the appeal should be dismissed.

RE Jones

INSPECTOR