



Appeal Decision

Site visit made on 3 October 2022

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

an Inspector appointed by the Secretary of State

Decision date: 25 November 2022

Appeal Ref: APP/V1260/W/21/3285388

9 Tower Road, BOURNEMOUTH, BH1 4LA

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a failure to give notice within the prescribed period of a decision on an application for planning permission
 - The appeal is made by 9 Tower Road Limited (Mr R La Bouchardiere) against Bournemouth Christchurch and Poole Council.
 - The application Ref 7-2021-22736-K is dated 6 August 2021.
 - The development proposed is for alterations and extensions to include formation of new 2nd floor level and conversion to an 8 bedroom HMO (House in Multiple Occupation) (Sui Generis).
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Decision

1. The appeal is dismissed.

Applications for costs

2. An application for costs is made by 9 Tower Road Ltd against Bournemouth Christchurch and Poole Council. This costs application is set out with a separate decision.

Preliminary Matters

3. From my site visit, it appeared that the side extension and roof dormers were already built and appeared ready to use. However, I have based my assessment primarily on the plans submitted before me.
4. This site has an extensive planning history, which includes two appeal decisions. The first appeal decision in 2019 allowed development for the conversion of the dwelling to a 7-bedroom HMO with rear extensions (ref: APP/G1250/W/19/3226002). There was a subsequent appeal decision in 2021 for the conversion to a 11 bedroom HMO with further extensions (ref: APP/V1260/W/21/3266654), which was dismissed for reasons such as the impact to living conditions of future and existing residents. These decisions are material considerations for this appeal, as they are for recent similar proposals on the same site.

Main Issues

5. The planning application was not determined by the Council before it was appealed. From the Council's Appeal Statement, interested party correspondence and all the other evidence submitted I would regard the main issues as follows:

- The effect of the development on the living conditions of neighbours to the site
- The effect of the development as proposed on the future living conditions of occupiers of the proposed HMO
- The effect of the development on the character and appearance of the area
- Whether the proposal has a suitable scheme for waste management
- Whether the proposal could accommodate sufficient cycle storage and charging points, to enable sustainable transport
- Whether the proposed development would have sufficient measures for surface water drainage
- Whether the proposal could incorporate sufficient biodiversity enhancements
- The effect of the development on internationally recognised ecology sites

Reasons

Living Conditions – Intensity of Use

6. In the recent 2021 appeal the Inspector concluded that there would be disturbance to immediate neighbours due to issues such as the increased intensity and activity that a 11 bedroom HMO would bring to this vicinity, with neighbouring houses in close proximity. However, there has been previous permission through the 2019 appeal for a 7 bedroom HMO, with this proposal being for 8 units with shared facilities, typical of an HMO.
7. As the Council has pointed out, the proposed extensions to the side over two storeys and the roof alteration to allow for a third storey of accommodation would result in a building size larger than the previous 11 bedroom HMO previously dismissed.
8. The proposed layout demonstrates that many of the units would actually have two rooms rather than a single room. The Council suggest that if all or most of the rooms were used as bedrooms then there could still be a large amount of people living in the building, similar to that of a 11 bedroom HMO. However, there is not the substantive evidence to demonstrate that this would be how people would live in the building. It could be that many of the occupants have a bedroom and then a separate room for dining, living room or kitchen for example. There is not the evidence to persuade me that both rooms in each unit would likely be bedrooms.
9. If this was the case the number of people living in the property and the increased intensity of use and activity would only be a minor amount more than the 7 bedroom HMO approved development. The increase would not be sufficient, in my view, to result in harmful levels of noise and disturbance to occupiers of nearby other dwellings.
10. As such, unlike the recently dismissed 11 bedroom scheme, the proposal would not result in undue levels of disturbance to immediate neighbours and therefore would be in general accordance with the aims of policies CS5, CS6,

CS41 of the Core Strategy, policy 6.17 of the Bournemouth District Wide Local Plan 2002 (LP), and Policy BAP8 of the Boscombe & Pokesdown Neighbourhood Plan 2019 (NP). These policies seek to protect the living conditions of neighbouring residents with regard to noise and general disturbance, for example. The proposal generally accords with the Councils Residential Design Guide on this issue.

Living Conditions – Future Occupiers

11. The proposed layout includes a garden to the rear of No 9 with an additional space to the rear of the adjacent recently built bungalow, which is to the east of the site. The main difference from the external layout set out with the 2021 appeal is the additional garden area to the rear of the bungalow garden. Also, this amenity space area would provide shared garden space for 8 units within the building rather than the 11 with the 2021 appeal.
12. A combination of the increased garden area and the lesser amount of units within the building means that the external amenity space provision for future occupiers would be sufficient, even with cycle and bin storage in this space. As such, on this matter, the proposal accords with the aims of LP Policy 6.17 and NP Policy BAP2 and BAP8, and policies CS5 and CS41 of the Core Strategy. On this matter the proposal is also in general accordance with the Councils Residential Design Guide.

Living Condition – Occupiers of the adjacent bungalow

13. As set out in the preceding section, the layout allows for sufficient space for future occupiers of the HMO by reducing the initially approved rear garden space for the infill bungalow (approved under ref: 7-2018-22736E). The bungalow private garden was initially approved to extend towards the boundary with the railway line to the north, but this proposed layout reduces the bungalow garden space substantially. This results in a small space of limited usability or value as a garden space, surrounded by a high fence which is adjacent to what would be the HMO garden. There would be a lack of space for usual recreational outdoor uses and any typical garden features, along with functions like drying clothes and storage for example.
14. Whilst this is a relatively high density built environment, there still needs to be a sufficient amount of external amenity space for dwellings. The bungalow is not a big dwelling, but the garden space as shown on the site plan would be particularly small and cramped, resulting in poor living conditions for occupiers of the bungalow due to this lack of external private amenity space.
15. As such, whilst this layout amendment from the 2021 appeal overcomes the issue of private amenity space for the HMO, the resultant private external space to serve the bungalow appears particularly small. For this reason, the proposal is contrary to policy CS41 of the Core Strategy, BAP8 of the NP, and policy 6.17 of the LP, which seek to require development to be well designed and to enhance the amenities of future and existing neighbours, amongst other things.
16. The bungalow is close to the side elevation of the HMO building, which with the enlarged roof would be tall near the boundary. However, the bungalow would have more open aspects to the north for example. The overall outlook from the bungalow remains at an acceptable level. The development would not be

obtrusive nor unduly imposing on occupants of this bungalow, especially considering the high density context of this area. The extensions and alterations to No 9 would not result in a significant increase to overshadowing levels over the bungalow, especially with No 9 being positioned further north than the bungalow.

Living Conditions – Other neighbouring dwellings

17. As set out above, there is not the evidence to demonstrate that the use of the property as an 8 unit HMO would result in unacceptable levels of noise and disturbance to harm neighbour living conditions.
18. As well as the infill bungalow there is also Nos 102, 104 and 102A and B Palmerston Rd to the west of No 9, with the properties 9a and 9b Tower Road to the southwest, all in close proximity to the proposed development. The first floor windows in the west elevation serve en-suite rooms and so a condition could be reasonably imposed for these windows to be obscure glazed, for example. There should be no significant increase in overlooking resulting in loss of privacy from the development proposed.
19. The separation distance from the building at No 9 and these neighbouring properties is such that the proposals would not result in an unacceptable overbearing or overshadowing impact.
20. Overall, considering all matters, the proposal would have no significant impact to the living conditions of any other neighbour to the site, and therefore not conflict with policies CS41 of the Core Strategy, BAP8 of the NP, and policy 6.17 of the LP with regards to other neighbours. On this matter the proposal is in general accordance with the Councils Residential Design Guide.
21. However, this does not overcome the impact to the occupiers of the infill bungalow where there would be harm due to the substantial reduction in amenity space.

Character and Appearance

22. The site is towards the end of a long private driveway between dwellings which front Tower Road. The side and roof extension would create a significantly larger property, which has already been enlarged. However, this is an area where there is a mix of housing styles and sizes, which mitigates the visual impact of the size increase of No 9. Furthermore, the use of the flat roof section keeps the overall height of the building to a reasonable level. The flat roof itself is not typical of the area, but it is not easily discernible from the front or rear of the building due to its high level. It would, however, be more visible from the sides of No 9, though these are not prominent views.
23. There are also the dormers, though being to the rear of the house they are not prominent. They are also of an appropriate size and form, primarily overlooking the railway line.
24. The result of the proposals is a bulkier building with three storeys of accommodation. The design and scale is incongruous to some degree with the wider area and neighbouring dwellings, particularly due to the roof form proposed. However, as with the 2021 Inspector conclusions, the relationship with the wider public realm is such that there would be no material harm to the overall character and appearance of the area. This is mainly due to the set

back position of No 9 from Tower Road, being to the end of a long private driveway.

25. There is also the consequence of the smaller plot for the bungalow. Although I have concluded that this would be harmful to the living conditions of occupiers of the bungalow it would not be visually harmful to the character of the area. Although this would be a very small plot, there are some other relatively small plots in the area and also the bungalow is not prominent within the street scene due to its set back position from Tower Road.
26. The proposal therefore does not conflict with policies 6.17 of the LP, BAP1, BAP2 and BAP8 of the NP, and CS41 of the Core Strategy

Cycle Parking and Bin Storage

27. The proposal includes a site plan with a cycle and bin store set towards the rear boundary of the site. There is limited detail, but these stores do not appear very large. Nonetheless, there is space for a cycle store and bin store on site, without resulting in a significant loss of amenity space for future occupiers. Details could be required by condition if the appeal were allowed, ensuring that these stores are of sufficient size.
28. A condition could require the installation of electric car charging points at No 9. There is no substantive evidence before me why this could not be achieved.
29. There could also be a condition to require details of waste management, needed particularly due to the distance between the bin store and the end of the driveway adjacent to Tower Road, where the bins would be emptied. This would need to address the issue of bins potentially being left on the highway edge at Tower Road, which could have a visual impact. I see no particular reason why this could not be achieved and so a condition requiring a scheme for waste management could reasonably be imposed.
30. On that basis the proposal would be in accordance with policies CS17, CS41, and CS18 of the Core Strategy, and the BCP Parking Standards Supplementary Planning Guidance 2021, subject to the imposition of relevant conditions.

Drainage

31. The proposal contains very little information regarding surface water drainage, including any plans to use soakaways. This is an important issue, especially as the site is adjacent to railway land and embankments.
32. However, the proposed development is not significantly larger than the development previously permitted at this site. I have no substantive evidence that surface water drainage solutions could not be planned and implemented at the site. I also note that the appellant stated that all the areas of hardstanding around the buildings would be laid to permeable surfacing. As such, in my view a condition could be imposed requiring full drainage details to be agreed with the Council. This would be sufficient for the development to accord with policy CS4 of the Core Strategy.

Ecological Sites

33. The site would result in a more intensive use of an existing property, with more units. As set out by Natural England in their response to the proposal: *"The application site is within the vicinity (within 5 km and beyond 400m) of*

Christchurch Harbour SSSI, Bourne Valley SSSI, and Town Common SSSI which are notified as Sites of Special Scientific Interest (SSSIs) for the special interest of their heathland habitats and associated plant and animal species. Christchurch Harbour SSSI, Bourne Valley SSSI, and Town Common SSSI are part of the Dorset Heathlands Special Protection Area (SPA) and Dorset Heaths Special Area of Conservation (SAC). Bourne Valley SSSI and Town Common SSSI are also part of the Dorset Heathlands Ramsar."

34. The proposed development would likely result in increased number of people living in this area and could therefore contribute to recreational pressures on these important ecological sites.
35. Natural England have advised that mitigation would be needed, with a contribution towards the Heathland Infrastructure Project with the provision needed from the appellant for a Strategic Access Management and Monitoring contribution.
36. In this case I have no evidence of an agreement or a payment of the contribution from the appellant to the Council to address this matter. The appellant has not stated that they would not be prepared to make the contribution. If I was set to allow the proposed development then I would have consulted the appellant, Council and Natural England for further comment, which may have led to the contribution being made towards the necessary mitigation and therefore could accord with policy CS33 of the Councils Core Strategy.

Biodiversity Enhancement

37. The proposal is not accompanied by detailed information relating to biodiversity or specifically biodiversity enhancement. There is limited space for such enhancements, though it could be that the baseline level of biodiversity was low. As such, it could be that enhancements could be provided to a sufficient degree above existing levels of biodiversity value (prior to recent development) and in the circumstances a condition requiring details of this could be imposed, thereby ensuring that the proposal is in accordance with policy CS35 of the Core Strategy.

Planning Balance

38. The Council has acknowledged that it cannot demonstrate a 5 year housing land supply. Paragraph 11 of the National Planning Policy Framework sets out that decisions should apply a presumption in favour of sustainable development and that, under criterion d) where the policies which are most important for determining the application are out of date, planning permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits when assessed against the policies in the Framework taken as a whole. Given the lack of a five year housing land supply, paragraph 11 d) of the Framework is engaged.
39. In this case the proposal would provide towards the housing supply for the area, in the form of these larger two-room HMO units. There would be economic benefits from the construction of the development, together with the financial boost from future occupiers using local businesses. The proposal could include biodiversity enhancement and the proposal could be considered an

efficient use of the site, with energy efficient construction, amongst other potential benefits.

40. That said, it is important to bear in mind that the presumption in favour of sustainable development as it is set out by the Framework does not mean development at all costs. In this case, the proposal would be harmful to existing or future occupiers of the bungalow due to the small rear garden/amenity space which would result, so that there could be more external space to provide for occupants of the HMO. Paragraph 130(f) of the National Planning Policy Framework states that decisions should ensure that developments “create places that are safe, inclusive and accessible and which promote health and well-being, with a high standard of amenity for existing and future users”. There would not be a high standard of amenity for the occupiers of the infill bungalow as a result of this development.
41. Whilst I have acknowledged that there are some modest benefits to the development, on balance I conclude that the adverse impacts of this development significantly and demonstrably outweigh these benefits when assessed against the policies in the National Planning Policy Framework taken as a whole.

Conclusion

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

Mr S Rennie

INSPECTOR