



Appeal Decision

Site visit made on 3 January 2023

by Lynne Evans BA MA MRTPI MRICS

an Inspector appointed by the Secretary of State

Decision date: 02 February 2023.

Appeal Ref: APP/V1260/W/22/3302191

9 Tower Road, Bournemouth BH1 4LA

- 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 R La Bouchardiere against the decision of Bournemouth Christchurch and Poole (BCP) Council.
 - The application Ref: 7-2022-22736-L dated 19 January 2022, was refused by notice dated 13 April 2022.
 - The development proposed is enlargement of existing building to create new roof, and convert to 15 bedroom HMO with shared bin and bicycle storage and a car parking space.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. At the time of my site visit, it appeared that the building works to the main property had been completed and the building was in occupation as a 15 bedroom HMO. However, as the application was submitted as a proposed development and the application forms and subsequent information do not indicate otherwise, my decision is based on the plans and proposals before me.
3. Part of the bungalow to the south-east of the appeal property and shown to be within the same site was in use as an office. However, there is no information before me in this regard and I have therefore considered the appeal proposal on the basis of the information before me, that is that the bungalow benefits from permission for residential use, under the Council's ref: 7-2016-22736-F.
4. There has been a lengthy planning history on the site, including amongst others, permission granted on appeal in 2019, for an extension to the existing dwelling and conversion to a 7 bedroom HMO under the Ref: APP/G1250/W/19/3226002. An appeal to extend the property and provide an 11 bedroom HMO was dismissed in May 2021 under the ref: APP/V1260/W/21/3266654. A very recent appeal for extensions and alteration to convert to an 8 bedroom HMO (Ref: APP/V1260/W/21/3285388) was also dismissed according to information provided by the Appellant.
5. The Council's decision notice refers to policies from the Boscombe & Pokesdown Neighbourhood Plan 2019. This has not been provided to me, but the Officer's report sets out the policies which are referenced.

Main Issues

6. The main issues in this appeal are:

- a) Whether the proposal would create satisfactory living conditions for future occupiers, with particular regard to external amenity space;
- b) The effect of the proposal on the living conditions of residential neighbours;
- c) The effect of the proposal on the character and appearance of the local area;
- d) Whether the proposal would provide satisfactory cycle parking provision;
- e) Whether the proposal would provide a satisfactory drainage solution in order not to lead to localised flooding;
- f) The effect of the proposal on biodiversity enhancements and on designated heathland.

Reasons

Issue a) Satisfactory Living Conditions for Future Residents (Amenity Space)

7. The appeal property lies to the north of and set back from Tower Road, accessed via a single lane track off Tower Road in a mixed use area with predominantly residential and some commercial uses. There are residential dwellings fronting Tower Road on either side of the access. The railway is directly to the north of the site. The main building occupies the site together with an existing bungalow to the south east which is shown to be within the application site. The access also provides access to a small number of residential properties to the west of the main building which lie outside of the application site.
8. The submitted plans do not show a layout for the area for the amenity area, but given the proposed location of the parking space, bin stores and cycle parking on the northern and western sides, the remaining area primarily available to serve as amenity space would be on the eastern side of the property. This would also be closest to the rooms shown to be used as communal areas.
9. The remaining area to the rear of the property to the east of the proposed cycle store is narrow and sandwiched between the main property and the railway line and would not provide an attractive area for amenity provision. In addition, any separate private open space to serve the bungalow to the south east of the main building is not shown on the submitted plan, but I understand from the Council's evidence that a large part of the land to the rear of the bungalow as far as the railway had been shown under previous schemes as amenity space to serve the bungalow. I have also raised concerns about other required matters to be provided on site which, if capable of being resolved, might further reduce the available space for amenity provision.
10. I acknowledge that the Council does not include any numerical requirements regarding the provision of open space, although Policy 6.17 of the Bournemouth District wide Local Plan does require the property to have a

defined garden or amenity area capable of being used for activities associated with residential use and of a size appropriate to the number of occupiers and the location of the property. As a result of my site visit, I am not persuaded that the area potentially available to provide private amenity space, would be adequate to be laid out and serve a 15 bedroom HMO, where the number of people wishing to use the space could be considerably in excess of 15 and potentially including small children.

11. This lack of appropriate private amenity space would materially harm the living conditions of the residents of the appeal building. This harm would conflict with Policy 6.17 of the Bournemouth District wide Local Plan (Local Plan), Policies CS5, CS6 and CS41 of the Core Strategy Bournemouth Local Plan (Core Strategy), the Council's Residential Development Design Guide (Design Guide), Policies BAP2 and BAP8 of the Boscombe and Pokesdown Neighbourhood Plan (Neighbourhood Plan) as well as the National Planning Policy Framework (Framework) and in particular Paragraph 130, all of which, amongst other matters, seek a high standard of amenity for existing and future occupiers.

Issue b) Satisfactory Living Conditions of Existing Neighbours

12. The proposed use of the property as a 15 bedroom HMO would result in a very significant increase in the number of people that might be resident, over and above the existing permission for the use of a property as a 7 bedroom HMO. Whilst each proposal must be considered on its individual merits, I have noted that harm to the living conditions of the surrounding residents was one of the reasons that the previous Inspector dismissed the proposal to increase to a 11 bedroom HMO. This proposal before me would increase the number of bedrooms, and therefore the potential number of residents, even higher.
13. The narrow access between residential properties opens out to serve a small number of residential properties in addition to the appeal property. There is a tight knit relationship between these various properties. In addition the access is tight between two residential dwellings fronting Tower Road and their rear gardens appear to extend either side of the access.
14. I consider that the comings and goings of the residents of a 15 bedroom HMO could be significantly greater than associated with the current permission for a 7 bedroom HMO and I share the concerns of the Council that the intensification of the use, in terms of the number of potential movements in and out of the property and along the narrow access road as well as around the external areas of the property would lead to concerns of noise and disturbance for the occupiers of the immediately surrounding properties.
15. In addition, and for the reasons considered under my first issue it is not clear to me that the scheme would provide appropriate amenity space for the bungalow to the east of the appeal building. The layout plans do not show any such provision. There could also be concerns of overlooking and loss of privacy for the residents of the bungalow depending on the arrangements made and the proximity of any amenity space to serve the residents of the HMO in proximity to the bungalow. Furthermore, in providing appropriate amenity space for residents of the bungalow, this could, as indicated above under my first issue, exacerbate the concerns relating to the provision of amenity space for the residents of the HMO.

16. I therefore conclude that the proposal to increase the number of bedrooms to 15 would result in serious harm to the living conditions of surrounding residents. This would conflict with Policy 6.17 of the Local Plan, Policies CS5, CS6 and CS41 of the Core Strategy, the Council's Design Guide, Policies BAP2 and BAP8 of the Neighbourhood Plan as well as the Framework and in particular Paragraph 130, all of which, amongst other matters, seek a high standard of amenity for existing and future occupiers.
17. I have sympathy with the additional concerns expressed by neighbours who are resident in Tower Road, but a number of these concerns would be dealt with under other legislation.

Issue c) Character and Appearance

18. The proposed changes would result in a larger and much bulkier building and it would lose its attractive symmetry. Although already larger than the adjoining buildings, the extensions and alterations would exacerbate the difference in scale and massing of the resultant appeal building. Nonetheless its set back from the street scene would mean that there are limited views of the property from a public viewpoint.
19. There is a varied range of buildings in the immediate local area, in terms of size and scale as well as design. As a result, and taken together with the set back from the road, I do not consider that the proposed changes to the roof and elevations would unacceptably harm the mixed character and appearance of the local area.
20. I therefore consider that proposal would be acceptable in terms of the character and appearance of the local area. There would be no conflict with Policy CS41 of the Core Strategy, Policy 6.17 of the Local Plan, Policies BAP1, BAP2 and BAP8 of the Neighbourhood Plan, the Council's Design Guide and the Framework and in particular Section 12 all of which seek for new development to respect the local context.

Issue d) Cycle Parking Provision

21. There is no disagreement between the Appellant and the Council that provision for cycle parking is required on site to serve the residents of the scheme and their potential visitors, requiring a minimum of 17 spaces. The scheme plans show a covered cycle parking area but one that would only provide for, on the basis of differing figures provided by the parties, up to 8-10 bikes.
22. It may well be that the deficiency could easily be rectified but without that information to demonstrate how the shortfall would be met, I cannot be satisfied that the scheme would provide the necessary level of on-site cycle parking to accord with Policies CS17, CS18 and CS41 of the Core Strategy and the Council's Parking Standards SPD and Residential Design Guide.
23. The Appellant has suggested that the issue could be addressed by condition. However, given the other harm I have identified including in terms of, for example, the provision of amenity space, I am not satisfied that it would be appropriate in the particular circumstances of this case, for this one issue to be addressed by condition.

Issue e) Drainage and Flooding

24. There is very limited information provided to me regarding drainage details, and I agree with the Council that such details that are provided are imprecise and inconsistent in terms of the proposed solution. The proposed development would increase the footprint of the building and the number of rooms to be served by the development.
25. Whilst a solution may well be feasible to ensure appropriate drainage and to avoid localised flooding, this has not been demonstrated. The absence of an appropriate and workable solution for drainage which would not lead to localised flooding therefore adds to the harm I have already concluded and conflicts with Policy CS4 of the Core Strategy in respect of surface water flooding. This policy includes that details of the proposed SUDS and maintenance should be submitted as part of any planning application. Whilst it may be that such matters might be addressed by condition, the relevant policy from the Core Strategy is clear that such details should be submitted as part of any planning application.

Issue f) Designated Heathland and Biodiversity Enhancements

26. There is no dispute between the Appellant and the Council that a financial contribution is required towards the Dorset Heathlands Special Protection Area, given that the site falls within 5km but outside the 400m of identified heathland and the proposed increase in occupancy would result in the potential for increased demand on the heathland requiring resources to manage the impacts. Natural England has also confirmed its objection in the absence of securing suitable mitigation.
27. However, and notwithstanding the offer from the Appellant, no such contribution has been forthcoming during the appeal. In the absence of such a contribution, I cannot be satisfied that the scheme would not lead to an adverse effect upon the integrity of the Dorset Heaths international designations and it would therefore conflict with Policy CS33 of the Core Strategy in this regard.
28. I agree with the Council that, in accordance with Policy CS35 of the Core Strategy, the provision of biodiversity enhancements should be set out and no provision has been made and the Appellant has requested the matter to be dealt with by condition. However, given the mass of development on the site surrounded largely by hard landscaping, I am not persuaded that the issue should be addressed by condition but the principles, at the very least addressed at this stage. In the absence of any proposals in this regard, I cannot be satisfied that the scheme would accord with Policy CS35 of the Core Strategy.

Planning Balance

29. The Council has confirmed that it is unable at the present time to demonstrate a five year supply of deliverable housing land. Accordingly, paragraph 11(d) of the Framework is engaged.
30. When judged against some of the core planning principles the proposal would perform well in that it would be generally well located, where access to facilities and services is likely to be greatest. In terms of its component dimensions,

there would be a modest social benefit in providing additional residential accommodation within an existing HMO, and there is no evidence before me in terms of the reasons for refusal or detailed information that this would not be beneficial or that the proposal would breach the policy tests in the development plan relating to the over concentration of HMOs in an area.

31. However, I have found that the proposed development would harm the living conditions of both the proposed occupants of the building as well as surrounding residents. There are also a number of other technical and environmental shortcomings with the proposal, and there is not the information before me to be confident that these could all be readily overcome without exacerbating the harm to the living conditions of future residents.
32. 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.

Conclusion

33. For the reasons given above and having regard to all other matters raised, including in representations, I conclude that the appeal should be dismissed.

L J Evans

INSPECTOR