
Appeal Decision

Site visit made on 7 February 2023

by A J Sutton BA (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 08 March 2023

Appeal Ref: APP/V1260/W/22/3302169

Wessex House, Fir Vale Road, Bournemouth BH1 2JW

- 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 Coastline Homes Bournemouth against the decision of Bournemouth, Christchurch and Poole Council.
 - The application Ref 7-2021-1958-DP, dated 27 September 2021, was refused by notice dated 9 June 2022.
 - The development proposed is change of use from hostel to HMO.
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Decision

1. The appeal is dismissed.

Applications for costs

2. An application for costs was made by Coastline Homes Bournemouth against Bournemouth, Christchurch and Poole Council. This application is the subject of a separate Decision.

Preliminary Matters

3. The appellant has queried whether the decision made by the Council in this case was lawful. The appellant submitted an appeal against the non-determination of this proposal by the Council. However, the address on the appeal form differed from that on the original application form, and that appeal was not properly made. As such that appeal was not validated at the time that the Council issued its decision notice in respect to this proposal.
4. As Article 37 of the Town and Country Planning (Development Management Procedure) (England) Order 2015 was not activated during the validation process of that appeal, and the appellant requested that the appeal was changed to be an appeal against a refusal to grant planning permission, the Council had the jurisdiction to make its decision. Therefore, I have decided this appeal on the basis on which it has been submitted and as described in the banner above.
5. The appeal property is in the Old Christchurch Road Conservation Area (CA). The CA is a mix of Victorian, Edwardian and Art Deco style terraces located at the heart of this Victorian Seaside town. These terraces are valued for their high quality architecture and this contributes to the historic significance of this CA. When determining proposals in conservation areas special attention shall be paid to the desirability of preserving or enhancing the character or appearance of that area.

6. The proposal is for a change of use and the submitted plans do not show changes to the external appearance of the appeal building. On this basis I am content that the proposal would preserve the character or appearance of the area.

Main Issues

7. The main issues are:
 - a) the effect of the proposal on the availability of tourist accommodation in the town, having regard to the tourism industry in the area;
 - b) whether the proposal would provide satisfactory living conditions for future occupants, with particular regard to communal living space; and
 - c) the effect of the proposal on the integrity of the Dorset Heathland, which comprises protected habitat areas.

Reasons

Tourism

8. The appeal property is a large, three storey, central terrace property with a basement. It is part of a short row of brick-built properties with dual circular bay window protrusions. The property is located immediately to the rear of the central shopping area of the town, and a short walk from the public gardens at the centre of the town, with the beachfront a short distance beyond these gardens.
9. Although conflicting information has been submitted in this appeal, the submitted plans show that the hostel at the appeal property has 13 dormitory rooms on the first and second floors, a café at street level and hostel visitor space in the basement. This proposal would change the use of the appeal property to a house of multiple occupation (HMO) which would comprise 15 bedrooms split between the basement and the first and second floors. There would also be a shared kitchen and communal living room space for residents at the basement level.
10. Policy CS28 of the Bournemouth Local Plan: Core Strategy (Core Strategy) states, in respect to tourist accommodation, that development resulting in the loss of sites will only be considered acceptable where it can be demonstrated that, amongst other matters, the business is no longer viable and has no reasonable prospect of continuing. The supporting text of Policy CS28 of the Core Strategy clarifies that Bournemouth's economy relies heavily on tourism trade and that the town centre is a focal point for tourism in Bournemouth.
11. The Core Strategy Policy and the related supplementary guidance¹ (SPD) predate the Covid pandemic. Regardless of this, the supporting text of the Policy acknowledges that the tourist sector is evolving and that some accommodation within the main tourism areas may no longer be viable or suitable for retention. Recognising that the tourist sector is subject to change, the SPD advises on factors to take into account during the consideration of applications seeking a change of use of tourist accommodation. This includes, amongst other things, that the premises are incapable of being viable in its current use, or another form of tourist accommodation would not be viable at the site.

¹ Tourist Accommodation Supplementary Planning Document 2016 (SPD)

12. Although the hostel at the appeal property may be small in comparison with some hotels, the submitted plans indicate that it has a 72 person capacity. It also has the potential to contribute to the variety of budget tourist accommodation available in the town centre.
13. The impact of the Covid pandemic on the tourist industry is well publicised. However, there are no longer significant restrictions on tourist accommodation to deal with that matter. This aside, it is reasonable to conclude that not everyone seeking tourist accommodation would choose a hostel with shared facilities. Nevertheless, I see no substantive evidence before me that the market for hostel style accommodation with shared facilities is no longer in demand or unviable, or that other existing tourist accommodation in the area could absorb the loss of this use at the appeal property.
14. I note the hostel is not currently operational. This factor combined with the events during the Covid pandemic presents a challenge to the appellant in providing information about the hostel's income. I also note the appellant asserts that the hostel is poor in terms of meeting visitors' expectations, as even those seeking budget accommodation expect ensuite facilities. However, the appellant has not provided any significant evidence that standards could not be improved at the premises to address such demands. Nor has substantive information been presented that the costs of upgrading the appeal property, to serve the changing market as the appellant describes it, would be prohibitively expensive and that the financial risk of doing these works would be unreasonable.
15. I have had regard to the two examples of other hostels in the area with some ensuite facilities. Also, the appellant highlights that Airbnb is a popular form of tourist accommodation in the area. However, I have not been provided with any information regarding the occupancy rates of that other accommodation. Nor has the appellant presented compelling evidence that these other hostels and the local Airbnb market impact on the viability of the hostel use at the appeal property, or that their presence would make the loss of tourist accommodation at this central location less significant to the local economy. This matter has not altered my findings for this reason.
16. My attention has been drawn to an appeal decision relating to Woodlands Hotel, but limited information has been provided on that appeal. This aside, the Inspector in that case was able to conclude that the hotel was not viable and had little prospect of being so. For the reasons outlined above, I am unable to reach the same conclusion in this case. The Woodland Hotel decision is therefore not directly comparable to this proposal.
17. In light of the above, I find that the evidence submitted in this case has not demonstrated that the tourist accommodation use at the appeal property is no longer viable and has no reasonable prospect of continuing. As set out above, the proposal would result in a loss in the availability of tourist accommodation in the town, and this would be harmful to the tourism industry in the area. It would be contrary to Policy CS28 of the Core Strategy in respect to the loss of tourist accommodation sites and premises.
18. It would also be inconsistent with provisions of the National Planning Policy Framework (the Framework) with regards building a strong, competitive economy.

Living Conditions

19. The proposed HMO would provide 15 bedrooms with shared washrooms facilities. Future occupants of the HMO would also have access to one shared kitchen in the basement. The submitted plans show an additional room to the rear of the proposed kitchen which would have access to the small rear courtyard, and this room is annotated with what appears to be tables and/or seating.
20. The appellant contends that the proposed bedrooms would be of a sufficient size so that future occupants of the HMO would not require a large communal living space. However, while some of the rooms would be reasonably spacious, at least six of the proposed bedrooms would be considerably smaller. Of these smaller bedrooms, four bedrooms would be formed by internal walls, and with this feature they would have a cell like quality. Future occupants of these rooms are likely to require additional space where they could relax, eat and meet friends. Therefore, a reasonable size communal living space would be necessary to ensure that the HMO provides satisfactory living conditions for its future occupants.
21. The submitted plans show that the only space for future residents to cook would be the communal kitchen in the basement, with the room at the rear of the kitchen providing an additional living room. This communal space would roughly be equivalent to the size of only two of the larger bedrooms. Such a space would feel congested even if only a limited proportion of the future residents were to attempt to use it at the same time. The limited space would be extremely cramped for the proposed 15 occupants, and these cramped conditions would lead to an unpleasant shared space for future occupants to eat in and socialise. In this regard the proposal would not provide adequate communal space to ensure acceptable living conditions for future residents.
22. The appellant states that a café would be located on the ground floor level, similar to the existing arrangement. However, a café is not included in the description of the proposed development, nor is it shown on the submitted plans. Moreover, even if the HMO included a café, this would be a commercial space where customers would likely be expected to purchase drinks and food. In this regard it would not contribute to the availability of suitable communal living space that the future residents would reasonably expect in a property which they would consider to be their home.
23. Also, the appellant indicates in addition to the café, there would be further living space on the ground floor. However, this is shown on the plans as a reception area as opposed to a living space for the future residents of the HMO. There are other areas marked as communal areas in the appeal statement, but aside from the shared toilets and washing facilities, these areas are halls and stairwells that would allow residents to move around the HMO, as opposed to rooms where residents could sit and relax.
24. In light of the above, I find that the proposal would not provide satisfactory living conditions for future occupants, with particular regard to communal living space. In this respect it would conflict with Policy CS41 of the Core Strategy which seeks to ensure, amongst other matters, that development provide a

high standard of amenity to meet the day to day requirements of future occupants.

25. It would also be inconsistent with the Framework which also seeks a high quality of amenity for existing and future users.

Protected Habitats

26. The appeal property is within the zone of influence of the protected Dorset Heathland. The lowland heaths in South East Dorset are covered by a number of habitat designations, in particular the Dorset Heathlands Special Protection Area; Dorset Heathlands Ramsar Site; and Dorset Heaths Special Area of Conservation.
27. These areas host protected priority habitats and species including Dartford warblers, nightjars, woodlark, hen harrier, merlin, sand lizards and smooth snakes as well as other typical species of lowland heathland, wetlands and dunes. The Dorset Heathlands cover an extensive area of South East Dorset and are fragmented by urban development, forestry, agriculture and other land uses. The conservation objectives of the protected areas focus on ensuring that the integrity of the areas are maintained or restored as appropriate, and that the areas contribute to the conservation of the above qualifying features.
28. Various studies², have found that public access to lowland heathland, from nearby development, has led to an increase in wildfires, damaging recreational uses, the introduction of incompatible plants and animals, loss of vegetation and soil erosion and disturbance by humans and their pets amongst other factors have an adverse effect on the heathland ecology and the special qualities.
29. The proposal would result in a change of use from tourist accommodation to a HMO providing 15 bedrooms for individuals living independently. Not only would the development result in a change of use, but the proposal would result in two additional bedrooms and therefore a net increase in residential units at the appeal property.
30. Natural England advises that additional residential development within 5 kilometres of the Dorset Heathland area is likely to have a significant effect on the Dorset Heathlands either alone or in combination with other proposals.
31. Consequently, an appropriate assessment is required in this case. The purpose of the assessment is to ascertain whether or not the proposal would adversely affect the integrity of the areas. Natural England also advises, in respect of the protected Dorset Heathlands, that in order for an appropriate assessment to be able to conclude that there is no adverse effect on the integrity of the areas, certain types of development, require avoidance or mitigation measures to be implemented to allow development to be approved. Without mitigation, new residential development in this area could have a significant adverse effect on the sensitive features of the areas, through increased recreational pressure.
32. In light of the above, the Dorset Heathland Supplementary Planning Document (SPD) sets out an approach to enable development through the implementation of measures to avoid likely urban effects upon the Dorset Heathlands. The

² Ref: The Dorset Heathland Planning Framework 2020 – 2025 Supplementary Planning Document

- strategy has a long-term approach and sets out a five year rolling programme of measures for the period 2020-2025, unless an early review is necessary.
33. The SPD states that mitigation will be necessary for a net gain in residential dwellings on the same site, including conversions, and large HMOs. It clarifies, in Appendix B, for every room above 6 in a HMO this would be considered a net gain equivalent to one flat. Therefore, each additional occupied room will require mitigation in accordance with this SPD.
34. The SPD identifies the mitigation element of the strategy is in two parts: Strategic Access, Management and Monitoring (SAMM); and Heathland Infrastructure Projects (HIPs). The SAMM focuses on wardening, raising awareness and monitoring the effectiveness of the strategy. HIPs are physical infrastructure projects that provide facilities to attract people away from the protected heathland sites.
35. The SPD clarifies that in order to enable Councils to grant planning permission for proposals for a net increase in dwellings within the 400 metres to 5km heathland area, applicants are required to contribute to SAMMs in this area by legal agreement or through a payment prior to the grant of planning permission as an upfront payment. Financial contribution to HIPs will be collected through Community Infrastructure Levy (CIL) payments. Where proposals are exempt from paying CIL, there is likely to be a requirement to provide HIPs through a legal agreement.
36. The evidence before me indicates that this proposal is not liable for CIL payments. The appellant also accepts that financial contribution towards the mitigation outlined above is required in this case. However, despite having an opportunity to submit a legal agreement through this appeal process, they have not chosen to do so. In the absence of this and any other mechanism to address this matter, I do not have certainty that the mitigation required in this case would be secured if I was to allow this appeal. On this basis, I cannot be confident that the development proposed would not have an adverse impact on the integrity of the protected habitat areas either alone or in combination with other proposals.
37. Therefore, I find that the proposal would have likely significant adverse effects on the integrity of the Dorset Heathland, which comprises protected habitat areas. In this regard it would be contrary to Policy CS33 of the Core Strategy which states that development will not be permitted unless it can be ascertained that the development will not lead to an adverse effect upon the integrity, directly or indirectly, of the Dorset Heaths international designations.

Other Matters

38. I note the appellant's comment regarding HMO licencing. However, that regime is separate to the planning system, and holding a HMO license does not provide certainty that planning permission will be granted.
39. The principle of a HMO in this area is not disputed by the Council, and no conflict with local plan policies related to the principle of this use has been identified in this case. The proposal would contribute to the supply and mix of homes in the area. However, as outlined above it would result in homes with unsatisfactory living conditions for future residents. Moreover, there would also be a significant loss of tourist accommodation which would be harmful to the

local economy for the reasons outlined. It would not be an effective or efficient use of land in this regard. These matters have limited weight for these reasons.

40. The appeal building is an attractive historic building, and it did not appear to be in a poor state of repair. The appellant suggests that in its lawful use it would fall into disrepair as there would be insufficient funds to maintain it. However, even if I was able to conclude that the existing permitted use was unviable, the evidence does not demonstrate that this proposal, resulting in harmful living conditions, would be the only means of maintaining the property. This matter does not weigh in favour of the proposal for this reason.
41. I have had regard to the appellant's comments regarding the shortfall in housing land supply in the area and Core Strategy Policies that identify housing need. However, Paragraph 182 of the Framework clarifies that the presumption in favour of sustainable development does not apply where the plan or project is likely to have a significant effect on habitats sites, unless an appropriate assessment has concluded that the plan or project would not adversely affect the integrity of the habitats site. I have found that this would not be so with this proposal for the reasons set out above. Therefore, the tilted balance outlined in Paragraph 11 of the Framework is not relevant in this case, having regard to footnote 7 of that Paragraph of the Framework.

Conclusion

42. For the reasons stated above and having regard to the development plan, and material considerations, including the Framework, the appeal is dismissed.

A J Sutton

INSPECTOR