

Appeal Decision

Hearing held on 7 February 2023

Site visit made on 7 February 2023

by Mr W Johnson BA(Hons) DipTP DipUDR MRTPI

an Inspector appointed by the Secretary of State

Decision date: 17 March 2023

Appeal Ref: APP/V1260/W/22/3304905

Babbacombe Lodge, 28 West Hill Road, Bournemouth, BH2 5PG

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
 - The appeal is made by Mr R Atkins of Harlequin Homes against the decision of Bournemouth Christchurch and Poole (BCP) Council.
 - The application Ref 7-2021-1663-J, dated 10 September 2021, was refused by notice dated 10 August 2022.
 - The development proposed is an outline submission for demolition of the existing hotel and erection of 24 residential apartments and 5 holiday lets with associated access, parking and bin storage.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. Outline planning permission is sought, with only landscaping being reserved. I have determined the appeal on this basis.
3. For clarity and precision, I have taken the description of development from the Council's decision notice and appeal form. I have also removed reference to 'underground bins' to 'bin storage' as this more accurately reflects the proposal. Confirmation of the acceptability of this approach was given by the appellant orally at the event.
4. Following the submission of a signed/completed Unilateral Undertaking (UU) dated 7 February 2023 by the appellant, the Council has confirmed that it no longer wishes to defend refusal reason No's 5, 6 and 7 on the Council's decision notice (DN), in relation to highway improvements, affordable housing and Dorset Heathlands Special Protection Area and Dorset Heaths Special Area of Conservation. Whilst only the first refusal reason is numbered on the DN, the numbering of the remaining refusal reasons was agreed with the parties orally at the event.
5. The Council has cited its Tourism Supplementary Planning Guidance (SPG) in connection with refusal reason no. 3 on the DN. However, in the absence of an objection from the Council's Tourism Officer as the existing property has not made a material contribution to the tourism function for some time, I find the SPG is not directly applicable to the case before me.

Main Issues

6. The main issues of this appeal are the effect of the proposed development with

regard to:

- the character and appearance of the appeal site and surrounding West Cliff and Poole Hill Conservation Area (the CA), including the Unitarian Church (the church), which is a Grade II Listed Building;
- a suitable mix of housing with regard to development plan policies;
- the living conditions of existing and future occupiers; and,
- the drainage of the site.

Reasons

Character and appearance

7. The appeal site is located within the CA, which was designated on 17 October 1989 and occupies a corner site at the junction between West Hill Road and Hahnemann Road, which is a prominent location within the CA. The existing building dates from the Victorian period and has accommodation over 3no. floors. It is accepted by the parties that unsympathetic alterations have been undertaken to the existing building and that it makes a neutral contribution to the character and appearance of the CA.
8. In accordance with Section 72 (1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 (the Act), I have paid special attention to the desirability of preserving or enhancing the character or appearance of the Conservation Area. The Council has produced a draft Appraisal and Management Plan for the CA (the CAAMP), which has undergone a period of public consultation. However, whilst I consider this document to be a material consideration, as it is yet to be adopted by the Council, it only attracts modest weight in the determination of this appeal.
9. The significance of the CA derives from it containing much of the early development in the second part of the nineteenth century on the slopes and plateau immediately to the west of the Bourne Valley and south of Norwich Avenue/Poole Road. Developed as a fashionable residential suburb, the intention from the outset was to promote the development of a collection of generous houses occupying large plots, with other component parts required for Victorian life. The CA contains a good range of the building types needed to support the vision of life in late the nineteenth century.
10. The application site is located within the Durley Chine Road character area (DCR) as defined in the CAAMP. This is an area characterised by large properties in generous plots with a notable increase in green boundaries to the roads, with a more open and sylvan feel to the character area. Despite many of the Villas changing use or being altered, the historic plots can still be appreciated. On the opposite side of West Hill Road facing the site is the St Michael's Road character area (SMR), which has many of the same characteristics of DCR. However, the increase in density of development from villas to terraced properties is clearly noticeable, giving a more enclosed feel than other parts of the CA. Whilst there are some detached buildings they are located to the south of SMR. The marked contrast between DCR and SMR can easily be seen from the site.

11. Within SMR is the church which can also be viewed from the site. The significance of this listed building derives from its Gothic style and its former use as a Unitarian Church, dating from around 1890. The church provides a unique and notable exception to the typical style seen elsewhere in the SMR, through its design and external materials. This distinct red brick construction has a more flamboyant front elevation, which includes a tall spire, compared to the relatively plain side elevations. I have a statutory duty under Section 66 (1) of the Act, which requires me to have special regard to the desirability of preserving or enhancing a listed building or its setting or any features of special architectural or historic interest which it possesses
12. The proposed development would have a greater footprint than the existing building and would bring a significant amount of additional bulk and massing to the site. I appreciate that the site comprises an end plot and agree that this provides a little more flexibility when considering the principle of re-development, against other plots in the street. Nonetheless, the amount of development proposed in this instance appears excessive in its context. This is particularly compounded through the increase in height of the proposed development when compared to the existing building and its adjacent neighbour, 26 West Hill Road.
13. I accept that the proposed development has been amended during the course of the assessment of the planning application, which included a reduction in the height of the turret and the overall lowering of the scheme, amongst other things. However, these changes do not overcome the concerns previously identified. This approach has also resulted in the main entrance to the scheme becoming less visually prominent in the street, which is a feature on surrounding properties, particularly those in the vicinity of the site on West Hill Road. The amount of development and its layout has also resulted in a substantial external bin storage area being proposed, which is a feature not common place in the surrounding area. Whilst the appellant is of the view that the need to provide a DDA¹ compliant access and the requirements of the Council's Waste and Recycling Services Planning Guidance Note, made the approaches taken necessary, I am not convinced that these are the most appropriate or only design solutions available.
14. The Council has also raised issues in respect of the design of the roof. In isolation, whilst the proposed roof has an expanse of flat roof, there are other examples of this style of roof in the locality. Additionally, I find that the components that make up the roof exhibit sufficient articulation to prevent it becoming an unattractive feature. Furthermore, at the event the appellant proposed the use of natural slate instead of artificial tiles, which would improve the appearance even further. The use of uPVC windows within the scheme was discussed at the event. Whilst, I can understand the concern raised by the Council and its desire to enhance the CA, the fact remains that the existing building on site and the vast majority of properties in the vicinity of the site have uPVC windows. Thus, despite the number of windows proposed in the development, the inclusion of uPVC windows in this instance would have an overall neutral effect.
15. In the light of the above, I find that the proposed development would cause harm to the setting of the church and its significance, contrary to the

¹ Disability Discrimination Act 1995

requirements of section 66 (1) of the Act. The proposed development would also harm the character and appearance of the CA contrary to the requirements of section 72 (1) of the Act. The appellant has drawn my attention to a number of developments within the CA, particularly King Arthur & Rochester Court and the Wessex Hotel and Durley Road Car Park schemes. Whilst I consider these schemes to be material considerations, these do not alter my findings on this main issue.

16. In accordance with paragraphs 199 and 202 of the National Planning Policy Framework (the Framework) it is for the decision maker having identified harm to the designated heritage assets, to consider the magnitude of that harm. In this case I conclude this should be considered as less than substantial when considered in the context of the assets. In such circumstances the Framework requires that any identified harm is weighed against any public benefits the works might secure. Although, I consider the harm to the church and the CA would be less than substantial, it is nonetheless a level of harm to which significant weight should be attached.
17. The appellant considers that the proposed development would deliver market housing, which is currently limited; provide contributions to off-site affordable housing; improve the public highway along West Hill Road and reintroduce tourist accommodation at the site, which would benefit the local economy. While the proposed development may result in the benefits listed, and thus ultimately be public benefits, those benefits individually or combined do not outweigh the harm I have identified to the heritage assets.
18. For the reasons given above, I conclude that the proposed development would fail to preserve the setting of the church and the character and appearance of the CA. In the absence of sufficient public benefits to outweigh these harms I conclude the works and development would be contrary to the design, heritage, character and appearance aims of 'Saved' Policies 4.4, 6.10 of the Bournemouth District Wide Local Plan 2002 (LP); Policies CS6, CS21, CS39, CS41 of the Bournemouth Local Plan Core Strategy 2012 (CS); Policies D3, D4 of the Town Centre Area Action Plan 2013 (TCAAP); The Council's Residential Development, A Design Guide 2008 and the requirements of the Framework.

Housing mix

19. The proposed development would provide 24no. open market residential units and 5no. holiday lets. The open market units would comprise 20no. one-bedroom flats and 4no. two-bedroom flats. The holiday lets would be located on the ground floor and the remaining units would be located over the remaining floors. The appellant is of the view that this residential mix has been informed by a strong market demand in Bournemouth for lower cost and entry level properties.
20. The parties acknowledge the findings in the Council's Strategic Housing Market Assessment 2015 (SHMA). It is agreed that the focus of housing up to 2033 should be on two and three-bedroom properties. In this respect the proposed development would provide 4no. two-bedroom units in accordance with the SHMA. However, the SMHA also sets out a requirement of one-bedroom units, equating to 13.7% of the overall need. No evidence has been provided to demonstrate that the need for one-bedroom properties in Bournemouth has been met. Consequently, whilst the proposed development would predominantly comprise of one-bedroom units, this would still positively

contribute to the wider requirements of the SHMA. Concerns have been made regarding the proposed one-bedroom units being only suitable for one person. However, nothing has been provided to demonstrate that there is no need for such properties.

21. For the reasons given above, I conclude that the proposed development would not have an unacceptable effect on a balanced community, with particular regard to housing mix. Consequently, it complies with the strategic development/housing aims of CS Policies CS6, CS21; TCAAP Policy U2 and the requirements of the Framework.

Living conditions

Future occupiers

22. Due to the location of the tourist accommodation on the ground floor and it being partially sunk into the ground the windows serving habitable rooms would be lower than usual when compared to the land directly outside the building. I accept that other properties in the locality have windows close to or below ground level. Whilst the outlook from the properties would be less than other units in the proposed development, it would not be to the detriment of the future occupiers.
23. However, in this instance due to the close relationship that would be formed between the proposed habitable windows and outside area, and in the absence of any evidence to the contrary, I find that it would be highly likely that the future occupiers of the development would experience some form of loss of privacy and noise/disturbance outside their habitable windows, from potential activities undertaken in the communal garden. This would be particularly notable in the case of Unit 2 due to the proximity of the footpath. Whilst the occupation of the ground floor units would likely be for a shorter duration than the other units in the scheme, this does not provide sufficient justification for the short comings within the design that I have identified. I note the comments from the Tourism Officer in this respect, but on the evidence before me I am unable to conclude whether this would undermine the function of the ground floor units as holiday accommodation.
24. A number of units² would benefit from private outdoor amenity space in the form of balconies and all residents would have access to the communal garden area. Given the number of properties proposed in the scheme, I find the level of communal space is modest in size. The proposed outdoor amenity space would be over shadowed due to the mature trees. Whilst this factor on its own could be tolerated, the inclusion of other features, such as vehicle parking and bin storage, would prevent it from being a successful usable space for future residents. I accept that other public areas, such as parks and the beach are within walking distance, but this provides insufficient mitigation.
25. I acknowledge that bedroom 2 of Unit 24 is only served by a rooflight, which is a misgiving and is not ideal in terms of providing sufficient outlook for a future occupier of this room. However, whilst this in isolation would not be a determinative factor, it nonetheless, weighs against the proposed development. I also note the comments surrounding the single aspect of some of the properties, but I do not share the concerns raised by the Council regarding an

² Units 10, 16, 22 24 and 29

overuse of artificial light or overheating.

26. For the reasons given above, I conclude that the proposed development would not provide satisfactory living conditions for future occupiers, with particular regard to outlook, privacy, disturbance and private outdoor space. Consequently, it fails to comply with the amenity aims of CS Policy CS41; TCAAP Policy D4 and the requirements of the Framework.

Existing occupiers

27. No 26 is adjacent to the site, but it is sited an appreciable distance away from the shared boundary between the properties. This area between No 26 and the shared boundary with the site, comprises a car parking area. The proposed development would be set away from the shared boundary with No 26 by a modest distance, closer than the existing building on the site. There would be windows in the proposed side elevation. However, there are already windows in the side elevation of the existing building facing No 26. On the side elevation of No 26 facing the site, there are a series of small windows, which do not appear to serve habitable rooms. In any event, given their size there would be no significant loss of privacy.
28. For the reasons given above, I conclude that the proposed development would not harm the living conditions of occupiers at No 26, with particular regard to outlook, privacy and dominance. Consequently, it complies with the amenity aims of LP Policy 6.10; CS Policies CS28, CS41, TCAAP Policy D4 and the requirements of the Framework.

Drainage

29. A drainage plan was provided during the assessment of the planning application and a similar approach is proposed to that already in existence at the site. Whilst the Council is of the view that little information was submitted on this issue, it accepts that this matter could be controlled by means of condition. Although, I acknowledge its concerns on improving the design. Nonetheless, the site is located within Flood Zone 1 and I have not been informed of any flooding or drainage issues at the site. Consequently, I am confident that a suitable worded planning condition could be imposed to make unacceptable development acceptable in this instance.
30. For the reasons given above, I conclude that the proposed development would not create any significant harm in respect of drainage. Consequently, it complies with the drainage and environmental aims of CS Policy CS4 and the requirements of the Framework.

Other Matters

31. I am informed that the Council does not have a five-year supply of deliverable housing sites, and so the development plan policies referenced above are out of date according to Paragraph 11 d) of the Framework. In such circumstances planning permission should be approved unless the application of policies in the Framework that protect areas or assets of particular importance provide a clear reason for refusing the development proposed. Footnote 7 of the Framework, lists heritage assets.
32. In this case, I have determined that the proposed development would harm the setting of the church and the CA. The policies of the Framework in that regard

provide clear reasons for refusing the scheme. Consequently, the absence of a five-year housing land supply does not lead me to conclude that permission should be granted.

Planning Balance and Conclusion

33. I accept the lack of harm in respect of housing mix, drainage, living conditions of neighbouring occupiers and the absence of other harm arising from the proposed development. There would also be a reasonable contribution to the Council's supply of homes, including off-site affordable housing; highways improvements; a number of holiday lets and general economic and social benefits through the construction phase and subsequent occupation of the scheme, amongst other things.

34. Nonetheless, these factors do not outweigh my assessment on character and appearance of the CA, the setting of a Grade II Listed Building, both of which are designated heritage assets and living conditions of future residents, which would all result in significant harm. Given my findings above, the proposed development conflicts with the development plan when taken as a whole, and there are no other material considerations that indicate otherwise. It is also at odds with the requirements of the Framework. For the reasons given above, I conclude that the appeal should be dismissed.

W Johnson

INSPECTOR

APPEARANCES

FOR THE APPELLANT:

Mr Robert Atkins (Appellant)	Harlequin Homes
Mr Chris Miell MRTPI (Agent)	Pure Town Planning
Mr Matt Annen MRTPI	Pure Town Planning
Mr Bradley Cheer	Arc Architecture

FOR THE LOCAL PLANNING AUTHORITY:

Mrs Katherine Ashley	BCP Council
Mr Peter BurrIDGE	BCP Council
Miss Aliis Kodis	BCP Council

DOCUMENTS/ PHOTOGRAPHS

- Signed Unilateral Undertaking – dated 7 February 2023
- Historic photographs x5
- Lead Local Flood Authority consultation response dated 1 April 2022
- BCP Council Waste and Recycling Services Planning Guidance Note