

Appeal Decision

Site visit made on 14 April 2023

by G Powys Jones MSc FRTPI

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 26th April 2023

Appeal Ref: APP/E1210/D/23/3316112
12 Anchor Close, Christchurch, BH23 4AJ

- 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 Michael Marsh against the decision of Bournemouth, Christchurch and Poole Council.
 - The application Ref 8/22/0090/HOU, dated 31 January 2022, was refused by notice dated 25 November 2022.
 - The development is alterations to convert of part of ground floor garage/store to bedroom/store.
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Decision

1. The appeal is dismissed.

Preliminary and Procedural matters

2. The development subject of the appeal is substantially complete, and the appellant wishes to retain it. I shall proceed on this basis.
3. I saw that the alterations had been carried out without materially affecting the external appearance of the building, thus confirming that said in the officer report. Nor did the alterations and conversion give rise to a material change of use. Since it was not clear from the initial representations, the main parties' views were sought as to why it was considered planning permission was required for the alterations and conversion¹.
4. The Council confirmed that the need for planning permission arose because of non-compliance with a condition imposed on the original planning permission² which facilitated the building of Anchor Close. This condition provides:

The proposed facilities for the on-site parking of motor vehicles shall be provided to the satisfaction of the Local Planning authority prior to use of the proposed development and thereafter so retained.
5. The appellant disagrees with the Council's stance on the applicability of the condition. However, I note that, since pursuing the appeal, the appellant has applied for a certificate of lawfulness to the Council in respect of the development. The application is yet to be determined.
6. It does not fall me as part of a householder appeal to consider the applicability or otherwise of the condition set out above. That is a matter for the applicant to pursue in the context of his application for a certificate. As matters stand,

¹ Having regard to the provisions of s55 of the Town & Country Planning Act 1990(as amended).

² Ref 8/82/0048, dated 31 August 1984, condition 7.

however, the appellant applied for permission to 'regularize' the development and is now pursuing an appeal. The appeal has not been withdrawn, and I shall therefore proceed to determine it.

7. The appellant has submitted parking surveys, which form part of his case in respect of the application to the Council for a certificate of lawfulness. These were submitted late in proceedings well beyond the appropriate date for submissions for appeals of this nature. It would be contrary to the rules of natural justice if I were to take this new evidence into account.

Main issues

8. The main issues relate to the consequences for the surrounding area arising from car parking provision, and to the occupants of the property from potential flooding.

Reasons

Car parking

9. The appellant does not dispute the Council's contention that the parking requirement for the property is two spaces³. The site, notwithstanding the alterations, could still accommodate a single car space, while the applicant considers that the other required space could be accommodated in one of two communal parking areas within this modest residential estate.
10. The appellant says that he has the 'right' to park in the communal areas. On the other hand, the Council contends that no specific space is allocated for the appellant in the communal areas, thus questioning whether such a space would always be available when needed. They may be needed or used, for example, by visitors to the estate. The appellant has produced a plan showing 8 spaces in the larger communal area, and three in the other area. However, as drawn, the spaces are neatly laid out, whereas in practice, as I saw, vehicles are parked more haphazardly.
11. The cul-de-sac access to the development and the surrounding streets are subject to summer regulatory restrictions on car parking during the day. Accordingly, residents cannot park wherever they would wish during this period and must therefore rely on off-street parking. Visitors to the site would need to do the same, and I suspect that the communal areas were largely designed to cater for this purpose.
12. Should every or most residents in the estate follow the appellant's example, that is, by sacrificing a car parking space in and around their dwellings, there would be a significant reduction in overall car parking availability. In the absence of meaningful evidence to the contrary, it is doubtful to my mind whether the communal areas could cope with the additional demand.
13. Accordingly, if this appeal were allowed it would likely set a dangerous precedent encouraging others to pursue similar proposals, which the Council would find difficult to resist. The undesirable outcome in such circumstances would be congestion and indiscriminate parking harming local residential amenity.

³ Arising from the application of the Council's standards set out in the *Parking Standards Supplementary Planning Document 2021*

14. I conclude that the loss of parking would probably lead to undesirable consequences and local parking stress for the reasons set out above. Accordingly, a conflict arises with those provisions of Policies KS12 of the Christchurch and East Dorset Local Plan Part 1 – Core Strategy requiring adequate vehicle parking areas to be provided to serve the needs of development.

Flooding

15. There is no dispute between the parties that the development is located within an area subject to a high risk of flooding. The Council is concerned for its part that since the ground floor garage is replaced by a bedroom, that is, a habitable room used at night, the conversion has increased the vulnerability of the use, increasing the risk to life in the event of a flood. The appellant considers that he has complied with all policy requirements by submitting a completed Environment Agency (EA) form for small scale development in either flood zone 2 or 3. There is nothing in the representations to show whether the EA was consulted on the application.
16. In cases of this nature the Framework⁴ says that applications for some minor development should not be subject to the sequential or exception tests but should still meet the requirements for site-specific flood risk assessments. On this basis the Framework provides that a householder development application is subject to the requirement that '*a site-specific flood risk assessment should be provided for all development in Flood Zones 2 and 3.*' No such assessment was submitted with the original application, and none is before me as part of the appeal documentation. I share the Council's view that by introducing a bedroom onto the ground floor, the vulnerability of the use has increased, and in the absence of a flood risk assessment which would assess possible and potential consequences, the documentation is considered lacking in that it does address a material consideration of considerable significance.
17. I conclude that in the absence of a flood risk assessment the proposal fails to comply with national policy in respect of householder development. Without an adequate assessment of risk, the likelihood of harm due to flooding cannot be ruled out, and this is sufficient reason to dismiss the appeal.

Other matters

18. I note that the property is adjacent to the boundary of the Mudeford Quay Conservation Area. However, the development has not in my view harmed its setting.
19. I have considered the representations submitted by a local resident and have addressed the most significant planning points raised. Some other points raised are not central to my consideration of this appeal.
20. No other matter is of such strength or significance as to outweigh the considerations that led me to my conclusions.

G Powys Jones

INSPECTOR

⁴ National Planning Policy Framework

