Appeal Decision

Site visit made on 28 September 2023

by Laura Cuthbert BA(Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 6th October 2023

Appeal Ref: APP/V1260/W/23/3317547
Villa Isabella, 83 Talbot Road, Bournemouth, Dorset, BH9 2JD

- 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 Giancarlo D'Urso Cunsolo against the decision of Bournemouth Christchurch and Poole Council.
- The application Ref 7-2023-5160-M, dated 25 December 2022, was refused by notice dated 24 February 2023.
- The development proposed is Change of use of dwellinghouse (Class C3) to House in Multiple Occupation (Class C4).

Decision

1. The appeal is dismissed.

Main Issue

2. The main issue is the effect of the development on the mix and balance of communities, and the resulting impact on the character and appearance of the area and the living conditions of the occupants of neighbouring properties.

Reasons

3. The proposal relates to a large, detached property, known as Villa Isabella, situated on the corner of Talbot Road and Frederica Road. The appeal site is close to the local university and is situated within a relatively densely developed residential area.

4. Legislation usually allows the change of use of dwellinghouses (Use Class C3) to small Houses in Multiple Occupation (HMOs) (Use Class C4) without planning permission. However, in December 2011, the Council made an Article 4 Direction to prevent this change of use. The reason behind the Article 4 was that the concentration of HMO properties was causing tension to existing residents. The Council add that' university and coastal towns experience higher rates of HMO uses and consequently higher rates of associated negative impacts on the amenities of local residents and on the character of the area'.

5. Policy CS24 of the Bournemouth Local Plan: Core Strategy (Core Strategy) (adopted 2012) states that in order to encourage mixed and balanced communities, the change of use from C3 to an HMO will only be permitted where no more than 10% of dwellings in the area adjacent to the property are within an HMO use. The policy then sets out in detail how 'the area' is defined.

6. The Council have provided a map showing the precise locations of the existing registered HMOs in 'the area'. They calculate that 31.25% of properties within 'the area' adjacent to Villa Isabella are already within an HMO use. Taking in to

account the flatted nature of some of the buildings, this would be reduced down to 21%. Whichever figure I use, both are significantly higher than the specified threshold in Policy CS24. In the absence of any evidence to challenge the Council's figures, and in addition to the concerns raised by local representations regarding the number of HMOs in the area, I attach significant weight to the Council's figures.

7. It was noticeable that there was already a significant pressure on parking in the surrounding streets, and that there was already a negative impact on the character and appearance of the area, by virtue of the existing HMOs being less well maintained, and the number of to-let boards. Whilst some of these may not occur with the proposal due to the 'live-in' landlord arrangement, I consider that the point has been reached where the character of the area and the living conditions of the occupants of neighbouring properties are becoming affected by the concentration of HMOs. Therefore, I am concerned that the proposal would, when considered cumulatively with the existing HMOs, have a harmful impact on the character and appearance of the area, and the living conditions of the occupants of neighbouring properties. It is matters such as those detailed above that the Council have sought to address through the Article 4 Direction and the threshold set out in Policy CS24.

8. I appreciate that the proposal would have live in landlords, that would offer a more family type environment to more vulnerable tenants. I also note that Villa Isabella is a spacious, well refurbished property. However, these matters do not change the classification that the proposal is for an HMO and would not outweigh the harm, and the conflict with Policy CS24, identified above. The appellant has also referred to standards set out in 'The National Statement of Expectations' but has not provided me with a copy of the document. As a result, I can only attach this guidance little weight.

9. The appellant has questioned the legality of the other HMOs, in terms of their internal and external space, and their noncompliance with legislation on building maintenance and conditions. However, it is not for me, under a Section 78 appeal, to determine whether these other HMOs are lawful or not. The Council has powers to pursue enforcement action regarding unauthorised development or breach of licensing requirements but that is a matter for them.

10. Therefore, the proposal would conflict with the aims of local planning policy to create mixed and balanced communities. It would harm the character and appearance of the area and the living conditions of the occupants of neighbouring properties. It would be contrary to Policies CS24 and CS41 of the Core Strategy which, in combination, seek to encourage mixed and balanced communities by only permitting HMOs where no more than 10% of the dwellings in the area are within an HMO use. New development, including changes of uses, should respect the character of the site and its surroundings and the amenities of neighbouring residents.

Conclusion

11. For the reasons given above and having regard to all other matters raised the appeal is dismissed.

Laura Cuthbert

INSPECTOR