



Appeal Decision

Site visit made on 21 September 2023

by Alexander O'Doherty LLB (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 09 October 2023

Appeal Ref: APP/V1260/W/22/3299555

Land adj 431 Charminster Road, Bournemouth BH8 9QY

- 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 B2B Property & Development against the decision of Bournemouth Christchurch and Poole Council.
 - The application Ref 7-2020-20483-C, dated 11 December 2020, was refused by notice dated 26 November 2021.
 - The development proposed is described on the application form as, "Demolition of building; erection of 2 no. storey building containing 3 no. dwellings and associated development".
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Decision

1. The appeal is dismissed.

Preliminary Matter

2. At the appeal stage, the Local Highway Authority withdrew its previous recommendation that the proposed development should be refused planning permission. This is reflected in the main issues, below.

Main Issues

3. The main issues are the effect of the proposed development on:
 - the character and appearance of the area;
 - the living conditions of the future occupiers of the proposed dwellings, with particular regard to internal space, outlook, and privacy; and
 - flood risk and drainage.

Reasons

Character and appearance

4. The appeal site comprises an irregular-shaped corner plot located near the point at which Charminster Road, Charminster Avenue, and Rutland Road meet, in a mixed commercial and residential area.
5. 431 Charminster Road (No 431), adjacent to the site, is a 2-storey flat-roofed detached property which is in retail use at ground floor level. No 431 is situated adjacent to the plot containing The Fiveways (a public house). The Fiveways is an attractive building with considerable architectural and historic interest. Similarly, nearby residential properties along Charminster Road are typically well-designed and are commonly arranged in groups of properties with similar architectural stylings.

6. In this context, with the site occupying a prominent corner plot situated amongst buildings of architectural merit, the proposed 2-storey building would not blend well in visual terms with either No 431, The Fiveways, or the nearby residential properties along Charminster Road, due to its austere modernist-styled design. In particular, although the height, scale, and massing of the proposed building would not visually dominate No 431, and its flat roof form would mirror that at No 431, it would share little in common in terms of its detailed stylistic appearance with any of these nearby properties.
7. Nor would it stand out as a bold and innovative design on its own terms amongst the mix of architectural styles prevalent in the locality, due to its rather utilitarian appearance and series of irregularly-shaped windows which would noticeably undermine the visual coherence of the building as a whole. As such, the proposal would conflict with the advice given in the Residential Development: A Design Guide (adopted 2008) which provides that, amongst other things, contemporary design solutions should complement the existing context.
8. The proposed building would respect the building line of No 431 and it would contain a green verge around the boundary of the site. Even so, whilst much of the rear of the plot would largely remain free from built form, it would, when seen from nearby views, have the appearance of spanning a considerable portion of the frontage of its small wedge-shaped plot, resulting in a congested and cramped appearance.
9. This cramped effect would be exacerbated by the siting of the proposed cycle store, proposed to be located near the front of the plot, which would both highlight the cramped nature of the proposed development and its utilitarian design. The fact that the site currently does not contribute positively to the character and appearance of the area does not provide support for a scheme which, for the reasons given above, offers little in the way of enhancement of the site in relation to these matters.
10. I therefore find that the proposed development would have an unacceptable and harmful effect on the character and appearance of the area. It would conflict with the third bullet point of the third paragraph of Policy CS21 of the Bournemouth Local Plan: Core Strategy (adopted 2012) (Core Strategy) which provides that, amongst other things, proposals for residential development will be expected to contribute positively to the character of the neighbourhood, and with the first paragraph of Policy CS41 of the Core Strategy which provides that, amongst other things, development should, through its character and appearance be designed to contribute positively to the appearance of the public realm.
11. The proposal would conflict with part i) of Policy 6.8 of the Bournemouth District Wide Local Plan (adopted 2002) (Local Plan), which provides that, amongst other things, development will be expected to complement and respect the character of neighbouring development.
12. The proposal would also conflict with paragraph 130 c) of the National Planning Policy Framework (the Framework) which provides that, amongst other things, planning decisions should ensure that developments are sympathetic to local character and history, including the surrounding built environment and landscape setting, while not preventing or discouraging appropriate innovation or change (such as increased densities).

Living conditions

13. The Council have calculated that all 3 of the proposed residential units would not meet the requirements of the Technical housing standards – nationally described space standard (March 2015 (amended 19 May 2016)) (Technical housing standards), and this analysis has not been disputed by the appellant.
14. Although the identified shortfall for unit 1 would not be excessive, the figures provided in the Technical housing standards are expressed as the minimum requirements. It follows that all of the proposed units of residential accommodation would likely offer cramped living conditions for the future occupiers of those units, which would be harmful to their living conditions.
15. The window serving the lounge for unit 3 would directly face the long side elevation of the commercial building which is part of the Winslade & Watton (construction) Ltd site. Whilst passers-by would not be crossing in front of that window, due to the close proximity of this window to that building (which would be situated directly adjacent to the proposed small private amenity area outside unit 3), the future occupiers of unit 3 would suffer from limited outlook from that window. Accordingly, the lounge would not be a pleasant space to reside in.
16. Furthermore, given the close proximity of the clear-glazed windows along the side of that commercial building in relation to the window serving the lounge of unit 3 and its private amenity area, the future occupiers of unit 3 would suffer a perception of a loss of privacy when using both the lounge and the private amenity area. Harm to the living conditions of the future occupiers of unit 3 would thereby result.
17. I therefore find that the proposed development would have an unacceptable and harmful effect on the living conditions of the future occupiers of the proposed dwellings, with particular regard to internal space, and additionally with respect to unit 3, with particular regard to outlook and privacy. The proposal would conflict with the first paragraph of Policy CS41 of the Core Strategy which provides that, amongst other things, development should, through its layout be designed to provide a high standard of amenity to meet the day-to-day requirements of future occupants. The proposal would conflict with part iii) of the second paragraph of Policy 6.8 of the Local Plan which provides that, amongst other things, development will be expected to provide a pleasant residential environment.
18. The proposal would also conflict with paragraph 130 f) of the Framework which provides that, amongst other things, planning decisions should ensure that developments create places with a high standard of amenity for future users.

Flood risk and drainage

19. It is common ground between the main parties that the site is located within current day Flood Zone 1, but that there is a low-risk pathway of surface water flood risk passing through the site, and a pathway of high risk of surface water flooding being mapped in close proximity to the south of the site, which could potentially be influenced by run-off from the proposed development.

20. In this regard, I have considered the submitted Foul and Surface Water Drainage Report¹, and associated plans, calculations, and e-mails. The Lead Local Flood Authority (LLFA) has assessed the submitted information and has concluded that the surface water drainage strategy is inadequate as is, and that further information is required. The appellant has not disputed the LLFA's conclusions, but has suggested that the additional information highlighted by the LLFA could be submitted via a pre-commencement drainage condition.
21. However, the information required by the LLFA is extensive, including (amongst other items) detailed calculations to demonstrate that there is sufficient capacity within landscaped areas to manage surface water run-off from the proposed paved areas, and demonstration of how the existing surface water flow path can be managed to mitigate the associated flood risk both on and off-site, including a review of the proposed finished floor levels to include a freeboard.
22. In the absence of these important pieces of information, it has not been demonstrated that the design and layout of the proposed development, including the proposed drainage details, would be capable of ensuring that the level of surface water leaving the site is no greater than that prior to the development, as required by Policy CS4 of the Core Strategy. In these circumstances, with it being uncertain that the proposed Drainage Strategy would be effective in achieving its aims, it would not be reasonable for a condition to be imposed requiring further information to be submitted in relation to it.
23. I therefore find that it has not been demonstrated that the proposed development would have an acceptable effect with respect to flood risk, in particular not making it sufficiently clear that the risk would be at an acceptable level in regard to the requirements of the development plan. The proposal would conflict with Policy CS4 of the Core Strategy, the relevant requirements for which have been set out above. The proposal would also conflict with paragraph 167 of the Framework which provides that, amongst other things, when determining any planning applications, local planning authorities should ensure that flood risk is not increased elsewhere.

Other Matters and Planning Balance

24. The proposal would support the Government's objective of significantly boosting the supply of homes, by way of providing 3 dwellings within the settlement boundary of Bournemouth. These 3 dwellings would be sited in an accessible location, and would contribute to housing choice and mix in the locality, particularly for individuals seeking smaller-scale accommodation.
25. The proposed development would provide an economic contribution to the area by providing work for construction professionals, and through the future occupiers of the proposed dwellings likely using nearby services and facilities. The proposed development would incorporate energy-efficient materials, which would assist in mitigating its environmental impact.
26. The above-mentioned considerations would be in compliance with a number of the Council's development plan policies, and relevant paragraphs of the Framework. In particular, paragraph 69 of the Framework provides that,

¹ Foul and Surface Water Drainage Report (CGS Civils Ltd) (3 September 2021)

- amongst other things, small and medium sized sites can make an important contribution to meeting the housing requirement of an area, and are often built-out relatively quickly.
27. Considering the quantum of residential units proposed in the context of the Council's shortfall of deliverable housing sites, moderate weight has been given to the collective benefits of the proposed development.
28. I have found that the proposed development would result in adverse impacts on all 3 main issues. As the adverse impacts identified relate to the fundamentals of the planning and development process, I ascribe very significant weight to these adverse impacts.
29. Balancing the very significant weight of these adverse impacts against the moderate weight I have given to the benefits of the proposal, as a matter of planning judgement I find that the benefits of the proposal do not, either individually or cumulatively, outweigh the adverse impacts identified. The proposal would conflict with the development plan when considered as a whole.
30. As the Council lacks a 5-year supply of deliverable housing sites, the policies which are most important for determining the appeal are deemed to be out-of-date in accordance with paragraph 11 d) of the Framework. However, part i. of paragraph 11 d) clarifies that permission should not be granted if the application of policies in the Framework that protect areas or assets of particular importance, including areas at risk of flooding, provide a clear reason for refusing the development proposed. As I have explained above, it has not been demonstrated that the proposed development would have an acceptable effect with respect to flood risk. This provides a clear reason for refusing the proposed development. The proposal would not benefit from the presumption in favour of sustainable development.
31. Therefore, I find that none of the other considerations, which include the Framework, indicate that this appeal decision should be taken otherwise than in accordance with the development plan.
32. As mentioned in the Council's decision notice, the Council considers that the proposal has the potential to have adverse effects on designated conservation sites. In this regard, a unilateral undertaking (deed dated 8 November 2022) has been submitted which relates to the Dorset Heathlands Mitigation Strategic Access Management and Monitoring contribution. However, as I am dismissing the appeal for other reasons, there is no need to consider the potential implications of the proposal in these respects. I therefore make no further comments on these matters.

Conclusion

33. For the reasons given above, having considered the development plan as a whole, the approach in the Framework, and all other relevant material considerations, I conclude that the appeal should be dismissed.

Alexander O'Doherty

INSPECTOR