



# Appeal Decision

Site visit made on 17 October 2023

**by C Rose BA (Hons) BTP MRTPI**

**an Inspector appointed by the Secretary of State**

**Decision date: 01 November 2023**

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**Appeal Ref: APP/V1260/W/23/3319431**

**106 - 108 Poole Road, Bournemouth BH4 9EQ**

- 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 Suburban Holdings Ltd against the decision of Bournemouth Christchurch and Poole Council.
  - The application Ref 7-2022-5831-J, dated 8 June 2022, was refused by notice dated 29 September 2022.
  - The development proposed is to subdivide existing 2 flats on first and second floors to create 4 flats.
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## Decision

1. The appeal is dismissed.

## Preliminary Matters

2. The description of development in the heading above has been taken from the planning application form. Although Part E of the appeal form states that the description of development has changed, neither of the main parties has provided written confirmation that a revised description of development has been agreed. Accordingly, I have used the one given on the original application form that also more accurately reflects the appeal proposal.
3. The appeal is accompanied by alternative plans for replacement windows which generally show a four-over-four sash design. The alternative plans also detail changes to waste pipes to the rear elevation of the appeal building. These plans have not been subject to any public consultation. Given the minor nature of the amendments, and given my findings below, I am satisfied that no party would be prejudiced by my consideration of these amended plans. They seek to overcome issues relating to the effect of the proposed development on the character or appearance of the appeal building and conservation area. I have therefore considered them in determining this appeal.
4. During the appeal the appellant advised that they had made financial contributions to the Council to mitigate the impacts from future occupiers on the integrity of European Sites and their features. This is a matter I will consider later.

## Main Issues

5. The main issues are:
  - the effect on the character and appearance of the host building, including whether it would preserve or enhance the character or appearance of the Westbourne Conservation Area (CA);

- whether the living conditions of future occupiers of the proposed development would be acceptable, with particular regard to outlook, noise, and the provision of outdoor space; and,
- the effect of the proposal on the storage and collection of waste.

## **Reasons**

### *Character and appearance*

6. The appeal site forms part of a three-storey building with brick detailing forming part of a terrace of properties within the CA. The upper floors forming part of the appeal proposal are set back from Poole Road behind the projecting ground floor commercial unit, although parts of the front elevation to these upper floors are still visible along Poole Road and from surrounding properties. The rear of the building is of a simpler design with less detailing but is still visible from Milburn Road.
7. There are a number of timber sash windows to the side and rear elevations of the appeal building that are likely to be original and match windows to other buildings in this part of the CA. The other windows to the building are less sympathetic replacement aluminium and UPVC windows.
8. The area around the appeal site comprises a shopping area with a mix of generally commercial units at ground floor with some residential units above. There are a variety of design of buildings, many of which comprise high quality architectural design including brick detailing and timber sash windows reflecting their period of construction. The significance of the CA as a designated heritage asset partly derives from these buildings, their features and the mixed-use nature of this shopping area. In this context, and despite the presence of some UPVC windows to buildings in the area, the appeal building has historic and architectural merit and makes a positive contribution to the character and appearance of the CA.
9. Alongside the creation of four dwellings, the proposal seeks to replace the existing aluminium windows to the front elevation with white UPVC windows from a 'Heritage Rose' collection comprising thin section profiles. To the rear, the proposal seeks to replace the first-floor timber windows and second floor UPVC windows with UPVC windows from the 'Heritage Rose' collection. The two timber windows to the side elevation would also be replaced with UPVC from the same collection.
10. The replacement of the existing aluminium and UPVC windows with the UPVC four-over-four sash windows from the heritage collection would be more sympathetic and in keeping with the building and the CA. However, the loss of the existing timber windows would harm the character and appearance of the host building and reduce the contribution of the building to the CA and thus have an eroding effect on the character and appearance of the heritage asset. This would be the case even if the UPVC windows were imprinted with a woodgrain finish.
11. I have taken into account the slim-line nature of the UPVC windows. However, there is a lack of any significant evidence justifying that the conditions of the timber windows are beyond repair. Moreover, there is no convincing evidence to demonstrate that a suitable thermal/energy performance could not be achieved with the retention of the timber windows through one of the

approaches suggested by the Council and given in the Historic England publication referenced<sup>1</sup>, or by other means. As a result, the slim-line nature of the replacement windows does not justify the loss of the existing timber sash windows. As I have found the loss of the existing timber windows unacceptable, a condition requiring details of replacement windows would not address the harm identified.

12. The Council raise concerns regarding the possible provision of new external pipe work to the building. However, information submitted as part of the appeal clarifies that there would be a rationalisation of the current pipework and reduction in visible lengths. As a result, the external pipework will provide a slight enhancement to the building's appearance.
13. The statutory duty set out in Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires special attention to be paid to the desirability of preserving or enhancing the character or appearance of a Conservation Area. In addition, the National Planning Policy Framework (the Framework) advises at Paragraph 199 that, when considering the impact of a proposed development on the significance of designated heritage assets, great weight should be given to the asset's conservation. Significance can be harmed or lost through alteration or destruction of the heritage asset or development within its setting. As heritage assets are irreplaceable, any harm or loss should require clear and convincing justification. Accordingly, while less than the 'substantial harm' referred to in Paragraph 201 of the Framework, the harm to the CA is nevertheless a matter of considerable importance in this case.
14. Given that the harmful effects on the CA from the loss of the timber windows would be localised, the proposal would result in 'less than substantial harm' to the CA as a designated heritage asset.
15. Paragraph 202 of the Framework establishes that, where a development proposal would lead to 'less than substantial harm' to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal, including securing its optimum viable use.
16. The proposal would provide additional units of residential accommodation, improve the overall energy efficiency of the building, replace aluminium and UPVC windows with windows of a more sympathetic design and rationalise the pipework providing a small enhancement to the appearance of the building. However, taking such matters into account, individually or in combination, the public benefits are moderate and do not outweigh the 'less than substantial harm' to the CA as a whole.
17. When taking account of the above, I conclude that the proposal would harm the character and appearance of the host dwelling, and fail to preserve or enhance the character or appearance of the CA. As a result, it would harm the significance of the CA. The proposed development is therefore contrary to Saved Policies 4.4 and 6.13 of the Bournemouth District Wide Local Plan (February 2002), Policies CS21, CS39 and CS41 of the Bournemouth Local Plan: Core Strategy (October 2012) (CS) and the Framework. Amongst other things, these seek to ensure that development proposals preserve or enhance the character or appearance of the area, do not harm the appearance or character of the building or area, protect designated heritage assets from

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<sup>1</sup> Traditional Windows: their care, repair and upgrading Published 8<sup>th</sup> February 2017

inappropriate alterations that would adversely affect their significance, and are well-designed and of a high quality maintaining and enhancing the quality of the street scene.

### *Living conditions*

18. The proposed flats would have a single aspect either out over the top of the ground floor commercial use to Poole Road, or out over the car parking area to the rear. Proposed unit numbers 1 and 3 would each benefit from five windows with unit numbers 2 and 4 served by four windows.
19. With unit numbers 2 and 4 having a broadly southern aspect and benefitting from large window openings, these units would have a suitable outlook and benefit from adequate daylight and sunlight. Whilst units 1 and 3 would have a broadly northern aspect and generally smaller windows, each habitable room would benefit from at least one window of a reasonable size and an unrestricted outlook. In light of this and given similar single-aspect units consented in the area, units 1 and 3 would also be served by adequate level of light. I note that each of the units would meet the Technical Housing Standards – nationally described space standard.
20. The proposed dwellings are located on upper floors above a ground floor commercial unit in active use accommodating visiting members of the public. I have been provided with little evidence that the existing residential use of the upper floors were subject to excessive noise from commercial or other activities at ground floor. The upper floors are set back from the road frontage such that they do not extend over the full extent of the ground floor commercial unit. Moreover, at the time of my site visit when the commercial business was in operation, there was no noise audible in the proposed dwellings from the commercial use.
21. With regard to outdoor space, in light of the location of the dwellings on the upper floors of the building with commercial uses and car park at ground floor, there is no dedicated on-site usable outdoor space associated with the units. However, this is not uncommon for dwellings above commercial units and the appeal site is located in close proximity to open space provided at The Chine Dingle and Bournemouth Upper Gardens that occupiers could make use of. These spaces are easily accessible from the appeal site. In light of this, and in the absence of a specific development plan policy to provide outdoor space of a certain size or standard, I find that the occupiers of the dwellings would have suitable access to outdoor space.
22. For the above reasons, I conclude that the living conditions of future occupiers of the proposed development would be acceptable with particular regard to outlook, noise and the provision of outdoor space. Accordingly, the proposals comply with Policies CS21 and CS41 of the CS, the Residential Development A Design Guide (2008) (SPD) and the Framework. Amongst other things, these seek to ensure that development respect residents' amenities, and provides a high standard of amenity to meet the day-to-day requirements of existing and future occupiers and users.

### *Storage and collection of waste*

23. I have considered paragraph 3.12.5 of the SPD in relation to refuse and recycling that requires residential development to show adequately designed-in

locations for the storage and collection of refuse and recycling. The SPD states that for flats, communal storage facilities can take many forms including carefully integrated and designed detached storage buildings.

24. Drawing number 2022-05-04 details the provision of space for two large, wheeled bins in the rear yard serving the dwelling. These would be in a position behind a boundary wall that would have no adverse impact upon the public realm and would enable convenient access by residents and collection vehicles. The arrangement would be very similar to that serving the existing building that I observed at the time of my site visit.
25. Whilst the bins are not proposed with an integrated and design storage building, such details, along with a refuse management plan detailing the means of refuse collection could be secured via an appropriately worded condition should I be minded to allow the appeal.
26. In light of the above, I conclude that the proposal would have an acceptable effect with regard to waste management, subject to the imposition of an appropriate planning condition. As a result, the proposal would not conflict with Policy CS41 of the CS, which, amongst other things, seeks to ensure that new development is well designed to respect the site and its surroundings and enhance the amenities of neighbouring residents.

### **Other Matters**

27. It is not a matter of dispute between the parties that the Council cannot currently demonstrate a five-year supply of deliverable housing sites and I have no reason to take a different view. However, when the proposal is considered relative to paragraph 11 of the Framework it falls under footnote 7. In that respect, I have found that the proposal would harm the significance of the CA and that the harm would not be outweighed by public benefits, which provides a clear reason for refusing the development proposed under paragraph d) i) of the Framework based on application of its policies in Chapter 16 relating to designated heritage assets. It follows that in such circumstances it is not necessary to go on to assess the proposal against the subsequent paragraph 11 d) ii).
28. The site falls within 5km of the Dorset Heathlands which comprises the Dorset Heathlands Special Protection Area, Dorset Heathlands Ramsar Site, Dorset Heaths Special Area of Conservation and Dorset Heaths Special Area of Conservation (Purbeck and Wareham) and Studland Dunes. However, as I am dismissing the appeal for other reasons, I do not need to consider this matter or the related duties under the Conservation of Habitats and Species Regulations 2017 further.

### **Conclusion**

29. Although I have found no harm in terms of living conditions and the storage and collection of waste, subject to an appropriate condition, the proposal would harm the character and appearance of the host building and fail to preserve or enhance the character or appearance of the Conservation Area. In my view, these are the prevailing considerations, and the proposal should be regarded as being in conflict with the development plan, when read as a whole. There are no other considerations, including the Framework, that indicate that a decision

should be made other than in accordance with the development plan. The appeal is dismissed.

*C Rose*

INSPECTOR