



Appeal Decision

Site visit made on 7 December 2023

by Bhupinder Thandi BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 18 December 2023

Appeal Ref: APP/V1260/W/23/3321632

6 St Leonard's Road, Bournemouth BH8 8QL

- 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 Calendula Assets Limited against the decision of Bournemouth Christchurch and Poole Council.
 - The application Ref 7-2022-28755-A, dated 13 November 2022, was refused by notice dated 3 February 2023.
 - The development proposed is demolition of existing garages and construction of dwelling house.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The appellant has submitted a signed Unilateral Undertaking (UU) securing a financial contribution towards mitigating the impact of the development upon the Dorset Heath international designated sites. I have addressed this in my reasoning below.
3. The Council advise that on the provision the appellant is willing to accept a condition restricting the height of any future boundary with 6 St Leonards Road they would no longer seek to defend the third reason for refusal in respect of highway safety. The appellant has indicated that, in the event I am minded to allow the appeal, they would accept such a condition thereby addressing the Council's objection in this regard. On this basis I therefore have not addressed this matter in the reasoning below.

Main Issues

4. The main issues are:
 - The effect of the proposed development upon the character and appearance of the area;
 - Whether the proposed development would provide adequate living conditions for future occupiers with regard to amenity space; and
 - The effect of the proposed development upon the integrity of the Dorset Heathlands Special Protection Area (SPA), Ramsar and the Dorset Heath Special Area of Conservation (SAC).

Reasons

Character and appearance

5. The appeal site comprises a small garage block sited next to No 6 – a two storey red brick end terrace dwelling. The garage block is set back from the highway and is fenced off from surrounding properties. The area has a dense urban grain, and this part of the road is not coherent in terms of built form, comprising a variety of building ages, heights, footprints and plot sizes. This is in contrast to the regular rhythm of development formed of semidetached dwellings in nearby roads including Malmesbury Park Road and Nortoft Road.
6. The proposed development would occupy a similar position to the existing garage block sited along the western boundary occupying the full width of the plot. The size and shape of the site results in a proposed development whereby the amenity space would be located to the front of the proposed dwelling.
7. In the context of the immediate street scene, the proposed development would introduce a further disparate architectural feature to the area. The overall height and proportions of the dwelling would not be out of kilter with nearby buildings. The use of brick and contrasting window materials and detailing would add architectural interest.
8. The materiality, height and proportions of the proposed dwelling would result in a pleasing juxtaposition between it and the traditional form of the terrace and given the varied character of the area it would not result in a harmful impact upon the street.
9. Despite the above, the site would not comfortably accommodate the proposed dwelling, garden area, bin store and vehicle and cycle parking giving the impression of an intensively developed and contrived development. The location of the proposed garden area to the front of the dwelling would not follow the general convention, notwithstanding the presence of other infill developments locally, and the length and height of the boundary wall would be an unduly prominent and intrusive feature. In my view, the overall layout as proposed would be cramped and contrived and harmful to the surrounding area.
10. The appellant has suggested that the boundary brick wall could be replaced with an alternative treatment. However, in the interests of fairness it is incumbent upon me to consider the scheme as submitted. As the details are not before me, I have not taken this into account in coming to my decision.
11. As such, the proposed development would adversely affect the character and appearance of the area. It would be contrary to Policies CS21 and CS41 of the Bournemouth Local Plan – Core Strategy (2012) (CS); Policy 6.8 of the Bournemouth District Wide Local Plan (2002) (LP) and Residential Development: A Design Guide - Supplementary Design Guide (2008) (SDG) which, amongst other things, require new development to be of good high quality design; contribute positively to the character and function of the neighbourhood and maintain and enhance the quality of the street scene.

Living conditions for future occupiers

12. The amenity space would be limited to a small area to the front of the dwelling. The SDG does not specify a minimum requirement, but sets out that private

- gardens should be safe, secure, private and of a useful size for the proposed occupants, amongst other things.
13. The amenity space would be an irregular shape and would also include the bin store and cycle storage for the property. Whilst it would be well related to the ground floor and on the whole private, on account of the tall boundary treatment, it would nonetheless be contrived resulting in a poor-quality amenity area.
 14. Whilst I note the appellant's submissions the proposed two-bedroom dwelling could reasonably appeal to a small family. The garden area would be an inadequate size when taking into consideration the size of the dwelling and the number of bedrooms proposed and could not be reasonably enjoyed. Furthermore, the irregular shape of the garden would make it impractical for most purposes further reducing the area that could be realistically used and enjoyed by future occupants.
 15. The appellant has drawn my attention to a number of developments in the area which they consider relevant. However, I have not been made aware of the individual circumstances that led to them being considered acceptable by the Council. In any case, every appeal must be considered on its own merits. The presence of other developments with limited garden areas does not justify the harm that I have identified.
 16. As such, due to the external amenity space the proposed development would result in a substandard form of accommodation that would not provide adequate living conditions for future occupiers. This would be contrary to Policy CS41, and guidance contained within the SDG which, amongst other things, require developments to provide a high standard of amenity to meet the day-to-day requirement of future occupants.

Impact upon the Dorset Heath SPA, Ramsar and SAC

17. The appeal site lies within 5km of the Dorset Heathlands SPA, Ramsar Site and the Dorset Heath SAC. The Dorset Heathlands are an extensive network of lowland heath recognised for their importance for nature conservation. As such, the Dorset Heathlands are recognised by the Conservation of Habitats and Species Regulations 2017 (the Act) as areas of international importance.
18. Adopting a precautionary principle and without mitigation new residential development is likely to have a significant effect on the sensitive interest features of the habitat sites, from human pressures and damage caused by domestic pets either alone or in combination with other proposals causing harm to nature conservation. It is necessary for me, as the competent authority for the purposes of the Act, to conduct an Appropriate Assessment in relation to the effect of the development on the integrity of the SPA, Ramsar and SAC.
19. The Dorset Heathlands Supplementary Planning Document (DHSPD) provides a strategic mitigation framework to secure the appropriate avoidance or mitigation measures. It sets out Strategic Access Management and Monitoring Measures which requires a mitigation payment per residential dwelling from all new development between 400m and 5km from the protected Heathlands.
20. Provided mitigation can be secured, in the form of a developer contribution, it can be concluded proposals would not have an adverse effect on the integrity

of the habitat sites from recreational disturbance, when considered either alone or in combination with other proposals.

21. The appellant has submitted a signed and dated UU which commits them to a financial contribution towards measures outlined in the DHSPD. I am satisfied that the contribution would sufficiently mitigate the development's impact. As such, whilst the development would have a likely significant effect on the integrity of the SPA, Ramsar Site and SAC it would be adequately mitigated through monies in the UU.
22. As such, the proposal would accord with Policy CS33 which, amongst other things, sets out that developments will be permitted where it can be ascertained that it would not adversely affect the integrity of the Dorset Heaths international designations.

Other Matters

23. I acknowledge that the garage block is showing signs of deterioration. However, its current condition is not justification to permit a scheme that I have found to be harmful.
24. The proposed development would comply with minimum space standards set out in the Technical housing standards – nationally described space standard; would achieve adequate outlook and would not unduly affect the living conditions of existing neighbouring occupiers. But these are largely matters of neutral consequence.
25. I acknowledge that the development plan sets out a need for smaller units and encourages urban intensification. However, it also recognises that developments should respect local character and provide a high standard of amenity to meet the requirements of future occupants.

Planning Balance

26. Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires planning applications to be determined in accordance with the Development Plan unless material considerations indicate otherwise.
27. Therefore, whilst the development plan has primacy in decision making, there are circumstances where by material considerations may indicate that a decision otherwise than in accordance with the development plan should be taken.
28. The Council accepts that they cannot demonstrate a deliverable five year supply of housing land as required by Paragraph 74 of the Framework. Consequently, Paragraph 11 d) of the National Planning Policy Framework, which is a material consideration of significant weight, is engaged. It states that planning permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits.
29. The Council's housing land supply position is 2.3 years. Therefore, it is evident that there is a pressing and urgent need for housing considering this significant shortfall.
30. The construction of a new dwelling would make a small contribution towards the areas housing supply. The development would provide jobs, but this would largely be limited to the construction phase. The site is close to a district centre

within a short distance of a range of day-to-day services. Future occupants would be able to reach these on foot, providing them with transport choice and not an over-reliance on a car. The proposal would help maintain services and facilities in Bournemouth. These are all factors weighing in the scheme's favour.

31. On the other hand, I have found that the proposal would be harmful to the character and appearance of the area and would result in a substandard form of accommodation that would not provide adequate living conditions for future occupiers. I give significant weight to the proposal's conflict with the most important policies in the development plan.
32. Therefore, the adverse effects of the proposal would significantly and demonstrably outweigh its benefits. Consequently, the presumption in favour of sustainable development does not apply and I have no reason to take a decision other than in accordance with the development plan.

Conclusion

33. For the reasons set out above the appeal does not succeed.

B Thandi

INSPECTOR