



Appeal Decision

Site visit made on 5 December 2023

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

an Inspector appointed by the Secretary of State

Decision date: 22 January 2024

Appeal Ref: APP/V1260/W/23/3322216

St Swithuns House, 21 Christchurch Road, Bournemouth BH1 3NS

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a grant of planning permission subject to conditions.
- The appeal is made by Westbourne Holdings Ltd against the decision of Bournemouth Christchurch and Poole Council.
- The application Ref 7-2022-5931-AU, dated 24 October 2022, was approved on 20 March 2023 and planning permission was granted subject to conditions.
- The development permitted is extensions and alterations involving replacement of conservatories, installation of first floor terraces to North, East and West elevations, alterations to fenestration including addition of roof lights and erection of bin and cycle stores.
- The conditions in dispute are Nos 6 and 7 which state that:
Condition 6: *'Within 3 months of the commencement of the development details of the provision of Electric Vehicle Charging Points and associated infrastructure shall be submitted to the Local Planning Authority for approval in writing. Those details shall be in accordance with the BCP Council Parking Standards SPD (adopted 5th January 2021). The approved details shall be implemented and brought into operation prior to the occupation of any residential unit hereby approved or any commercial use hereby approved commencing. Thereafter the Electric Vehicle Charging Points shall be permanently retained available for use at all times.'*
Condition 7: *Prior to the first use of the building upon completion of the works, a Refuse Management Plan shall be submitted to and approved in writing by the Local Planning Authority. The plan shall include: details of the management company to be set up; the employment of a private contractor to collect the refuse; measures to be taken if no private contractor is available at any time in the future (such as the employment of a person or persons to ensure bins are wheeled to the collection point); and that bins will not be stored in the open or at the collection point apart from on the day of collection. The refuse management plan shall be carried out in accordance with the approved details, unless otherwise approved in writing by the Local Planning Authority.'*
- The reasons given for the conditions are:
6. *'To ensure the proper construction of the parking facilities and to encourage the use of sustainable transport modes'.*
7. *'To ensure that the proposed development includes a long-term management plan for the collection of refuse in the interests of visual and residential amenities, and to accord with Policy CS41 of the Bournemouth Local Plan – Core Strategy'.*

Decision

1. The appeal is allowed and the planning permission Ref 7-2022-5931-AU for extensions and alterations involving replacement of conservatories, installation of first floor terraces to North, East and West elevations, alterations to fenestration including addition of roof lights and erection of bin and cycle stores at St Swithuns House, 21 Christchurch Road, Bournemouth BH1 3NS granted on 20 March 2023 by Bournemouth Christchurch and Poole Council, is varied by deleting condition 6.

Application for costs

2. An application for costs was made by Westbourne Holdings Ltd against Bournemouth Christchurch and Poole Council. This application is the subject of a separate Decision.

Background and Main Issues

3. At the time of my site visit the development had commenced and appeared to accord with the submitted plans. For the avoidance of doubt, I have determined the appeal on the basis of those plans.
4. Planning permission was granted under reference 7-2022-5931-AU on the 20 March 2023 subject to 9 conditions. These include condition numbers 6 and 7 requiring the submission of details of Electric Vehicle Charging Points for approval within 3 months of the commencement of development and submission and approval of a Refuse Management Plan before first use of the building. Subsequent to this, Prior Approval was granted under reference 7-2023-5931-AV for a Change of use of offices (Class E) to 14 flats (Class C3).
5. The appellant's Appeal Statement states that the conditions being appealed are numbers 6 and 7. The appellant states that it is unreasonable for the Council to impose these conditions as the planning application was not for a change or intensification of use, as the planning application pre-dates the subsequent Prior Approval and as the conditions are not relevant to the development.
6. In light of the above, the main issues are whether the conditions are relevant to the development permitted, and whether they are reasonable and necessary having regard to the encouragement of the use of sustainable modes of transport and effect on the living conditions of nearby occupiers and on the character and appearance of the area.

Reasons

7. The planning permission pre-dates the subsequent Prior Approval allowing the change of use of the building to 14 flats. At the time of the determination of the planning application the building was vacant but previously used as offices.
8. While I acknowledge that the plans for the two proposals may be similar, and that the planning permission and Prior Approval could be implemented at the same time, the planning permission is a standalone consent that could be implemented independently of the Prior Approval.
9. Paragraph 56 of the National Planning Policy Framework (the Framework) states that planning conditions should be kept to a minimum and only imposed where they are necessary, relevant to planning and to the development to be permitted, enforceable, precise, and reasonable in all other aspects.
10. The planning application comprises relatively minor external alterations to the building and provision of cycle and bin stores. Whilst the plans accompanying the planning application show car parking spaces and annotates Electric Vehicle Charging Points (EVCP's), the EVCP's do not form part of the description of development and the planning application does not involve a change of use of the land/building or in itself create a demand for car parking. As a result, I do not find condition number 6 requiring the submission and approval of EVCP's and associated infrastructure relevant to the development permitted. For the

same reasons, the condition is not necessary or reasonable to ensure the construction of parking facilities or to encourage the use of sustainable transport modes. As a result, condition number 6 does not meet the tests for the imposition of a condition. Nonetheless, the provision of the cycle store would encourage the use of sustainable modes of transport.

11. With regard to condition number 7, the description of the proposal on the application form included the 'erection of a cycle and bin stores' and this was reflected on the Decision Notice. The presence and size of the bin store would result in demand for the collection of refuse. The Proposed Site Plan¹ details the tracking for a private refuse collection vehicle within the site and I have very limited details of any previous bin store or means of collection. In light of this and given the location of the site off a main Distributor Road and roundabout with parking restrictions preventing refuse vehicles collecting from the highway, the proposed condition is related to the development, necessary and reasonable. The condition would ensure appropriate methods of collection in the interests of highway safety, protecting the character and appearance of the area and protecting the living conditions of nearby occupiers.
12. I conclude that condition number 6 is not relevant to the development and is not reasonable or necessary. The development without the condition would not adversely affect the proper construction of parking facilities or discourage sustainable transport modes. While I note the requirements for Electric Vehicle Charging Points within the Councils Parking Standards Supplementary Planning Document (January 2021) (SPD), I find no conflict with the SPD or Policy CS17 of the Bournemouth Local Plan – Core Strategy (2012) (CS) given that the proposal does not in itself create a demand for car parking or involve a change of use of the building. I do however find condition number 7 to be relevant to the development, reasonable and necessary in accordance with Policy CS41 of the CS that seeks to ensure that new development enhance the character and amenities of neighbouring residents.

Other Matters

13. I have taken into account the duty, set out in section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990, to pay special attention to the desirability of preserving or enhancing the character or appearance of the area. Given the small scale of the proposals and suitable design complementing St Swithuns House and the wider area, I find that the development would preserve the character and appearance of the East Cliff Conservation Area.

Conclusion

14. For the reasons set out above condition 7 is reasonable and necessary and should therefore remain. However, condition 6 is not required to make the development acceptable and therefore does not meet the tests of being relevant to the development, reasonable or necessary as set out in paragraph 56 of the Framework. Therefore, the appeal is allowed by deleting condition 6 as set out in the decision paragraph above.

C Rose

INSPECTOR

¹ Drawing number 00 85_p0011d