



Appeal Decision

Site visit made on 20 December 2023

by M Aqbal BA (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 21 February 2024

Appeal Ref: APP/V1260/W/23/3320823

34 Richmond Park Road, Bournemouth BH8 8TG

- 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 R La Bouchardiere, 227 Bournemouth Road Limited against the decision of Bournemouth Christchurch and Poole Council.
 - The application Ref 7-2023-7943-E, dated 19 January 2023, was refused by notice dated 17 March 2023.
 - The development proposed is to erect extensions (approved under Certificate of Lawfulness decision 7-2022-7943-C) and convert resultant building to a 10 bedroom House in Multiple Occupation (Sui Generis Use).
-

Decision

1. The appeal is dismissed.

Preliminary Matters

2. The proposal includes the creation of a 10 bedroom House in Multiple Occupation ('HMO'). The proposed bedrooms range in sizes between 11sqm and 14sqm. These dimensions fall within the Council's HMO licensing regulations as being suitable for up to two persons aged over 10. Therefore, it is possible that two individuals could occupy a single bedroom.
3. Nevertheless, the appellant advises that their leasehold tenancy agreements prevent multiple occupation of a room so that this can be controlled. This confirms that the proposed bedrooms would be single occupancy and this could be secured by a planning condition if the appeal were to succeed. Accordingly, I have determined the appeal on the basis that the proposed HMO when fully occupied would accommodate a maximum of 10 persons.
4. Since the Council determined the application, an updated version of the National Planning Policy Framework, December 2023 ('the Framework') has been issued. I have consulted the main parties on this and had regard to any representations received.

Background and Main Issues

5. The proposal also includes the erection of a single-storey side extension, a two-storey rear extension and a loft conversion with dormer, approved under Certificate of Lawfulness decision Ref 7-2022-7943-C. By granting the Certificate of Lawfulness, the Council has confirmed that the proposed extensions would be permitted development. In light of this fall back and the Council's observations that these extensions are acceptable as part of the proposed scheme, I have no reason to take a contrary view.

6. Therefore, the main issues are: (i) the effect of the proposed change of use on the character and appearance of the area; (ii) the effect of the proposal on the living conditions of the occupiers of neighbouring properties; (iii) whether the quality of the proposed accommodation would be acceptable for residents, and (iv) the effect of the proposal on the integrity of designated European Sites.

Character and appearance

7. Policy CS24 of the Bournemouth Local Plan: Core Strategy ('CS') states the change of use of a Class C3 dwellinghouse to a C4 or Sui Generis HMO 'will only be permitted where no more than 10% of dwellings in the area adjacent to the application property are within a Use Class C4 or Sui Generis HMO use'. This policy is linked to a Borough wide, Article 4 Direction adopted in 2011, which removes the permitted development right introduced in 2010 allowing the change of use of dwellinghouses (C3) to small HMOs (C4).
8. Research undertaken by the Council leading to the introduction of this Article 4 Direction identified a number of negative impacts associated with HMO uses, which affect residential amenities and the character of the area in particular. These issues include anti-social behaviour, noise and nuisance from properties and on the street, imbalanced and unsustainable communities, negative impacts on the physical environment and streetscape, pressures on parking provision, untidy gardens, higher than average occurrence of lettings boards and the accumulation of rubbish. Policy CS24 of the CS seeks to avoid high concentrations of such uses in an area.
9. An assessment to ascertain the number of existing HMOs within the vicinity of the appeal site has been undertaken. Notwithstanding the concerns raised by third parties, I have no cogent evidence to dispute the Council's conclusion that there are only about 5 properties in use as HMO out of a total of about 75 within 100m of the appeal site. This equates to being below the 10% threshold of CS Policy CS24.
10. However, Saved Policy 6.17 of the Bournemouth District Wide Local Plan ('LP') sets out further criteria to determine whether or not a proposed HMO may be considered acceptable within a particular location. These criteria include whether the proposal would be compatible with the existing character of the area and the amenities of neighbouring residents.
11. For the reasons given above, the proposal would not result in an over concentration of HMO in the area. Externally, as extended, the host building would retain the appearance of a large residential property, consistent with nearby detached dwellings and blocks of flats.
12. The proposed use is likely to require additional provision for recycling and waste than that associated with a family dwelling. The proposed plans show an area adjacent to the boundary with 32 Richmond Park Road for waste and recycling storage. Whilst the Council asserts that this area would be inadequate for the number of occupants proposed, I have no evidence to support this.
13. On the other hand, the appellant has not clearly substantiated the proposed level of recycling and waste storage facilities for the HMO. Nevertheless, there appears to be sufficient space at the appeal site to accommodate these and any additional facilities, if required. Furthermore, the appellant is willing to provide a Management Plan for the appeal property, which could be secured by

a condition. This would help ensure that the appeal property is appropriately supervised and managed, including in respect of waste and recycling management.

14. On the information before me, a single parking space is required and proposed for the HMO. Overall, the proposed quantum and arrangement of vehicle parking would not be appreciably different from that associated with the use of the property as a dwellinghouse.
15. Drawing on the above reasons, the proposal would not unacceptably harm the character and appearance of the area. As such, the proposal accords with Saved Policy 6.17 of the LP.

Living conditions (neighbours)

16. I acknowledge that the pattern of activity within an HMO would be different to that associated with a family dwelling. In particular, a property that could be occupied by up to 10 individuals leading independent lives. As a consequence, the occupancy including associated comings and goings would result in a more intense and varied pattern of activity than that associated with a family dwelling. These factors could manifest in additional noise and disturbance for adjoining neighbours.
17. In this case, the appeal property, as extended would still be detached from neighbouring properties and would retain space and separation from these.
18. One of the main areas of activity associated with the HMO would be its entrance. Although this would be adjacent to 32 Richmond Park Road, I observed that this property has no door or windows along its flank elevation. As such, there would be limited impact on this property.
19. Whilst I note the Council's concern that the proposed kitchen/dining area and lounge, would be the focal point of the main shared living accommodation and a potential source of noise and disturbance to neighbours. Even so, these areas and the rear garden would be largely enclosed from neighbours.
20. Moreover, I am mindful that in a HMO, the routines of individuals are likely to vary. Therefore, it is unlikely that all the residents would be using communal areas together at any given time.
21. Given that the appeal site would have limited vehicle parking capacity and is located along a relatively busy road, I am not persuaded that vehicular traffic and activity arising from this in association with the proposed use, would be harmful to neighbours.
22. Accordingly, I am satisfied that the proposal would not have an unacceptable impact on the living conditions of neighbours. Therefore, I find no conflict with Saved Policy 6.17 of the LP.

Living conditions (residents)

23. I have not been given any specific size requirement for internal communal areas and external amenity space for a HMO. As such, I have assessed the proposal in respect of these matters on its merits.
24. Internally, the proposed HMO would incorporate areas for communal use. This includes the lounge which is about 9.5m sqm. The lounge would be located off

- a larger kitchen / dining area. Together, these areas would provide sufficient internal communal space for residents and any visitors.
25. The rear garden is clearly defined and provides a useable area measuring about 12.3m deep and 9.5m wide. This would provide adequate space for seating, drying areas and general amenity use. The existing detached garage in the garden is to be retained and used by the intended occupiers, which could include storage use.
26. As already stated, it is unlikely that all the residents of the HMO would be using communal areas together at any given time. Therefore, overall, I consider the internal communal areas and outdoor amenity space to be sufficient to meet the needs of the residents of the HMO.
27. Notwithstanding that the two bedrooms (rooms 9 and 10) in the proposed roof space meet the Space Standards benchmark figure, the overall space and quality of the accommodation associated with these rooms would be affected by the sloping roof. A typical HMO bedroom would incorporate a bed, desk/chest of drawers and a wardrobe. However, it has not been shown that these items could be accommodated within these rooms with ease and with sufficient space about them for circulation.
28. Moreover, rooms 9 and 10 would be served by modest roof lights and although room 10 includes a window, this is small and intersected by the roof of the rear extension. Therefore, the outlook from these rooms would be limited. As such, on the available information, bedrooms 9 and 10 would not offer an acceptable quality of accommodation for residents.
29. In reaching the above conclusion, I am mindful that the proposal incorporates communal areas for residents. Even so, because rooms 9 and 10 are located on the second floor, the communal areas would not be as conveniently accessible from these rooms relative to other accommodation within the HMO. Hence, I place even greater importance on the requirement for high standards of amenity for these two rooms in meeting the day to day requirements of residents.
30. Consequently, because of the proposed bedrooms in the roof space, I am not satisfied that the proposal would provide acceptable living conditions for residents. This conflicts with Policy CS41 of the CS, which amongst other things, requires that development should provide a high standard of amenity to meet the day to day requirements of future occupants. This is consistent with the aims of the Framework, which under Paragraph 135, amongst other things seeks to create places which promote health and well-being, with a high standard of amenity for existing and future users.

Integrity of designated European Sites.

31. The appeal site is within 5km of the Dorset Heathlands, which are an extensive network of lowland heaths nationally and internationally recognised and protected. These heaths host priority habitats and species, including birds, lizards and snakes as well as other typical species of lowland heathland, wetlands and dunes.
32. The Council has produced the Dorset Heathlands Planning Framework Supplementary Planning Document (2020) ('SPD') detailing a strategy for the avoidance and the mitigation of impacts of new residential development upon

these important sites. This requires that a contribution is made towards mitigating the impact of additional residents, including measures to control access, monitoring, and mitigation of the sites, thereby reflecting the objectives of LP Policy CS33 which seeks amongst other things to only permit development that would not have an adverse effect upon the integrity of nationally, European and internationally important habitat sites.

33. Given the location of the appeal site, future occupiers would be likely to impact upon the sites thereby having a significant effect upon their integrity. The Conservation of Habitats and Species Regulations (2017) (as amended) require the decision maker to undertake an Appropriate Assessment ('AA') where there are likely to be significant effects from the proposal, either alone or in combination with other schemes, and this duty falls to me as the competent authority. The appellant has provided a Unilateral Undertaking ('UU') securing a contribution towards the mitigation measures identified in the SPD.
34. However, as I have found harm in relation to another main issue and would be dismissing the appeal for other reasons, it is not necessary for me to undertake an Appropriate Assessment and give further consideration to the likely effectiveness of mitigation and avoidance measures. In doing so I would have had regard to the UU.

Planning Balance

35. Based on the appellant's evidence, the Council cannot demonstrate a 5-year supply of deliverable housing sites as required by the Framework. The information before me is that the undersupply is acute, comprising of about 2.1 years of deliverable housing land supply, which the Council has not disputed.
36. As such, Paragraph 11 of the Framework applies, which states that relevant policies for the supply of housing should not be considered up to date where a 5-year housing land supply cannot be demonstrated, or the Housing Delivery Test indicates that the delivery of housing was substantially below the housing requirement over the previous three years. Paragraph 11 sets out that, where relevant policies are out of date, permission should be granted unless the application of policies in the Framework that protect areas or assets of particular importance, provides a clear reason for refusing the development proposed, or the adverse impacts of doing so would significantly and demonstrably outweigh the benefits when assessed against the policies in the Framework taken as a whole, or specific policies in the Framework indicate that development should be restricted.
37. The development would provide 10 HMO rooms, which would contribute towards the provision of housing in the Borough and would accord with the aims of Paragraph 60 of the Framework of boosting significantly the supply of homes and addressing the needs of groups with specific housing requirements.
38. There would also be economic and social benefits as a result of the development and future occupation of the appeal scheme. These considerations weigh in favour of the development, and I afford them moderate weight, having regard to the modest size of the proposed development and my concerns about the quality of some of the accommodation.
39. I have found no harm in respect of the impact upon the character and appearance of the area and neighbour living conditions. In terms of the

planning balance, the lack of identified harm is a neutral factor that does not diminish the harm that would arise from the proposal in respect of the impact upon the living conditions of the residents of bedrooms 9 and 10. Indeed, the Framework says that the creation of high quality, beautiful and sustainable buildings and places is fundamental to what the planning and development process should achieve. Good design is a key aspect of sustainable development, creates better places in which to live and work and helps make development acceptable to communities. As such, I attach significant weight to this.

40. As a result, the social objective of sustainable development of providing a high standard of residential amenity, would not be achieved. When assessed against the policies in the Framework taken as a whole, the adverse impacts would significantly and demonstrably outweigh the benefits. Therefore, the proposal would not be a sustainable form of development. The conflict with the development plan is not outweighed by other considerations including the Framework.

Conclusion

41. For the above reasons, I conclude that the appeal should be dismissed.

M Aqbal

INSPECTOR