



Appeal Decision

Site visit made on 26 March 2024

by S Harrington MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 05 April 2024

Appeal Ref: APP/V1260/W/23/3328148

21-23 Gillam Road, Bournemouth, Dorset BH10 6BW

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission.
 - The appeal is made by Mr William Burke, MHH Poole Limited against the decision of Bournemouth, Christchurch and Poole Council.
 - The application Ref is 7-2023-13761-G.
 - The development proposed is erection of a 2 bed flat on first floor above double garage to the rear of main building.
-

Decision

1. The appeal is allowed and planning permission is granted for erection of a 2 bed flat on first floor above double garage to the rear of main building at 21-23 Gillam Road, Bournemouth, Dorset BH10 6BW in accordance with the terms of the application, Ref 7-2023-13761-G, subject to the conditions set out in the Annex attached to this decision.

Preliminary Matters

2. The description of development provided on the application form included the word 'existing'. As the double garage has yet to be constructed, I have omitted this word from the description in the banner heading above.
3. The National Planning Policy Framework (Framework) was revised in December 2023. However, as the provisions in the Framework that are most relevant to this appeal have not materially changed, no parties will have been prejudiced by my having regard to the latest version in reaching my decision.

Main Issues

4. The main issues are:
 - the effect of the proposal on the character and appearance of the area;
 - whether the proposal would provide acceptable living conditions for future occupiers, with regard to outlook and exposure to noise; and
 - the effect of the development on the integrity of the Dorset Heathlands Special Protection Area, and the Dorset Heaths Special Area of Conservation and Ramsar sites (the habitats sites).

Reasons

Character and appearance

5. The appeal site is part of an area of land utilised for parking, servicing and storage in association with an adjacent block of commercial units and residential flats. As well as an area of hardstanding, it features a number of domestic scale buildings of utilitarian appearance. Even if the area has historically heavily been utilised in conjunction with commercial activities, I observed that the site now has the character of a suburban domestic parking and garaging area, as opposed to a heavily utilised commercial service yard.
6. Furthermore, the evidence before me indicates that planning permission¹ has been granted for adjacent offices to be converted into 2 residential units, thereby resulting in a further reduction in commercial uses in the area. Notwithstanding, the site does not positively contribute to the predominant wider suburban character of the area due to the extent of hardstanding and existing utilitarian buildings.
7. Whilst not commenced at the time of my site visit, planning permission² has previously been granted at the appeal site for a detached single storey double garage, featuring a hipped roof. The appeal proposal would also incorporate a hipped roof form and whilst taller than the previously approved garage, would be of similar traditional appearance and scale to the more modern dwellings to the rear of the appeal site. It would therefore not appear out of keeping with the surrounding built form. Furthermore, due to the close spatial relationship with the nearby modern dwellings, the proposal would not appear isolated, and the introduction of traditional residential design features at the appeal site would visually enhance the immediate area's appearance.
8. To conclude, the proposal would not adversely affect the character and appearance of the area. As such, it would accord with Policies CS6, CS22 and CS41 of the Bournemouth Local Plan: Core Strategy (2012) (LP). These policies seek, amongst other things, for development to be well designed and be of a scale and appearance in keeping with the character of the local area. The proposal would also accord with the provisions of the Framework which seek to provide well designed and beautiful places.

Living conditions

9. The living accommodation would be on the first floor of the proposal, with the living area and a bedroom featuring windows to the front elevation, and a second bedroom featuring a window to the side elevation.
10. Whilst there are some commercial units within the adjacent block that may well use the parking area for servicing, due to the accommodation being on the first floor, future occupiers would look over the parking area towards the rear of the adjacent flats. Whilst the outlook may be somewhat stark due to the utilitarian appearance of the surrounding buildings, it would still provide a sufficient outlook for future occupiers from appropriately sized windows.
11. The proposal does not incorporate any outdoor garden areas, although the ground floor garages are of sufficient size to allow bin storage.

¹ 7-2021-13761-E

² 7-2022-13761-F

Notwithstanding, I observed that the appeal site is in close proximity to a number of green areas and public open spaces, which future occupiers could easily access.

12. The Council's reason for refusal also refers to exposure to noise. However, no substantive evidence has been provided to indicate that noise or activity associated with commercial uses is of such a level that is incompatible with the proposal. Given that there are already surrounding residential uses in close proximity to the appeal site and given the minimal evidence of commercial activities I observed at the time of my visit, there is insufficient evidence before me to lead me to find that the surrounding uses would result in harm to future occupiers living conditions.
13. Consequently, I conclude that the proposal would provide acceptable living conditions for future occupiers with regard to outlook and exposure to noise. Accordingly, the proposal would accord with LP policy CS41 in so far as it relates to protection of living conditions. The proposal would also accord with the provisions of the Framework in relation to providing a high standard of living conditions.

Habitats sites

14. The site lies within 5km of the habitats sites. The Conservation of Habitats and Species Regulations 2017 (Habitats Regulations) require that permission may only be granted after having ascertained that the development will not affect the integrity of the habitats sites.
15. The Dorset Heathlands Planning Framework 2020-2025 Supplementary Planning document (April 2020) (SPD) advises that the Dorset Heathlands is designated for protected and priority habitats and species including Dartford warblers, nightjars, woodlark, hen harrier, merlin, sand lizards and smooth snakes as well as other typical species of lowland heathland, wetlands and dunes.
16. The habitats sites are an important recreational resource, and it is likely that occupants of the proposal would visit. On this basis, it cannot be ruled out that the proposal, when considered alone or cumulatively with other schemes, would have significant effects on the features of interest of the habitats sites due to increased recreational use.
17. To seek to mitigate against such effects, a unilateral planning obligation (UU) under Section 106 of the Town & Country Planning Act 1990 accompanies the appeal. The UU secures financial contributions in accordance with the Council's approach to strategic mitigation, which will contribute towards the delivery of Strategic Access Management and Monitoring.
18. I am satisfied, on the basis of the specific evidence before me, and following consultation with Natural England that the UU provides a sufficient mechanism to enable the delivery of proportionate strategy to mitigate the effects of development which could affect the habitats sites.
19. I therefore find following Appropriate Assessment, that with the proposed mitigation measures in place, secured through the UU, the development would not have an adverse effect on the integrity of the habitats sites. The proposal would therefore accord with LP Policy CS33 and the SPD which, amongst other

things, seek to ensure that development will not lead to an adverse effect on the integrity, directly or individually, of the habitats sites.

Conditions

20. The Council has provided a list of suggested conditions in the event of the appeal being allowed, which I have assessed and, where necessary, amended wording with regard to the advice provided in the Planning Practice Guidance. In addition to the standard time condition, it is necessary for a condition to confirm the approved plans in the interests of certainty.
21. Conditions are necessary to ensure the provision of car and cycle parking, retention of the garaging area, as well as restricting permitted development rights in relation to boundary treatments and outbuildings to ensure the continued safe operation of the surrounding parking and service areas in order to protect the living conditions of neighbouring and future occupiers.
22. Given the close proximity of surrounding residential properties, conditions are also necessary to restrict permitted development rights in relation to extensions, alterations and additional windows in the interests of protecting the living conditions of neighbouring occupiers.

Conclusion

23. For the reasons given above the appeal should be allowed.

S Harrington

INSPECTOR

Annex

Conditions

- 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans: 21.GR.0722.001, 21.GR.0722.002.
- 3) Notwithstanding details shown on the submitted plans, within 3 months of the commencement of the development, details of the allocation of car and cycle parking spaces for the proposed development, shall be submitted to and approved in writing by the Local Planning Authority. Prior to occupation of the proposed development, car and cycle parking areas shall be allocated in accordance with the approved details and permanently retained and kept available for their intended purpose at all times.
- 4) The allocated garage area shall be retained for use as a garage and shall not be incorporated into the living areas of the dwelling unless otherwise agreed in writing by the Local Planning Authority.
- 5) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development Order) 1995 (or any order revoking and re-enacting that Order with or without modification), no raised hard or soft landscaping, boundary treatments or any means of enclosure of the curtilage shall be constructed without the grant of further specific planning permission from the Local Planning Authority.
- 6) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development Order) 1995 (or any order revoking and re-enacting that Order with or without modification), no enlargements of the new dwelling hereby permitted shall be constructed without the grant of further specific planning permission from the Local Planning Authority.
- 7) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development Order) 1995 (or any order revoking and re-enacting that Order with or without modification), no new outbuildings shall be constructed without the grant of further specific planning permission from the Local Planning Authority.
- 8) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development Order) 1995 (or any order revoking and re-enacting that Order with or without modification), no additional windows or rooflights shall be installed in, or dormer windows shall be constructed on, the building without the grant of further specific planning permission from the Local Planning Authority.

End of Conditions