



Appeal Decision

Site visit made on 23 April 2024

by C Rose BA (Hons) BTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 22 May 2024

Appeal Ref: APP/V1260/W/23/3329748

335-337, Wimborne Road, Bournemouth BH9 2EA

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant outline planning permission.
 - The appeal is made by Mr N Harvey and Mrs JF Jones against the decision of Bournemouth Christchurch and Poole Council.
 - The application Ref is 7-2023-5132-Q.
 - The development proposed is outline planning permission for the erection of a detached building containing 3 x flats with some matters reserved.
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Decision

1. The appeal is allowed and outline planning permission is granted for the erection of a detached building containing 3 x flats with some matters reserved at 335-337, Wimborne Road, Bournemouth BH9 2EA in accordance with the terms of the application, Ref 7-2023-5132-Q, subject to the conditions in the attached schedule.

Preliminary Matters

2. The description of development in the banner heading above has been taken from the Council's decision notice as it describes the development in more detail than that stated on the application form.
3. The application was submitted in outline with only the matter related to Appearance reserved. I have dealt with the appeal on that basis, treating matters of Appearance on the relevant plans as illustrative.
4. The appeal has been accompanied by a signed Unilateral Undertaking under Section 106 of the Town and Country Planning Act 1990 (as amended) to mitigate the impacts from future occupiers on the 'Dorset Heathlands' which comprises the Dorset Heathlands Special Protection Area (SPA), Dorset Heathlands Ramsar Site, Dorset Heaths Special Area of Conservation (SAC) and Dorset Heaths Special Area of Conservation (Purbeck and Wareham) and Studland Dunes. This is a matter I will consider later.

Main Issues

5. The main issues are:
 - the effect of the proposal on the character and appearance of the surrounding area;
 - whether the proposed development would provide acceptable living conditions for future occupiers with particular regard to outlook, daylight, privacy and exposure to noise and disturbance;

- the effect of the proposal on highway safety with particular regard to car parking provision and bin storage; and,
- the effect of the development on the integrity of the Dorset Heathlands SPA and SAC.

Reasons

Character and appearance

6. The appeal site comprises a parking and storage area to the rear of the commercial unit comprising 335-337 Wimborne Road that was in use as a building society at the time of my site visit. The area is hard surfaced and enclosed by walling and a flat-roofed single-storey storage building that forms the eastern site boundary. Part of the site can be viewed down the narrow access off Wimborne Road with the rear elevation of the existing storage building visible from the Waitrose car park to the rear of the site.
7. The appeal site also adjoins servicing areas to the rear of commercial units to the north and south. There is a large block of student accommodation to the southeastern site boundary with a single and two-storey commercial unit adjoining the northern site boundary beyond which there is a Waitrose food store. As a result, the immediate area contains a mix of uses and scale of buildings.
8. Although the existing site is functional in appearance due to its hard surfaced nature, practical appearance of the storage building and location to the rear of commercial units, the proposal provides an opportunity to enhance its appearance through the construction of a new building with associated outdoor space. While the site is adjoined by other hard development with little landscaping, this is not uncommon within commercial or built-up areas.
9. The residential use proposed would adjoin a large block of student accommodation with further residential development to the rear of the site on Waterloo Road. Whilst there may be no similar small scale residential developments in the locality to the rear of the commercial units, the building would be of a similar scale and form to the commercial building immediately to the north of the existing building on the appeal site. In light of this, and given the relatively enclosed nature of the site, and blank elevation currently facing the Waitrose car park, a building of the scale proposed would not be harmful to the streetscape, would not appear cramped and would provide the opportunity for a small enhancement to the site itself.
10. Details of a suitable appearance for the building can be considered and secured as part of any reserved matters application.
11. In light of the above, the proposal would not harm the character and appearance of the area. As such, the proposal complies with Policies CS6, CS21, CS41 of the Bournemouth Local Plan: Core Strategy (October 2012) (CS). Amongst other things, these seek to ensure that local neighbourhoods are improved and enhanced to reinforce local identity, apply good design principles to new buildings and how spaces are treated, maintain and enhance the quality of the street scene and ensure that all development and spaces are well designed and of a high quality.

Living conditions

12. The proposed Site Plan¹ details the provision of cycle stores and bin stores to serve the three one-bedroom dwellings along with two parking spaces for the building society. Outdoor space for the two ground floor dwellings would also be provided to their frontages.
13. While the outdoor space is limited in size and privacy, it would be usable and allow for the provision of some landscaping. Such provision is not unusual for residential properties located within or close to commercial centres as demonstrated by Appendix 6 to the appellants Appeal Statement. Furthermore, the size of the outdoor space is appropriate to the small size of units proposed.
14. Although the matter of Appearance is for consideration at a later date, the proposed plans demonstrate how the ground floor dwellings could benefit from large openings to the front, high level windows to the rear and through the use of rooflights to the first-floor dwelling. Any openings to the frontage and main habitable areas would look out over the outdoor space. Suitable distances to the rear of the commercial units would be provided that would be further screened by the bin stores and means of enclosure creating a sense of place and arrival.
15. There is no dispute between the main parties that the internal floorspaces are adequate and I have no reason to disagree. Furthermore, I have been provided with limited evidence demonstrating that it would not be possible for the dwellings to benefit from adequate levels of daylight.
16. I have had regard to the presence of the Waitrose car park to the rear of the site and potential for further noise and disturbance from the two car parking spaces retained for the building society. However, at the time of my site visit, noise experienced from within the site was generally low due to its enclosed nature and I note the opening hours for Waitrose that would limit the use of its car park. With only two car parking spaces serving the building society, any disturbance from manoeuvring cars would be limited in extent, partly screened and at a level that would not be harmful.
17. It follows from the above that I conclude that the proposed development would provide acceptable living conditions for future occupiers with particular regard to outlook, daylight, privacy and exposure to noise and disturbance. As such, it complies with Policies CS6, CS21, CS38 and CS41 of the CS. Amongst other things, these require the application of good design principles, respect resident's amenities, minimise potential pollution, and ensure that new developments enhance the amenities of future occupants.

Highway Safety

18. The appeal site occupies a backland location off Wimborne Road. It is currently used for the parking of approximately 5 cars and for the storage of refuse bins associated with the building society. The site is accessed directly off Wimborne Road served by a dropped kerb. Wimborne Road serves the associated Winton District Centre that the site sits within and is a busy road and bus route with parking restrictions to both sides.

¹ Drawing No. 4313:12

19. The appeal proposal would result in the loss of the existing garage and most of the existing parking spaces serving the building society. Space is provided within the appeal proposal for the provision of two car parking spaces for the servicing of the building society. Given the location of the site close to a range of services and facilities, car parks and bus routes, there is no dispute between the parties that there is no need for any car parking associated with the proposed dwellings. I have no reason to disagree.
20. The Councils Parking Standards Supplementary Planning Document (January 2021) (SPD) identifies a need for 3 car parking spaces to serve the Halifax office and business use. As a result, the proposal would underprovide car parking by one space in relation to the SPD. However, the building society is located within the District Centre with good access to bus routes and with the car park to Waitrose and a further public car park in very close proximity. I have not been provided with detailed evidence from the Council demonstrating that the proposal would result in harm to highway safety as a result of the under-provision of one car parking space. Furthermore, I note that paragraphs 4.3.2 and 4.3.3 of the SPD allow a departure from the standards where appropriate and fully justified, and that this may include relevant factors such as the location of the development and where there is greater public transport accessibility. In light of the location of the site and availability of public transport, I find no harm from the provision of two parking spaces to serve the commercial unit with a departure from the standard justified in this instance.
21. I have had regard to the lack of annotated parking spaces on the Site Plan accompanying the application. I have also had regard to the lack of detailed information with regard to turning areas demonstrating how vehicles would turn to exit in a forward gear. Nonetheless, even if more than one manoeuvre were required to enter and/or exit either or both of the parking spaces, in light of the low vehicle numbers using the access and site, with vehicles travelling at a low speed, this reduces any likely conflict. As a result, any manoeuvring would not be to an extent that would lead to harm to highway safety or discourage the use of the spaces.
22. Turning to the provision of suitable space for refuse storage, space is shown on the Site Plan to serve the three dwellings and the commercial unit. The appellant has advised that due to the parking restrictions on Wimborne Road, bins would be taken out to the road on collection day and returned to the stores for the remainder of the week as currently takes place. Therefore, subject to a condition ensuring the provision and agreement of such details, adequate refuse storage could be provided without harm to highway safety.
23. It therefore follows that I conclude that the proposal would not harm highway safety, with particular regard to the provision of car parking and bin storage. Accordingly, the appeal scheme would not therefore conflict with Policies CS16, CS21 or CS41 of the CS. Amongst other things, these require that parking provision is in accordance with the Council's adopted parking standards, contribute positively to the character and function of the neighbourhood, and be of a high quality.

Integrity of the Dorset Heathlands SPA and SAC

24. The appeal site falls within the 5km zone of influence around the 'Dorset Heathlands' that comprise the Dorset Heathlands Special Protection Area (SPA) and Dorset Heaths Special Area of Conservation (SAC), which overlap with

various other environmental designations. Both are extensive areas of land including lowland heathland and dunes. The Dorset Heathlands are protected via the Habitats Directive, which is incorporated into domestic statute via the Conservation of Habitats and Species Regulations 2017 (as amended) (the Habitats Regulations). I am statutorily required to take appropriate steps to conserve biodiversity.

25. The Dorset Heathlands are designated in order to safeguard ecology and the habitat upon which various species are reliant, notably in this instance Dartford warblers, nightjars, woodlark, hen harriers, merlin, sand lizards and smooth snakes. Ecology can be disturbed by recreational activities, predation from domestic pets, and from habitats being unavailable from time to time by consequence.
26. Whilst not a precise correlation, the potential for adverse effects increases with the number of dwellings nearby, including within a wide zone of influence (and therefore the aggregate, or in-combination, implications of a number of smaller developments may be significant). Habitats Regulation 63(1) states that 'a competent authority, before deciding to undertake, or give any consent, permission... must make an appropriate assessment'. I have sought to apply that requirement reasonably and proportionately relative to the nature and context of the development proposed.
27. The avoidance or mitigation of effects resulting from increased residential development would be achieved by the provision of alternative greenspace, to redirect those who would have made use of the Dorset Heathlands recreationally, and via associated monitoring and management arrangements. The contributions that individual schemes are expected to make in that context are established at a strategic level, such that a proportionate contribution is made in each instance (the former being funded by Community Infrastructure Levy receipts). A Signed Unilateral Undertaking has been submitted by the appellant and accepted by the Council. This would provide a financial contribution of £993.00 per dwelling, plus a £75.00 administration fee, towards ecological monitoring and management arrangements in that context, consistent with the Council's approach. I have consulted with Natural England which has confirmed that the payment is sufficient to avoid adverse impacts on the integrity of the European Sites and their features.
28. Chapter 4 of the Dorset Heathlands Planning Framework 2020-2025 Supplementary Planning Document April 2020 (SPD) indicates the approach that it establishes towards ecological mitigation has been arrived at in conjunction between Dorset Council, Bournemouth, Christchurch and Poole Council with Natural England, the appropriate nature conservation body under Regulation 63(3). Consequently, subject to appropriate financial contributions being made, I am satisfied that likely significant effects to the ecological integrity of the Dorset Heathlands would be avoided.
29. Paragraph 57 of the National Planning Policy Framework (the Framework) and Regulation 122 of the CIL Regulations sets out three tests that planning obligations must meet. Firstly, they must be necessary to make the development acceptable in planning terms, secondly, they must be directly related to the development and thirdly they must be fairly and reasonably related in scale and kind to the development.

30. I am satisfied that the financial contribution is necessary to make the proposed development acceptable in planning terms. The obligation would contribute towards the provision of mitigation towards wardening, raising awareness and monitoring. Given the location of the appeal site within 5km of the protected sites, I consider that the contribution is directly related to the appeal scheme. In addition, as it relates to a standard charge based on the scale and type of residential development proposed, I consider it to be fairly and reasonably related to the proposal in scale and kind.
31. For the above reasons, I am satisfied that the planning obligation would meet the requirements of the Framework and the CIL Regulations. I therefore give it significant weight in the determination of this appeal.
32. In conclusion, I am satisfied that with the proposed avoidance and mitigation measures in place, secured through the CIL Regulations and planning obligations, the development would not have an adverse effect on the integrity of the Dorset Heathlands SPA or SAC. The development would therefore comply with the Conservation of Habitats and Species Regulations 2017. It would also accord with CS 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 Dorset Heaths international designations.

Other Matters

33. I have not been provided with evidence that the dwellings could not be adequately accessed by the emergency services. It is noteworthy that the Council raised no concerns in this regard.

Conditions

34. I have had regard to the tests in the Framework in relation to conditions, and the planning conditions suggested by the Council. In addition to the standard reserved matters details and time conditions, it is necessary for a condition to confirm the approved plans in the interests of certainty.
35. A pre-commencement condition is necessary to ensure the up-front submission and approval of materials in the interests of protecting the character and appearance of the area.
36. A condition is necessary to ensure the provision of adequate landscaping in the interests of protecting and enhancing the character and appearance of the area.
37. A condition is necessary to ensure that the cycle parking facilities are provided prior to first occupation of the building in the interests of promoting sustainable means of travel.
38. A condition is required to ensure the submission of a refuse management plan in the interests of highway safety and to protect the living conditions of nearby and future occupiers.
39. Conditions are necessary to prevent further extensions to the building, construction of outbuildings or additional windows or rooflights. A further condition is necessary to ensure that the flat-roofed areas of the building are not used as a form of terrace or balcony or for the storage of any materials.

These are required in the interests of protecting the character and appearance of the area and living conditions of nearby occupiers.

40. I have slightly amended the wording of some of the conditions in the interest of brevity and accuracy and to remove 'tailpieces' in the interests of clarity.

Conclusion

41. For the reasons given I conclude that the appeal should succeed.

C Rose

INSPECTOR

SCHEDULE OF CONDITIONS

- 1) Details of the appearance (hereinafter called "the reserved matter") shall be submitted to and approved in writing by the local planning authority before any development takes place and the development shall be carried out as approved.
- 2) Application for approval of the reserved matter shall be made to the local planning authority not later than 3 years from the date of this permission.
- 3) The development hereby permitted shall take place not later than 2 years from the date of approval of the last of the reserved matters to be approved.
- 4) The development hereby permitted shall be carried out in accordance with the following approved plans: Location plan 1:1250, Drawing No. 4313:11 3 Units: Floor Plans and Sections, and Drawing No. 4313:12 3 Units: Elevations and Site Plans.
- 5) No development above ground level shall take place until details/samples of the materials to be used on the external surfaces of the proposed development have been submitted to and approved in writing by the Local Planning Authority. Development shall be carried out in accordance with the approved details.
- 6) Within 3 months of the date of commencement of the development, full details of the soft and hard landscaping and the boundary treatment proposals shall be submitted to and approved in writing by the Local Planning Authority. The approved scheme shall be implemented in full prior to occupation or use of the development commencing and permanently retained thereafter.
- 7) Before the development is occupied or utilised the cycle parking facilities shown on the hereby approved plans must have been constructed. Thereafter, these must be maintained, kept free from obstruction and available for the purposes specified.
- 8) Before the development is occupied or utilised full details of waste collection, including collection times shall be submitted to and approved in writing by the Local Planning Authority. Once agreed in writing, the development shall thereafter operate strictly in accordance with the details approved, shall be maintained as such thereafter and no change therefrom shall take place.

- 9) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development Order) 2015 (or any order revoking and re-enacting that Order with or without modification), no enlargements of the building hereby permitted shall be constructed without the grant of further specific planning permission from the Local Planning Authority.
- 10) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development Order) 2015 (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.
- 11) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development Order) 2015 (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.
- 12) The flat-roof areas hereby approved shall not be used at any time as any form of accessible terrace or balcony nor shall they be used for the storage of any materials of any kind nor shall any railings or such be affixed to them at any time.

*****END OF SCHEDULE*****