



Appeal Decision

Site visit made on 13 June 2024

by L J O'Brien BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 24 June 2024

Appeal Ref: APP/V1260/W/23/3334973

8 Fir Vale Road, BOURNEMOUTH, BH1 2JG

- 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 8 FVR Limited against the decision of Bournemouth Christchurch and Poole Council.
 - The application Ref is 7-2023-14911-F.
 - The development proposed is Change of use from a former language school (Use Class F1(a)) to a 14-bed HMO (Use Class Sui Generis).
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues in this appeal are:
 - the effect of the proposal on the character and appearance of the area including whether or not the proposal would preserve or enhance the character or appearance of the Old Christchurch Road Conservation Area; and
 - whether or not the proposal would provide appropriate living conditions for future occupants.

Reasons

3. The appeal site comprises a four storey mid-terraced building which was previously in use as a language school but had stood empty for some time. At the time of my site visit the building appeared to be in use as a House in Multiple Occupation (HMO). The proposal is for the conversion of the building to a 14 bed HMO.

Character and appearance

4. No 8 Fir Vale Road is an attractive red-brick building set back from the road behind a small area which, at the time of my site visit, appeared to be in use for parking. The property is situated at a bend in the road and close to the junction with St Peter's Road. The building is part of a larger terrace of similar properties; a number of which are set back from the road behind low level walls and railings and others which have a more open frontage containing parked vehicles.
5. The appeal property is situated within the Old Christchurch Road Conservation Area (CA) which the Council states comprises of a mix of Victorian, Edwardian

and Art Deco style terraces located at the heart of a Victorian Seaside town. These terraces are considered to be valued for their high-quality architecture which contributes to the historic significance of the CA.

6. Though the appeal proposal contains few external alterations, the scheme does include the addition of two cycle stores either side of an unloading/loading parking bay to the front of the property. The proposed cycle stores would be large, each providing space to store 10 bicycles, and would be constructed of materials which would not be visually compatible, or in keeping, with the high quality, traditional materials that characterise the appeal property and the wider terrace.
7. The cycle stores would be, in part, constructed of transparent materials. However, the frame, the cycle stands and indeed the bicycles within the storage unit would nevertheless be highly visible. Moreover, in my view, as I have outlined above, the proposed materials, including the transparent elements, would in themselves be incompatible with the materials of No 8 and the wider terrace.
8. This discord would be highlighted as the proposed cycle stores would be sited in a prominent location, with little set-back and no screening from wider view. Furthermore, the appeal property is situated on the outward bow of a curving row thus exacerbating its prominence.
9. Whilst I note the appellant's preference to store bicycles to the front of the property in order to promote their use, in my view, an alternative scheme which would not cause harm to the character and appearance of the area could equally promote the use of bicycles as a sustainable transport method.
10. I acknowledge the appellant's suggestion that an alternative scheme for cycle parking could be secured by a suitably worded planning condition. However, specific details of what such a scheme would be and where precisely it would be located have not been provided. Accordingly I cannot be sure that such a condition would be capable of being satisfied and as such it would not meet the test of reasonableness as set out in the Framework.
11. For the reasons set out above, the proposed cycle storage would cause harm to the character and appearance of the appeal property, the terrace of which it is part and the wider area. Thus, the proposed development would fail to preserve or enhance the character or appearance of the CA. Due to the scale and nature of the proposed development, the harm to the heritage asset would be less than substantial.
12. The approach in the National Planning Policy Framework (the Framework) is that where a proposal would lead to less than substantial harm to a heritage asset, as in this case, that harm should be balanced against the public benefits of the proposal.
13. I note that the proposal would provide housing in a sustainable location well served by existing facilities and infrastructure. However, this benefit is limited by the small scale of the scheme before me. I also note the appellant's evidence that the proposal would not have adverse impacts in other respects. The lack of harm in these respects is a neutral factor and not a benefit of the scheme and as such this element does not carry additional weight in favour of allowing the proposal.

14. On the other side of the balance, I have identified that the proposal would fail to preserve or enhance the character or appearance of the area and as such would not meet the statutory requirements set out in s72 (1) of the Town and Country Planning (Listed Buildings and Conservation Areas Act) 1990 and would cause harm to the significance of the heritage asset. The Framework indicates that great weight should be given to a heritage asset's conservation. Accordingly, the public benefits of the scheme do not outweigh the harm identified.
15. For the reasons set out above, the proposal would conflict with Policy CS39 of the Bournemouth Local Plan: Core Strategy, adopted October 2012 (CS) and saved Policy 4.4 of the Bournemouth District Wide Local Plan, adopted February 2002 (LP). Amongst other things these policies seek to protect designated heritage assets from proposals that would adversely affect their significance.
16. The proposal would also fail to meet the aims of CS Policy CS41 which seeks to ensure all developments are well designed and of a high quality. The proposal would also not comply with Policy D4 of the Bournemouth Local Plan: Town Centre Area Action Plan, adopted March 2013 (AAP) which states that proposals should ensure any car parking, bin and/or cycle storage is well integrated into the proposed development and the surrounding area so that it does not adversely affect the street scene.

Living conditions

17. The proposed HMO would have 14 bedrooms set over four floors. The appellant states that each bedroom would be single occupancy and the HMO would therefore accommodate 14 people. However, the property has a licence for a maximum of 20 people living as 14 households. At the time of my site visit, I entered one of the larger bedrooms which contained a double bed, a single bed and a single mattress on the floor.
18. The accommodation on the lower ground floor would comprise three bedrooms, each with a small en-suite, a small utility/laundry room and a kitchen/dining room with access to the garden. The proposed ground floor plans indicate that this floor would contain three ensuite bedrooms, a kitchen/dining room, a utility/laundry room and a small room with no description. Though I have some concerns regarding the proposed use of the un-named room due to its previous inclusion as an unacceptably small proposed bedroom; overall the arrangement of accommodation on these floors would provide adequate access to facilities for those occupying rooms 1 – 6.
19. At first floor level the HMO would have four bedrooms, two with an ensuite, a very small kitchen and a separate shower room for bedroom 7. The second floor would host a further four bedrooms with ensuites and a shower room serving bedroom 8 which is situated on the floor below. The location of the shower room for bedroom 8 on the floor above would not seem to me to be an ideal layout, especially given the limited size of the space which would not easily facilitate dressing or changing.
20. The residents of these top two floors would have easy access to only one very small kitchen area which would seem to me to have the potential to provide space to cook but not to eat or to relax. I consider that, even simply in respect of cooking a meal, it would be very difficult for more than one resident of the

eight bedrooms located across these two floors to attempt to use the kitchen on these floors at the same time.

21. As such, it is likely that all residents of the HMO would be reliant on the two larger communal spaces for the majority of their day to day activities. The two larger kitchen/dining areas within the property would each be of a similar size to the bedrooms. The lower ground floor kitchen/dining room would benefit from access to the outside. As the only two communal rooms with enough space for residents to sit and eat or relax, they would, in my view, be intensively used. Though the rooms would each be of a reasonable size they would not be large enough to each readily accommodate around 50% of the residents of the HMO using the space concurrently and would provide congested and cramped living conditions.
22. The top two floors would also not have their own laundry or utility rooms and all of the residents of the proposed HMO would be expected to use the small spaces provided on the bottom two floors in this respect.
23. I note the appellant's statement that the bedrooms would potentially be large enough for the occupants to sit and eat or relax. Nevertheless, as the building would be used as an HMO, and all other parts of the property would be shared with unrelated people, the bedrooms would have to accommodate all of the occupants' personal belongings, as well as a bed and circulation space. In my view, though the rooms would be of a reasonable size they would not be large enough to mean that the occupants would not be reliant on the communal living spaces for cooking, eating and other day to day activities.
24. I note that the Council does not have any specific adopted standards relating to the sizes of accommodation which are expected. However, I consider that for the reasons set out above the proposal would not provide appropriate living conditions for future occupants but would create a cramped and congested HMO resulting in a poor living environment.
25. For this reason, the proposal would conflict with Policy CS41 of the CS which states that development should provide a high standard of amenity to meet the day to day requirements of future occupants.

Other Matters and Planning Balance

26. The Council states that at the time of writing their appeal statement, in the Bournemouth area there is a 2.3 year housing land supply with a 20% buffer (a shortfall of 4,862 homes) and a 2021 Housing Delivery Test result of 67%. The appellant has not disputed this. As the Council cannot demonstrate a 5 year housing land, supply Paragraph 11 (d) of the Framework indicates that planning permission should be granted, unless the application of policies in the Framework that protect areas or assets of particular importance provide a clear reason for refusing the development proposed. In this instance I have found that the proposal would cause harm to the significance of a designated heritage asset. As such, the presumption in favour of sustainable development would not apply.
27. Nevertheless, I note that the addition of housing which would contribute towards the supply in the area would be a benefit of the scheme. I also acknowledge the economic benefits of engaging local professionals, trades and suppliers and the ongoing benefit of the occupiers of the proposed HMO

utilising local facilities. These benefits are, however, limited by the small scale of the proposal and must be considered in that context.

28. I accept that the appellant has made amendments from a previous scheme with the aim of overcoming the previous concerns. However, the proposal before me would, nevertheless, cause harm to the character and appearance of the area and would fail to provide satisfactory living conditions for future occupiers.
29. I note the existence of an extant planning permission for the conversion of the property to 8 flats granted in May 2022. However, that scheme would be for a markedly different development which I consider, on the basis of the limited evidence before me, would not cause harm as would be the case with the proposal before me. Consequently, the existence of an alternative planning permission attracts limited weight as a fallback position.
30. I accept that the principle of a HMO in this area is not disputed by the Council and that a licence for a HMO has been granted. However, the licencing regime is separate to the planning system and holding a HMO licence does not provide certainty that planning permission will be granted.
31. The appeal site is within the vicinity (within 5 km and beyond 400m) of Dorset Heathlands. The lowland heaths in South East Dorset are covered by a number of habitat designations, in particular the Dorset Heathlands Special Protection Area; Dorset Heathlands Ramsar Site; and Dorset Heaths Special Area of Conservation.
32. These areas host protected 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. The Dorset Heathlands cover an extensive area of South East Dorset and are fragmented by urban development, forestry, agriculture and other land uses.
33. The Conservation of Habitats and Species Regulations 2017 (the Habitats Regulations) requires the decision maker to undertake an Appropriate Assessment (AA) where there are likely significant effects from the proposal, either alone or in combination with other plans or projects. This responsibility falls to me in the context of this appeal.
34. The proposed development would introduce additional residential units to the area. In my view, the additional residential units which would be provided in this instance would indeed be likely to lead to additional recreational visits and an intensification of the use of the protected site. For this reason, the proposal would be likely, alone and in combination with other plans and projects in the area, to have a significant effect on the Dorset Heathlands.
35. This assessment is supported by The Dorset Heathlands Planning Framework 2020 – 2025 Supplementary Planning Document (SPD) which states that various studies have found that public access to lowland heathland, from nearby development, has led to an increase in wildfires, damaging recreational uses, the introduction of incompatible plants and animals, loss of vegetation and soil erosion and disturbance by humans and their pets amongst other factors have an adverse effect on the heathland ecology and the special qualities.

36. However, the SPD sets out that such developments can be made acceptable in planning terms through the use of suitable mitigation measures. The SPD states that mitigation will be necessary for a net gain in residential dwellings on the same site, including conversions, and large HMOs. It clarifies, in Appendix B, for every room above 6 in a HMO this would be considered a net gain equivalent to one flat. Therefore, each additional occupied room will require mitigation in accordance with this SPD.
37. The appellant has stated that they accept that a financial contribution towards the mitigation outlined above is required. However, despite stating that a legal agreement would be provided as part of the appeal process no such agreement has been submitted.
38. I have found that the proposal would cause harm to the character and appearance of the area and would fail to preserve or enhance the character or appearance of the CA. Furthermore, I consider that the proposal would fail to provide appropriate living conditions for future occupants. Consequently, the harm I have identified would significantly and demonstrably outweigh the limited benefits of the scheme.
39. If I had come to a different conclusion, it would have been necessary for me to undertake a full AA and give further detailed consideration to the effect of the proposal on the Dorset Heathlands. However, as I am dismissing the appeal for other reasons, I have not pursued this matter further.

Conclusion

40. The proposed development would fail to accord with the development plan and the adverse impacts would significantly and demonstrably outweigh the benefits. There are no other material circumstances which indicate that planning permission should be granted. Therefore, for the reasons given above I conclude that the appeal should fail.

L J O'Brien

INSPECTOR