
Appeal Decision

Site visit made on 30 July 2024

by S D Castle BSc (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 9th September 2024

Appeal Ref: APP/V1260/W/24/3340321
257-259 Ashley Road, Poole BH14 9DY

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant approval required under the Town and Country Planning (General Permitted Development) Order 2015, Schedule 2, Part 3, Class MA.
 - The appeal is made by Mr William Burke (MHH Poole Ltd) against the decision of Bournemouth, Christchurch, and Poole Council.
 - The application Ref is APP/23/01301/PA.
 - The development proposed is change of use from solicitor's office to C3 single occupancy ground floor flat.
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Decision

1. The appeal is allowed and approval is granted under the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015, Schedule 2, Part 3, Class MA for the change of use from solicitor's office to C3 single occupancy ground floor flat at 257-259 Ashley Road, Poole BH14 9DY in accordance with the terms of the application Ref APP/23/01301/PA and the plans submitted with it.

Procedural Matters

2. Paragraph W (10) (b) of Part 3 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (the GPDO) states that the local planning authority shall, when determining an application, have regard to the National Planning Policy Framework (the Framework), so far as relevant to the subject matter of the prior approval, as if the application were a planning application.
3. There is no statutory requirement to have regard to the development plan. Nevertheless, development plan policies may be relevant material considerations insofar as they relate to the matters of the prior approval and assist in their assessment.

Main Issues

4. The GPDO, Schedule 2, Part 3, Class MA, Paragraph M.2 sets out that before beginning development, the developer must apply to the local planning authority for a determination as to whether the prior approval of the authority will be required as to various matters. There is no dispute that the development is acceptable in respect of all matters except the transport and highway impacts of the development.

5. Therefore, the main issues in respect of this appeal are the transport and highway impacts of the development.

Reasons

6. The appeal site is located within a parade of commercial units on the southern side of Ashley Road. At the time of my site visit, the street facing front ground floor room of 259 Ashley Road was being used as a beauty salon. The proposal retains this ground floor commercial floor space at the front of the site. Ashley Road is a busy thoroughfare and high frequency bus route. To the front of the site there are bus lay-bys on both sides of the main carriageway. A narrow lane to the rear of the site provides access to an area of onsite vehicular parking and allows rear servicing opportunities to the beauty salon.
7. The proposal would remove the rear access to the beauty salon rendering the rear parking area ineffective for servicing the commercial unit. It is reasonable to expect that this would lead to increased demand for parking on Ashley Road. The nearest public parking spaces on Ashley Road are in banks adjacent to the carriageway approximately 75m from the site. The Council is concerned that these parking spaces, given their limited availability and distance from the site, are unlikely to be used by vehicles servicing the commercial unit. Consequently, the Council asserts that there would be an increased risk of delivery vehicles parking within the bus lay-by. This would impact on the ability of buses to efficiently access the bus lay-by, resulting in buses waiting on the main carriageway, or stopping partially within the lay-by. In turn, this would impact on the flow of traffic, increase highway safety risks, and force pedestrians off the footway to gain access to buses, which would raise pedestrian safety risks, especially for those with mobility issues.
8. Whilst retaining the rear access would allow for the most efficient delivery of goods to the commercial unit, there is an extant planning permission for a development of studio flats on the rear portion of the site that, when constructed, would remove the ability to park to the rear of the site. The narrow rear lane is of insufficient width to allow the parking of a delivery van and the passing of other vehicles. As such, even if the rear access were to be retained, it would be rendered ineffective for servicing the commercial unit due to the loss of associated off-street parking. The Council's concerns regarding the effect of the appeal development on efficient rear servicing of the commercial unit are, therefore, significantly undermined by the extant permission for the studio flats development.
9. I acknowledge that some delivery drivers visiting the site may choose to stop in unsafe or inconsiderate locations, including in the adjacent bus lay-by. I am not, however, persuaded that the appeal development would materially increase the risk of such occurrences, particularly when the effect of the studio flats development is taken into account. Furthermore, the floor space of the remaining commercial unit would be small scale and therefore unlikely to generate regular deliveries of bulky goods that would benefit significantly from immediately adjacent parking. As such, whilst the public parking capacity in the local area may be limited during certain peak hours, there are, nevertheless, reasonable opportunities for nearby public parking to facilitate the servicing needs of the commercial unit given its small scale.
10. The proposed development would not, therefore, cause harm to highway safety or the efficient operation of the highway network. As such, the transport and

highway impacts of the development are acceptable with regard to Section 9 of the Framework. Furthermore, although Policy PP35 of the Poole Local Plan (2018) seeks to ensure the retention or improvement of rear servicing opportunities, and Policies PP27 and PP34 seek to prioritise the needs of pedestrians, cyclists and public transport users, managing road space in order to improve the quality, reliability and attractiveness of alternatives to the private car, no demonstrable harm would arise in respect of the aims of these policies, particularly when the effect of the studio flats development is taken into account.

Other matters

11. The addition of a new dwelling could result in likely significant effects on the Dorset Heaths Special Area of Conservation and Dorset Heathlands Special Protection Area and Ramsar Site. However, under Article 3(1) of the GPDO, permission is given subject to the provisions of Regulations 75 to 78 of the Conservation of Habitats and Species Regulations 2017 (as amended). This, effectively, places a pre-commencement condition on any approval and requires that the Local Planning Authority must undertake an appropriate assessment of the implications of the development on the European Sites. My decision on this appeal is without prejudice to any future decision in respect of these matters.

Conclusion

12. For the above reasons, the appeal is allowed.

S D Castle

INSPECTOR