

Appeal Decision

Site visit made on 4 September 2024

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

an Inspector appointed by the Secretary of State

Decision date: 11 September 2024

Appeal Ref: APP/V1260/W/24/3342711

Chelsea Hotel, 32 St. Swithun's Road, BOURNEMOUTH, BH1 3RH

- 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 Chrispy Bunns Catering Ltd against the decision of Bournemouth Christchurch and Poole Council.
 - The application Ref is 7-2023-17166-D.
 - The development proposed is Conversion of a hotel (Use Class C1) into a ten-bedroom, eleven person (including caretaker), Co-Living Accommodation (sui generis), including erection of new cycle store.
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues in this appeal are:
 - whether or not the appeal site is a suitable location for the proposed development with particular regard to local planning policy and the effect of the use of the building as a House in Multiple Occupation (HMO) on the character and appearance of the area and on the living conditions of neighbouring residents; and
 - the effect of the proposed bin store and bicycle store on the character and appearance of the area; and
 - whether or not the proposal would provide adequate living conditions for future occupiers with particular regard to the external amenity area and light.

Reasons

3. The appeal site is located on St Swithun's Road between the junctions with Southcote Road and Frances Road. It consists of a substantial semi-detached building set over three storeys with an open basement storey visible in the street scene. The building is finished in grey painted brickwork to the front elevation. To the rear of the property is a garden space which currently accommodates a storage outbuilding.

4. St. Swithun's Road is lined with properties of a similar scale to the appeal property and appears largely residential in character. The specific designs of properties are, however, varied.

Location

5. Policy CS24 of the Bournemouth Local Plan: Core Strategy, October 2012 (CS) states that, in order to encourage mixed and balanced communities, the change of use from a Use Class C3 dwellinghouse to a House in Multiple Occupation (HMO), either Use Class C4 or Sui Generis, 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.
6. The supporting text to the policy sets out that the policy is aimed at continuing to accommodate HMO uses within Bournemouth whilst managing the supply of new HMOs to avoid high concentrations of such uses in an area. The text further states that the National HMO Lobby has identified that a community becomes unbalanced in respect of concentrations of HMOs when the threshold of 10% of properties in HMO use occurs.
7. The supporting text to this policy is clear that high concentrations of HMOs in particular parts of the town have led to negative impacts on the amenities of local residents and on the character of an area. In particular, areas in Boscombe, Charminster, Springbourne and Winton have become the focus of high numbers of HMOs. The appeal site is within the East Cliff and Springbourne ward which is specifically mentioned above.
8. The Council has provided evidence which clearly states that at present 10.9% of units within the area adjacent to the application property are HMOs. The proposal, if approved, would further increase this percentage which is already in excess of the 10% maximum limit.
9. However, the proposal before me is for a change of use from a hotel in Use Class C1 to a HMO. Policy CS24 specifically refers to changes from Use Class C3. Consequently, Policy CS24 of the CS does not apply directly to the proposal and the development would not conflict with this policy.
10. Nevertheless, the aim of Policy CS24 to ensure that an over proliferation of HMOs would not cause harm to the area remains clear and is supported by Saved Policy 6.17 of the Bournemouth District Wide Local Plan, February 2002 (LP).
11. Saved Policy 6.17 sets out the criteria which must be met in order for a HMO to be permitted. Policy 6.17 (i) states that one such criterion is that the proposal must be compatible with the existing character of the area and the amenities of neighbouring residents must not be adversely affected by noise, overlooking, lack of privacy or general disturbance having regard to the nature of the use and the levels of activity which would likely be generated.
12. At present the property is in use as a ten bedroom hotel with separate accommodation for an on-site manager. Each of these bedrooms can accommodate at least two guests, some have the potential to host more.
13. The proposed HMO would retain ten bedrooms with separate accommodation for an on-site caretaker. Consequently, in my view even were the HMO to

accommodate 21 persons as suggested by the Council, the activity associated with the proposed HMO would be likely to be similar to that associated with the hotel when operating at full, or close to full, capacity.

14. Hotel accommodation is highly transient in nature with guests changing regularly. Furthermore, those staying at a hotel would not be likely to have access to facilities to enable them to cook a meal or undertake other day to day activities and would be reliant on coming and going from the hotel to purchase food, for example. In my view, it would not be unreasonable to suggest that the frequency of movements to and from the building would be equal to, or potentially higher, in association with a hotel than those which would be associated with a HMO. Thus, I do not consider that the proposal would have an adverse impact in this respect.
15. I note the other cumulative issues which can be associated with HMOs that have been set out by the National HMO Lobby and included in the evidence for this appeal by the Council. These include anti-social behaviour, parking issues, litter issues and the under-use of community facilities such as schools. This type of problem can, however, also be associated with the use of a building as a hotel and I do not have any compelling evidence before me to suggest that use as a HMO would be significantly more harmful than the existing use in these regards.
16. I accept that the use of the building as a HMO may well lead to an increase in lettings boards in the area. However, in my view, this would not be to such an extent so as to cause undue harm to the character and appearance of the area.
17. I acknowledge the previous appeal decisions¹ which have been included in the Council's evidence as examples of previous Inspector's considerations around conversions to HMOs. However, these decisions both relate to conversion from dwellinghouses and as such the specific statistical restrictions set out in Policy CS24 of the CS are engaged. These decisions are not, therefore, directly comparable to the proposal before me.
18. In this instance, though I note that statistically the proposal would exceed the concentration of HMOs sought by the Council, for the reasons set out above, due to the specific circumstances on site, I consider that the appeal site would be a suitable location for the proposed development with particular regard to local planning policy and the effect of the use of the building as a HMO on the character and appearance of the area and on the living conditions of neighbouring residents.
19. The proposal would, therefore, accord with Policy 6.17 of the LP as it would be compatible with the existing character of the area and the amenities of neighbouring residents would not be adversely affected.
20. In this regard, the proposal would also meet the aims of CS Policy CS41 which seeks to ensure that all development and spaces are well designed and of a high quality.

Character and appearance

¹ APP/G1250/W/17/3191422 and APP/V1260/W/23/3317547

21. The proposal includes a large bin store to the front of the property. The proposed bin store would sit forward of the front elevation of the building and would breach the established building line. The proposed bin store would be a featureless and blank structure which would jut out from the main building and would appear as a visually prominent and intrusive addition to the street scene which would cause harm to the character and appearance of the area.
22. The scheme also includes a large bicycle storage unit which would span the entire width of the building to the rear of the site and would cover a large proportion of the rear garden area. The proposed bicycle store would replace an existing outbuilding on site. However, the proposed unit would be significantly larger than the existing structure. The proposed bicycle store would be a disproportionately large, blank, featureless structure which would dominate the rear of the plot.
23. As such, the proposal would cause harm to the character and appearance of the area and would conflict with Policy CS41 of the CS which seeks high quality design.

Future living conditions

24. Policy 6.17 (iii) of the LP states that HMOs will be permitted where the property has a defined garden or amenity area capable of being used for activities associated with residential use (e.g. clothes drying area and sitting out area) and of a size appropriate to the number of occupiers and the location of the property. Due to the excessively large cycle storage unit, the proposed HMO would retain only a very small garden area to serve all ten individual households occupying the main HMO².
25. The garden would comprise a narrow area at the rear and a strip running along the side of the property, which would need to be left largely clear to enable bicycles to be taken through to the storage unit. The garden area would not provide a desirable space for sitting out due to its diminutive size and impractical shape. Given that the main HMO would be occupied by ten separate households and due to the narrow width, the garden would not provide a practical or large enough space for tasks such as drying clothing; any clothing rack or line would impede others attempting to use the garden and there would not be sufficient space to pass through. The space would be cramped and oppressive and would not be of a sufficient size to readily accommodate even a small number of those wishing to use the garden.
26. Whilst the building benefits from a small patio area to the front, it is not private and would not represent an adequate space for carrying out residential activities.
27. The caretaker's flat would have a small, very narrow, private garden area accessed from the living room. However, this space would be sandwiched between the rear elevation of the property and the bike store which, due to ground levels on site, would sit at a higher level than the main building. As such, the garden area would be extremely enclosed resulting in a dark and unpleasant space.

² This number excludes the caretakers flat which has its own garden area.

28. Furthermore, the proposed bicycle storage would cover almost the entire width of the building and would be in uncomfortably close proximity to the only windows/doors serving the habitable space of the caretaker's flat. As such, those occupying the bedroom or living area of the caretaker's flat would have a poor outlook and levels of light reaching these rooms would not be satisfactory. These issues would be exacerbated by the higher level of the bicycle store.
29. As set out above, I note that there is an existing storage unit in a similar location. However, the proposed bicycle storage unit is around double the size of the unit which is currently in situ and would, consequently, have a far greater effect on the living conditions at that property.
30. Consequently, the proposal would fail to provide adequate living conditions for future occupiers with particular regard to the external amenity area and light. The proposal would, therefore, be contrary to Policy CS41 of the CS. Amongst other things this policy seeks to ensure that development provides a high standard of amenity to meet the day to day requirements of future occupants.

Other Matters

31. I note that the proposal seeks to make the most efficient use of the building and I accept the evidence before me which is not disputed by the parties that the use of the building as a hotel is unviable. However, I consider that alternative proposals for the use of the building which would not cause harm in the way that I have set out above would be possible.
32. I note the appellant's suggestion that details of revised bin and cycle storage could be secured by condition and I acknowledge the suggestions which have been made. However, the evidence before me in this regard is limited and I cannot be entirely satisfied that acceptable designs could readily be accommodated given the constraints on site and it would not be appropriate to secure these details by condition in this instance.
33. There is no dispute between the parties that the Council cannot demonstrate a five year housing land supply. As such, the National Planning Policy Framework (the Framework) advises that planning permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole.
34. The proposal would provide additional units of residential accommodation in a highly sustainable location which would assist, to a limited degree, in boosting the supply of housing in the area. This 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 units utilising local facilities. These benefits are, however, limited by the small scale of the proposal and must be considered in that context.
35. On the other side of the balance, I have found that the proposal would cause harm to the character and appearance of the area and would provide unsatisfactory living conditions for future occupiers. As such, in my view, the

adverse effects of the proposal would significantly and demonstrably outweigh the benefits.

36. The appeal site is within 5Km of a Site of Special Scientific Interest (SSSI). This SSSI is also part of the designated Dorset Heathlands SPA (Special Protection Area) and Ramsar site and is also part of the Dorset Heaths SAC (Special Area of Conservation).
37. 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.
38. 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.
39. The Dorset Heathlands Planning Framework 2020 – 2025 Supplementary Planning Document (SPD) states that developments can be made acceptable in planning terms through the use of suitable mitigation measures. Appendix B of the SPD lists the monetary contributions of various developments to mitigate the negative impact.
40. If I had come to a different conclusion in respect of the main issues outlined above, it would have been necessary for me to undertake a full AA and give further consideration to the likely effectiveness of mitigation measures associated with the protected sites. However, as I am dismissing the appeal for other reasons, this has not been necessary.

Conclusion

41. For the reasons set out above, the proposal is contrary to the development plan. There are no material considerations that indicate that permission should be granted. Therefore, taking all other matters raised into account, the appeal is dismissed.

L J O'Brien

INSPECTOR