

Appeal Decision

Site visit made on 5 September 2024

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

an Inspector appointed by the Secretary of State

Decision date: 03 October 2024

Appeal Ref: APP/V1260/W/24/3337918

Shelley House, 39 Hawkwood Road, BOURNEMOUTH, BH5 1DS

- 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 - JDM Freeholds Ltd / JDM Homes Ltd against the decision of Bournemouth Christchurch and Poole Council.
 - The application Ref is 7-2022-6998-M.
 - The development proposed is demolition of existing block of 8 flats and erection of new block of 9 flats.
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Decision

1. The appeal is allowed and planning permission is granted for Demolition of existing block of 8 flats and erection of new block of 9 flats at Shelley House, 39 Hawkwood Road, BOURNEMOUTH, BH5 1DS in accordance with the terms of the application, Ref 7-2022-6998-M, subject to the conditions in the attached schedule.

Main Issues

2. The main issues in this appeal are:
 - the effect of the proposal on the character and appearance of the area; and
 - the effect of the proposal on the Dorset Heathlands SPA (Special Protection Area), Ramsar Site and Dorset Heaths SAC (Special Area of Conservation).

Reasons

3. The appeal property site is a substantial plot located on Hawkwood Road. At present the site comprises a two and a half storey detached building which contains 8 flats. The existing building has a pitched dark red pantile roof with a cropped gable on the elevation fronting the street with two dormer windows on the side elevations. The building is faced in white painted brickwork with white UPVC windows and doors.
4. The wider area is characterised by large, detached, two and three storey buildings with varied designs. The buildings are largely set back from the road

behind small front garden areas with fairly low level hedges and fences serving as boundary treatments.

5. The proposal is for the demolition of the existing building and the construction of a block of nine flats.

Character and appearance

6. The parties appear to be in agreement that the existing building on site is of no particular architectural merit and the Council are clear that there is no objection to the principle of redevelopment with a contemporary block of flats in this location. I concur with this view.
7. The proposed replacement building would undoubtedly be larger than that which is currently in situ on site. The proposed building would be wider than the existing building and would be sited closer to the side boundaries of the site, reducing the gap between the building and the neighbouring building. However, though I noted a number of gaps between properties along the road the views through these gaps are largely towards other buildings behind and the visual break is consequently fairly limited. Despite the presence of some larger gaps, many of the properties within the area occupy the majority of the width of their plots. Consequently, though the proposal would cover a larger proportion of the plot's width, it would nevertheless remain broadly in keeping with others in the area and would not appear incongruous in this regard.
8. The proposed building would be approximately the same depth as the current building. However, the proposal would not have the same stepped design. As such, the proposed building would present a bulkier and less articulated side elevation to the street. Despite this, the side elevations of the property would be largely screened from view and visually disrupted by neighbouring buildings and by the mature street trees which line Hawkwood Road. As such, the increased bulk of the proposed building would be discreet and would not be prominent in views along the road.
9. The front elevation of the proposed building would comprise two gables which would project slightly forward of a middle section which would host the front door. These gables would reflect others found within the vicinity of the appeal site. Though I note that the set-back of the middle section would be minimal it would, nevertheless, add some degree of relief to the building and would serve to break up the bulk of the front elevation.
10. The glazing to the front elevation of the proposed building would be largely symmetrical with smaller windows closest to the middle section on the ground and first floors and French doors closest to the edges. Though the windows would be of different sizes they would be aligned and would be the mirror image of those on the other gable thus retaining a sense of symmetry.
11. At second floor level, due to the pitch of the roof, the French doors would not be directly aligned with the French doors on the floors below. The doors would, however, be central to each gable and would once again be symmetrical between the two gables. Due to the narrowing of the gable at second floor level, the doors would be fairly close to the soffit. However, in my view, the doors would retain a sufficient distance from the soffit so as not to appear disproportionately large or cramped in appearance.

12. The dormer window within the roof slope at the centre of the building would abut the junctions between the main roof and the gable roof. The dormer would, therefore, appear somewhat cramped within the roofscape of the building. However, due to the minimalist design and complementary colours any harm caused to the character and appearance of the building in this regard would be extremely minor in nature.
13. The proposed fenestration would not be identical to others in the area; for example, the pairs of matching bays which are regularly found along the street. The fenestration would however reflect various design elements found within the wider area where specific building designs are already varied. Indeed, the existing building is visually very different to others nearby. Consequently, this element of the design of the proposal would not appear visually jarring or alien within its context.
14. Overall, the front elevation of the building would appear well balanced and cohesively designed and would sit comfortably within the street scene. For the reasons set out above, the proposal would reflect the pattern of development in the locality and would not result in an overly dominant building within the street scene.
15. The proposal would, therefore, accord with the aims of policies CS21 and CS41 of the Bournemouth Local Plan: Core Strategy, October 2012 (CS), saved Policy 6.10 of the Bournemouth District Wide Local Plan (February 2002) and policies BAP1 and BAP2 of the Boscombe and Pokesdown Neighbourhood Plan. Amongst other things these policies seek to ensure that all development is well designed and of a high quality.
16. The development would also meet the expectations of The National Planning Policy Framework (The Framework) which promotes high standards of design and states that developments should be visually attractive and sympathetic to the character of the area.
17. The aims set out within The National Design Guide Para 53 which states that well-designed new development is influenced by 'the scale and proportions of buildings' and 'façade design, such as the degree of symmetry, variety, the pattern and proportions of windows and doors, and their details' would also be met.

Protected sites

18. The application site is within the vicinity (within 5 km and beyond 400m) of Dorset Heathlands which is identified as a European Protected Site for the special interest of its heathland habitats and associated plant and animal species. The Council originally included a reason for refusal stating that, due to a lack of mitigation, the proposal would have an adverse effect on the protected sites. However, during the course of the appeal a Unilateral Undertaking (UU) was submitted which the Council agreed addressed their concerns in this respect.
19. 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.

20. The proposed development would introduce an additional residential unit to the area. In my view, the additional residential unit 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.
21. However, The Dorset Heathlands Planning Framework 2020 – 2025 Supplementary Planning Document (SPD) sets out that such developments can be made acceptable in planning terms through the use of suitable mitigation measures. In this case, mitigation measures have been identified and the appellant has provided an executed Unilateral Undertaking (UU) which would secure a contribution towards their implementation.
22. It would appear that it is now a matter of agreement between the parties that, subject to appropriate mitigation, there would be no harm in this respect. Natural England concur with this view.
23. The submitted UU would, in my view, be sufficient to successfully secure the appropriate mitigation and, on the basis of the evidence before me, I have no reason to doubt that the proposed mitigation would be appropriate and would achieve its aims of protecting the sensitive sites. For these reasons, I am satisfied that the proposal would not cause harm to the Dorset Heathlands SPA (Special Protection Area), Ramsar Site and Dorset Heaths SAC (Special Area of Conservation). The proposal would therefore, accord with Policy CS33 of the CS which sets out that development will not be permitted unless it can be ascertained that the development will not lead to an adverse effect upon the integrity, directly or indirectly, of the Dorset Heaths international designations.

Other Matters

24. There is no dispute between the parties that the Council cannot demonstrate a five-year housing land supply. The addition of a new dwelling which would contribute towards the housing 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 dwellings utilising local facilities. These benefits are, however, limited by the small scale of the proposal and must be considered in that context.

Conditions

25. The Framework makes clear that planning conditions should be kept to a minimum, and only used where they satisfy the following tests: necessary, relevant to planning, relevant to the development to be permitted, enforceable, precise and reasonable in all other respects.
26. In the interests of precision and clarity I have undertaken some minor editing and rationalisation of the conditions proposed by the Council. Alongside the standard time limit condition, I have imposed a condition specifying the relevant plans as this provides certainty.

27. In order to safeguard the character and appearance of the area I have imposed a condition requiring the submission of details/samples of the external materials to be submitted to and approved by the Council.
28. To meet the Council's aims of promoting sustainable travel I have included a condition requiring the submission of a scheme for secure cycle parking. I have, however, amended this condition from that suggested by the Council as, in my view, it is not necessary for this scheme to be approved prior to the commencement of development but rather prior to occupation.
29. To ensure satisfactory drainage would be provided I have imposed conditions requiring hard surfaced areas to be made of porous materials or to direct run-off to a permeable or porous surface. For the same reason I have also included a condition requiring the development to be completed in accordance with the drainage strategy provided as part of the application.
30. With the aim of protecting the living conditions of those living nearby I have imposed conditions regarding the hours of operation of the site and the control of construction dust.
31. To ensure that the proposed development includes a long-term management plan for the collection of refuse in the interests of visual and residential amenities I have included a condition requiring a refuse management plan.

Conclusion

32. For the reasons set out above, and having regard to all other matters raised, I allow the appeal.

L J O'Brien

INSPECTOR

Schedule of 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: 1162 02 P01, 1162 P02, 1162 02 P03, 1162 02 P04, 1162 02 P05, 1162 02 P06 rev. B, 1162 02 P07 rev. C, 1162 02 P08 rev. C and 1162 02 P09 rev. A.
- 3) Notwithstanding any details shown on the approved plans, no development above ground floor slab level of any part of the development hereby permitted shall take place until details/samples of all materials to be used in the construction of the external surfaces of the development (bricks, render and tiles) have been submitted to and approved in writing by the Local Planning Authority. Development shall be carried out in accordance with the approved details.
- 4) The development hereby permitted shall not be occupied until details of secure cycle parking facilities have been submitted to and approved in writing by the Local Planning Authority. The approved facilities shall be fully implemented and made available for use prior to the first occupation of the development and shall thereafter be retained for use at all times.
- 5) Any new or replacement hard surfaced area(s) shall either be made of porous materials, or provision shall be made to direct run- off water from the hard surface to a permeable or porous area or surface within the curtilage of the property.
- 6) All on-site working, including demolition and deliveries to and from the site, associated with the implementation of this planning permission shall only be carried out between the hours of 8 a.m. and 6 p.m. Monday - Friday, 8 a.m. and 1 p.m. Saturday and not at all on Sunday, Public and Bank Holidays unless otherwise agreed in writing with the Local Planning Authority.
- 7) The development shall be undertaken in accordance with the (Drainage Strategy and SuDS Statement Rev C, Novera May 2023) unless otherwise submitted and approved in writing with the Local Planning Authority. The works shall be fully implemented in accordance with the approved scheme before the development is brought into use, or as set out in the approved phasing details.
- 8) The development hereby permitted shall not be occupied until a scheme for the storage of refuse and recycling has been submitted to and approved in writing by the Local Planning Authority. The scheme shall include: details of the management company to be set up; the employment of a private contractor to collect the refuse; measures to be taken if no private contractor is available at any time in the future (such as the employment of a person or persons to ensure bins are wheeled to the collection point); and that bins will not be stored in the open or at the collection point apart from on the day of collection. The scheme shall be carried out and provided in full in accordance with the approved details prior to first occupation of the development and the refuse and recycling storage facilities shall thereafter be retained for use at all times.

9) The development shall not be commenced until a scheme specifying the provisions to be made to control dust emanating from the site has been submitted to and approved in writing by the Local Planning Authority. The agreed scheme shall then be implemented in full before the proposed development is started, including demolition and site clearance.