



Appeal Decision

Site visit made on 22 October 2024

by S Harrington MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 14th November 2024

Appeal Ref: APP/V1260/W/23/3334891

Land to the rear of 77-79 Alma Road, fronting Bingham Road, Winton, Bournemouth, BH9 1AD

- 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 Mr B Jesty, Bluewaters Investments Ltd against the decision of Bournemouth Christchurch and Poole Council.
 - The application Ref is 7-2023-28665-A.
 - The development proposed is to demolish existing garages and erect pair of semi-detached dwellings accessed from Bingham Road.
-

Decision

1. The appeal is allowed and planning permission is granted to demolish existing garages and erect pair of semi-detached dwellings accessed from Bingham Road at Land to the rear of 77-79 Alma Road, fronting Bingham Road, Winton, Bournemouth, BH9 1AD in accordance with the terms of the application, Ref 7-2023-28665-A and subject to the conditions in the attached schedule.

Applications for costs

2. An application for costs has been made by Mr B Jesty, Bluewaters Investments Ltd against Bournemouth Christchurch and Poole Council. This application is the subject of a separate decision.

Preliminary Matters

3. During the appeal process, a revised Unilateral Undertaking under Section 106 of the Town and Country Planning Act 1990 (as amended) dated 13th May 2024 (UU) was submitted. The UU seeks to secure a financial contribution towards mitigation of additional recreational pressures upon the Dorset Heathlands Special Protection Area, and the Dorset Heaths Special Area of Conservation and Ramsar sites (the habitats sites). Given the UU, the Council have confirmed they no longer seek to defend their fifth reason for refusal.

Main Issues

4. The main issues are:
 - the effect of the proposal on highway safety;
 - the effect of the proposal on the character and appearance of the area;
 - whether the proposal would provide acceptable living conditions for future occupiers, with particular regard to internal space, privacy and outlook;

- the effect of the proposal on the living conditions of neighbouring occupiers with regard to noise and disturbance; and
- whether the proposal would result in an unacceptable risk to construction workers and future occupiers from contamination.

Reasons

Highway safety

5. The appeal site is accessed via Bingham Road, which is subject to areas of no waiting restrictions and a number of 'speed table' speed reduction features. The local highway authority has highlighted that speed tables are designed to slow down traffic and to allow pedestrians to informally cross on the top of the table where speeds are at their lowest.
6. A speed table is located directly adjacent the proposed vehicular access to plot 2. Consequently, vehicles accessing the parking area of plot 2 would be required to traverse the speed table to gain access, and given the lack of turning area, would need to reverse over the speed table either into or out of the proposed parking area.
7. At the time of my visit, I observed a high level of on-street parking along Bingham Road, including on speed tables, with the speed tables successfully reducing the speeds of passing traffic. I also observed pedestrians utilising the speed tables to cross the highway.
8. Notwithstanding, vehicular accesses, with some over similar speed tables, are a common characteristic of the area, and therefore it would not come as a surprise to users of the highway for vehicles to be accessing parking spaces. The proposal would provide sufficient pedestrian visibility splays to allow both pedestrians and vehicle drivers adequate visibility of manoeuvring cars, and given the slow speeds I witnessed approaching and over the speed tables, drivers would have sufficient opportunity to safely access and egress plot 2 without undue risk to safety to users of the highway.
9. Furthermore, as I have found that the access to the parking associated with plot 2 is acceptable and given the appeal site provides for sufficient quantum of parking in accordance with the Parking Standards Supplementary Planning Document (January 2021) (PSSPD), I do not find that the proposal would significantly exacerbate on-street parking stress that would lead to highway safety concerns.
10. The Council also suggests that the proposal would dislocate parking spaces associated with 77b Alma Road. However, the appellant states that the existing garages are sublet, and are not associated with 77b Alma Road. Even if there were to be a level of dislocation of parking, on-street parking is nevertheless available in the locality. Whilst this appeared well used at the time of my visit, which was only a snapshot in time, I have no substantive evidence that any additional on-street parking as a result of the proposal would result in significant highway safety concerns.
11. Consequently, I conclude that the proposal would not have a harmful effect on highway safety and would accord with policies CS16, CS18 and CS41 of the Bournemouth Local Plan: Core Strategy (October 2012) (CS). These policies, amongst other things, seek to ensure development provides appropriate

parking provision and promotes travel by a range of sustainable transport modes. The proposal would also accord with the guidance provided within the PSSPD in relation to parking and the provisions of the National Planning Policy Framework (Framework) regarding achieving safe and suitable access to the site and highway safety.

Character and appearance

12. The appeal site is located within a residential area featuring dwellings of traditional appearance and architectural features such as red brick and render elevations under pitch roofs, many with hips, bay windows and a mix of predominantly detached and semi-detached dwellings. Furthermore, the set back of dwellings from the highway behind a large number of parking areas as well as some small gardens contribute to the suburban character of the area.
13. The appeal site, whilst providing a gap between two storey built form, currently appears rather incongruous and out of character with the area due to the stark appearance of the garage block and associated expanse of hardstanding. It therefore does not positively contribute to the character and appearance of the area.
14. The proposal would inevitably diminish the visual gap provided by the existing garages. Notwithstanding, the proposal would still result in gaps between the proposed dwellings and 5 Bingham Road and 77 Alma Road which would not appear out of context or character with the existing spacing seen between dwellings in the locality.
15. The width of the proposal is similar to other semi-detached dwellings that I observed elsewhere in the area, whilst the setback of the proposal would continue the staggered step back of dwellings along this side of Bingham Road. Furthermore, modest areas of landscaping to the side of parking areas would further soften the appearance of the proposal. In combination, I find the proposal would appear as a natural progression of the surrounding pattern of development and not appear as over-development or cramped within the street scene.
16. Moreover, the appearance of the proposed dwellings, due to the use of numerous architectural features such as render and brick elevations under a hipped pitch roof, with tile clad canted bay windows and finer details such as brick string course and mullion window divides would further help assimilate the proposal into the street scene. The resulting development would not appear as visually jarring or out of character with surrounding built form.
17. To conclude, the proposal would not harm the character and appearance of the area. It would accord with CS policies CS21 and CS41, and Policy 6.8 of the Bournemouth District Wide Local Plan (2002) (LP). These policies seek, amongst other things, for development to be well designed and respect and enhance the character of the area. The proposal would also accord with guidance provided within the Council's 'Residential Development – A Design Guide (2008)' (SPD), and the provisions of the Framework which seek to provide well designed and beautiful places.

Future occupiers living conditions

18. The main parties have referred to the 'Technical housing standards – nationally described space standard (2015)' (NDSS), although the standards

provided within the NDSS have not been adopted within the development plan. Nevertheless, they do provide useful guidance in terms of acceptable internal space requirements.

19. Although the Council argue that the properties could be 4 person dwellings, the second bedroom is of a size which, with reference to the NDSS, would only be suitable for 1 person. Furthermore, although my attention is drawn to the layout of the properties and provision of a hot water tank/airing cupboard, I find no substantive evidence that the layout is such that bedrooms are artificially small as is suggested by the Council. On the contrary, the layout provides for an appropriate level of storage, as well as comfortable and useable internal and external living space within a logical floorplan.
20. Moreover, even if window separation distances are below guidance provided within the SPD, the available distances are similar to that experienced elsewhere within the area. Furthermore, given oblique angles to adjacent houses, the proposal would not result in an unacceptable effect on privacy of future occupiers of the proposal, or indeed that of neighbouring occupiers, or a harmful lack of outlook.
21. My attention has also been drawn to an appeal decision¹ elsewhere within the Council area. The Inspector within that appeal decision also found that the NDSS were a good starting point for assessing whether the proposed accommodation is satisfactory. However, in that instance, the Inspector found that the proposed flats were well below the minimum size requirement, and in combination with the configuration and single aspect, that scheme would result in the creation of cramped accommodation significantly undermining the living conditions of future occupiers. Therefore, that appeal proposal materially differs from the proposal before me.
22. Consequently, I conclude that the proposal would provide acceptable living conditions for future occupiers, with particular regard to internal space, privacy and outlook. In these respects, it would accord with CS policies CS21, CS41 and LP Policy 6.8. These policies, amongst other matters, requires that new development provides adequate privacy and living conditions for its occupants. The proposal would also accord with the provisions of the Framework which seeks to provide a high standard of amenity for future users.

Neighbouring occupiers living conditions

23. Whilst not currently fully utilised, the existing use of the appeal site could create activity at the site and attract associated movements. The activity associated with two dwellings even if differing to that of garages, would not be out of character or unexpected within this predominantly residential area. Moreover, given the separation distances of the proposal to surrounding dwellings, there is no substantive evidence before me that the proposal would result in a significantly harmful increase in noise and disturbance.
24. I therefore conclude that the proposal would not harm living conditions of neighbouring occupiers with regards to noise and disturbance. It would accord with CS policies CS21 and CS41 and LP Policy 6.8, which amongst other matters requires that new development respects living conditions of neighbouring occupants. The proposal would also accord with the provisions of

¹ APP/V1260/W/20/3253614

the Framework which seeks to provide a high standard of amenity for existing users.

Contamination

25. Although a matter of dispute between the main parties, and having regard to the e:mail trails provided by both parties, the substantive evidence before me indicates that a Phase 1 Contamination Assessment Report² (CAR) was submitted to the Council during the application process.
26. This CAR has been updated following a previous contamination assessment report at the appeal site. This outlines that following a desktop survey and site walkover, no evidence of potentially contaminative processes or materials within or adjacent to the site were identified. Furthermore, while noting that fuel ingress into underlying ground could be a theoretical possibility given the use as domestic garaging, the CAR concludes that the site is considered to be low risk with regards to contamination, radon and landfill gas and no remedial measures are considered to be necessary in these regards.
27. I find that whilst acknowledging the constraints of the CAR, and in the absence of any contrary substantive evidence to the contrary, it provides sufficient reassurance of the low risk of the site. A planning condition can be imposed to ensure that any unencountered contamination at the appeal site that becomes evident can be sufficiently dealt with.
28. Although the appellant's comments in relation to Construction (Design & Management) regulations are noted, asbestos sheeting has been identified, and there is no indication within the evidence of measures that would be taken under differing legislation. As such it is reasonable for this matter to be dealt with by the imposition of an appropriately worded planning condition.
29. I therefore conclude that the proposal would not result in unacceptable risks to construction workers and future occupiers from contamination. The proposal would therefore accord with CS Policy CS38 which, amongst other things, requires development to minimise potential pollution by way of waste material or existing potentially polluting sources.

Other Matters

30. An interested party has raised concerns including those in relation to the future use of the proposal as a House in Multiple Occupation (HMO), effect on the surrounding area during building works and future sales value of their property. Even if it is the case there is pressure for dwellings in the area to be used as HMOs, I am required to assess the appeal on the basis of the development proposed, that being two modestly sized dwellings. Any disturbance during the construction period would be short-term and times of construction are capable of being controlled by condition. Furthermore, it is a long-established principle that the planning system does not exist to protect private interests such as the value of land and property.
31. The site lies within 5km of the habitats sites. The Conservation of Habitats and Species Regulations 2017 (Habitats Regulations) require that permission may only be granted after having ascertained that the development will not affect the integrity of the habitats sites.

² Ref: P221020a Sept 2023

32. The Dorset Heathlands Planning Framework 2020-2025 Supplementary Planning document (April 2020) (SPD) advises that the Dorset Heathlands is designated for protected and 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.
33. The habitats sites are an important recreational resource, and it is likely that occupants of the proposal would visit. On this basis, it cannot be ruled out that the proposal, when considered alone or cumulatively with other schemes, would have significant effects on the features of interest of the habitats sites due to increased recreational use.
34. To seek to mitigate against such effects, the UU secures financial contributions in accordance with the Council's approach to strategic mitigation, which will contribute towards the delivery of Strategic Access Management and Monitoring.
35. I am satisfied, on the basis of the evidence before me, and following consultation with Natural England that the UU provides a sufficient mechanism to enable the delivery of proportionate strategy to mitigate the effects of development which could affect the habitats sites.
36. I therefore find following Appropriate Assessment, that with the proposed mitigation measures in place, secured through the UU, the development would not have an adverse effect on the integrity of the habitats sites.

Conditions

37. The Council has provided a list of suggested conditions in the event of the appeal being allowed, which I have assessed and, where necessary, amended wording with regard to the advice provided in the Planning Practice Guidance. In addition to the standard time condition, it is necessary for a condition to confirm the approved plans in the interests of certainty.
38. A pre-commencement condition is necessary to obtain a detailed surface water management scheme in order to prevent increased flooding and to improve and protect water quality. A condition is also necessary to restrict hours of construction in order to protect neighbouring occupiers living conditions during the construction period.
39. Given the appellant's CAR, a condition as suggested by the Council requiring a further phase I contamination risk assessment is not necessary. However, conditions relating to unexpected contamination, together with an asbestos risk assessment are necessary to ensure the safety of construction workers and neighbouring occupiers during the construction period and the safety of future occupiers.
40. In order to protect the character and appearance of the area, conditions are necessary to ensure external finish materials, hard and soft landscaping (including boundary treatments) are appropriate and help successfully assimilate the proposal into the street scene.
41. Further conditions are necessary to ensure vehicular parking, cycle and bin stores and visibility splays are in place in the interests of highway safety and the promotion of alternative modes of transport. However, elements of the

conditions requiring any redundant lowered kerbs are re-instated, or removal of permitted development rights in relation to boundary treatments has not been demonstrated as being reasonable or necessary given the context of the proposal, appeal site and condition ensuring visibility splays are maintained.

42. A condition is necessary to ensure the proposal contributes to and enhances the natural and local environment. Conditions are also necessary to ensure obscure glazing is fitted to windows on the southern and northern elevations to protect future and neighbouring occupiers living conditions.
43. Conditions have been suggested in relation to ground levels, soundproof glazing, removal of certain permitted development rights, and restriction to the planning use class. In terms of ground levels, the submitted plans illustrate existing levels and finished floor levels. Therefore, such a condition is not necessary.
44. Given the surrounding residential uses, and Bingham Road being a relatively quiet residential street, it has not been demonstrated that a condition requiring soundproof glazing is necessary or reasonable.
45. The Framework outlines that national permitted development rights should not be restricted unless there is clear justification to do so. In this instance, given the spatial relationships to other properties and size of outdoor living space, the removal of the suggested permitted development rights is not necessary.
46. Finally, Given the location of the appeal site within a residential area and having regard to the size of dwellings proposed, a condition restricting the use class of the new dwellings is not necessary.

Conclusion

47. For the reasons given above the appeal is allowed.

S Harrington

INSPECTOR

Annex

Conditions

- 1) The development hereby permitted shall begin not later than three years from the date of this decision.
- 2) The development hereby approved shall only proceed in accordance with the details contained on the list of approved drawings as follows: 2022-09-12 Block Plan; 2022-09-13 Site Plan; 2022-09-14 Site Plan - Technical; 2022-09-15 Floor Plans; 2022-09-16 Elevations; 2022-09-17 Street Elevation; and 2022-02-15 Cycle storage cabin.

- 3) No development shall take place until a detailed surface water management scheme for the site, based on sustainable drainage principles; the hydrological & hydrogeological context of the development; available capacity of receiving systems; and providing clarification of how drainage is to be managed during construction, has been submitted to, and approved in writing by the local planning authority. The surface water scheme shall be implemented in accordance with the submitted details before the development is completed.

Any proposed infiltration features should be supported by infiltration testing to BRE365 standards at location and depth commensurate with proposed features.

Management and maintenance requirements and responsibility for all drainage features should be clearly provided.

- 4) Demolition, construction works or deliveries to and from the site, including the operation of site machinery or plant, associated with the implementation of this planning permission shall only be carried out between the hours of 08.00 – 18.00 Monday - Friday, 08.00 – 13.00 on Saturday, and not at all on Sunday, Public and Bank Holidays.
- 5) Any contamination that is found during the course of construction of the development hereby permitted that was not previously identified shall be reported immediately to the local planning authority. Development on the part of the site affected shall be suspended until a risk assessment has been carried out and submitted to and approved in writing by the local planning authority. Where unacceptable risks are found, the development shall not resume or continue until remediation and verification schemes have been carried out in accordance with details that shall first have been submitted to and approved in writing by the local planning authority.

- 6) Prior to the demolition of the garage block structure, a detailed asbestos risk assessment in respect of the garage block, which must identify all non-licensed and notifiable non-licensed asbestos removal work and detail appropriate controls, shall be submitted to and approved in writing by the local planning authority. Any asbestos removal work shall thereafter be undertaken in accordance with the assessment.
- 7) Prior to their installation, samples of all external facing materials (including render, brick, roof and hanging tiles, windows and doors) shall be submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved sample details.
- 8) Within 3 months of the date of commencement of the development, details of both hard and soft landscape works shall be submitted to and approved in writing by the local planning authority. These details shall include:
 - earthworks showing existing and proposed finished levels or contours;
 - Surfacing materials (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);
 - boundary treatments (including the positions, height, design, and finish materials/colour). All boundary enclosures to the site shall include provision for 1no. hedgehog gap at ground level (13cm by 13cm) every 10m length erected;
 - Planting plans;
 - Schedule of plants;
 - Implementation timetable; and
 - maintenance plan.

The landscaping works shall be carried out in accordance with the approved details before either or both of the new dwellings hereby permitted are first occupied in accordance with the agreed implementation programme. The completed scheme shall be maintained in accordance with an approved scheme of maintenance.

- 9) Before either or both of the new dwellings hereby permitted are first occupied, the:
 - Vehicular access arrangements;
 - Vehicle parking spaces;
 - Electric Vehicle charging infrastructure and equipment;
 - Cycle parking stores; and

- Pedestrian gates to the rear gardens to/from the bin stores;

shall be constructed, installed or surfaced in accordance with approved plan 2022-09-14 Site Plan - Technical, and thereafter, permanently retained and kept available for the use of the occupants and visitors of the development for their intended purpose at all times.

10) Before either or both of the new dwellings hereby permitted are first occupied, the pedestrian visibility splays as shown on the approved plan 2022-09-14 Site Plan - Technical, shall be cleared of all obstructions over 0.6m in height above ground level and no fence, wall or other obstruction to visibility over 0.6m in height shall be erected within the area of the splay at any time during the lifetime of the development.

11) Before either or both of the new dwellings hereby permitted are first occupied, biodiversity enhancements shall be incorporated into the development as follows:

a) Either

- 2no. Build-in bird nest box with a 32mm entrance hole to be built into the eastern and western external walls of the new dwellings hereby approved, placed at least 2m above ground level; and/or
- 2no. Build-in Swift Nest Box to be built into the external, eastern and western facing wall of the new dwellings hereby approved, built in at a height of not less than 5m above ground level.

b) And:

- 1no. bee brick to be incorporated into the east facing external wall of each dwelling hereby approved. It should be placed in a warm sunny spot at a minimum height of 1m, with no vegetation obstructing the holes.

Once installed the mitigations should be retained and maintained in working order for the lifetime of the development.

12) Prior to the first occupation of either or both of the dwellings hereby approved, the proposed ground and first floor windows to both the southern and northern elevation walls shall be fitted with obscure glazing to a level equivalent to Pilkington Level 3 or above (or the nearest equivalent standard, where 5 is opaque and 1 is clear) and shall be permanently maintained with obscured glazing for the lifetime of the development.

End of Conditions