



Appeal Decision

Site visit made on 5 December 2024

by **C Butcher BSc MA MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 08 January 2025

Appeal Ref: APP/V1260/W/24/3341472

20-22 Florence Road, Bournemouth BH5 1HF

- 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 HB Properties & Lettings Ltd against the decision of Bournemouth Christchurch and Poole Council.
 - The application Ref is 7-2022-5672-O.
 - The development proposed is the erection of a 4 storey block of 22 flats with bin and cycle stores and associated landscaping.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The description of development was altered during the course of the application. As such, I have used the description as provided on the Council's decision notice and the appellant's appeal form.

Main Issues

3. The main issues are: (i) the effect of the proposed development on the character and appearance of the area, including whether it would preserve the setting of the Church of St. Andrew, a Grade II listed building, and that of the Boscombe Manor Conservation Area; (ii) whether the proposed development would provide a suitable mix of housing; (iii) whether the proposed development would make adequate provision for affordable housing; (iv) the effect of the proposed development on the living conditions of future occupiers, as well as the occupiers of No. 24 Florence Road, with particular regard to outlook, daylight, privacy and access to outdoor private space; and (v) whether the proposed development would be constructed in a sustainable manner, taking account of development plan policies.

Reasons

Character and Appearance

4. The appeal site is a relatively large plot of land within a predominantly residential area of Bournemouth. The buildings in the immediate area do vary in terms of design, but in the main, they form large, detached homes or blocks of flats, with the majority being two or three storeys in height. Despite the size of the buildings, they generally sit within large plots and have reasonable gaps between them. As such, the area does have a relatively spacious feel. The site itself was previously occupied by a care home, which with its mansard roof, comprised of three storeys.

5. Immediately opposite the site is the Grade II listed Church of St. Andrew. Its significance and special interest as a designated heritage asset, in so far as it is relevant to this appeal, is drawn in-part from its relevance to the historic evolution of the town, its distinctive architectural features, and its role and function as a visual and social landmark. Mindful of the statutory duty set out in s66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990, I have had special regard to the desirability of preserving its setting. The site is also immediately adjacent to the Boscombe Manor Conservation Area.
6. While the care home has since been demolished, it appears from the evidence before me that it was of more modern construction than many of the buildings nearby, and its overall design contributed little to the character and appearance of the area. Indeed, the appellant's heritage consultant has suggested that it would have detracted from the significance of the church to a small degree. Based on the evidence before me, I agree with that assessment. Nevertheless, the harm would have been mitigated to a large extent by the fact that the care home would not have been a dominant feature in the street scene due to its overall mass and design.
7. The proposed development would involve the construction of a block of flats. There are elements of the design which, when considered in isolation, would conform pleasingly with local character. I also note that its overall footprint would be less than that of the previous care home.
8. However, the proposed building would be noticeably wider than the care home, and at roof level, it would have a significantly greater mass as a result of the expansive pitched roof and four front facing gables which would include sliding doors and balconies. As such, it seems clear to me that it would feel bulkier and much more imposing than the previous building. Indeed, while in reality the additional height would be limited, the fact that it would comprise four storeys would provide a clear perception of a more significant building.
9. This would be exacerbated by the fact that the previous low wall and planting, which formed a continuous frontage to the care home, would be broken up to a large degree. While I recognise the need to make efficient use of land, including increasing densities, this must be done in a sustainable manner. In this instance, I am of the view that the proposed building would appear to dominate the church opposite, thereby resulting in a much greater level of harm than was previously the case. The fact that the existing buildings either side of the appeal site are of a similar height to the proposed block of flats does not alter this conclusion.
10. The proposed windows within the eastern elevation would be of a variety of different designs, including those that would be horizontally aligned as well as protruding oriel style windows. This lack of cohesion in the fenestration would, in my view, look extremely odd and poorly designed. While this elevation would not face the church, it would still be seen within the same context as the listed building when travelling west along Florence Road. In addition, the proposal includes the provision of eight bins. While the bin stores would be underground, the receptacles for placing refuse in would be close to the street with little in the way of screening. I recognise that bins need to be located in areas where they can be accessed. However, due to their number and visibility, the bins would be a clear and obvious feature which would also lead to harm to the significance of the church.

11. It is inevitable that the harm that I have described would also extend to the character and appearance of the area more generally, as well as the setting of the Conservation Area, which in part, is experienced via the medium range views along Florence Road. Indeed, the visual dominance of the proposed building would erode the existing feeling of spaciousness in the immediate area to a large extent.
12. The proposal would have a negative effect on the significance of a designated heritage asset and would result in 'less than substantial harm'. In these circumstances, the National Planning Policy Framework (the Framework) requires that this harm must be weighed against public benefits. Great weight must be given to a designated heritage asset's conservation and any harm to its significance requires clear and convincing justification.
13. In this instance, the proposal would provide 22 flats on a brownfield site in a sustainable location. There would also be potential for enhanced biodiversity on site. In combination, I must afford these benefits significant weight. Nevertheless, I find that the benefits do not outweigh the less than substantial harm that I have identified. Indeed, the identified level of harm to the setting of the listed building alone would be substantial.
14. As a result of these considerations, I conclude that the proposed development would result in significant harm to the character and appearance of the area and would not preserve the settings of the Grade II listed church or that of the adjacent Conservation Area. It would therefore conflict with Policies CS6, CS21, CS39 and CS41 of the Bournemouth Local Plan Core Strategy, 2012 (the LP), Policy 6.10 of the Bournemouth District Wide Local Plan, 2002 as well as Policies BAP1, BAP2 and BAP7 of the Boscombe and Pokesdown Neighbourhood Plan, 2019 (the NP). Taken together, the relevant aspects of these policies seek to ensure that development is well designed and that it preserves character and appearance, including the significance of designated heritage assets. I do not find conflict with LP Policy CS38 given that it covers the minimisation of pollution.

Mix of Housing

15. For new developments, NP Policy BAP6 requires 50% of units to have three bedrooms or greater, 40% to have two bedrooms and 10% to have one bedroom. In this instance, the proposed development would provide two flats with one bedroom (9%), fourteen with two bedrooms (64%), and six with three bedrooms (27%).
16. Therefore, while the provision of one bedroom dwellings complies with the policy, it is clear that there would be a fairly significant over provision of two bedroom flats, and as a result, an under provision of three bedroom flats. On that basis, the proposed mix would not comply with the NP.
17. The appellant has provided a copy of a table from the Council's Housing Needs Assessment (November 2021), which was produced after the NP was 'made'. This establishes that, for market housing, there is a need for 35% of dwellings to have two bedrooms. Therefore, even based on these figures, the proposed dwelling mix would not be sufficient.

18. As a result, I find that the proposed development would conflict with NP Policy BAP6 and LP Policies CS6 and CS21, the relevant aspects of which seek to deliver an appropriate mix of housing.

Affordable Housing

19. Policy AH1 of the Affordable Housing DPD (AH DPD) states that all residential developments should contribute towards meeting a target of 40% affordable housing unless it has been demonstrated that doing so would be financially unviable.
20. In support of the planning application, the appellant provided a Viability Report, dated May 2023. The Report concludes that the proposed development could not support any affordable housing. In contrast, the Council's officer report includes an extract from the response submitted by the District Valuer which states that a policy compliant development, that includes nine affordable units, would be viable.
21. I note that in paragraph 9.2 of their statement, the appellant confirmed that they would be willing to enter into a legal agreement to provide the required affordable housing. However, as part of their final comments, they have suggested that more recent viability evidence has again demonstrated that provision of affordable housing would not be viable, and as such, a legal agreement has not been provided as part of this appeal.
22. It does not appear that I have a copy of the more recent viability evidence before me. As a result, I can see no reason to deviate from the position outlined by the District Surveyor, particularly as this represented a more recent appraisal than that contained within the appellant's Viability Report from May 2023. The Council has suggested a condition to require the appropriate number of affordable units. However, in itself, this is not sufficient in the absence of a legal agreement.
23. For those reasons, I conclude that the proposed development would conflict with AH DPD Policy AH1 which seeks to deliver an appropriate number of affordable homes.

Living Conditions

24. The proposed development would include several windows within the eastern elevation that would face the neighbouring building at No. 24 Florence Road. It is likely that there would be some opportunities for overlooking as a result, although the plans show that this would be reduced to some degree by the use of obscured glazing. However, the eastern elevation of the care home also contained windows, and as such, it does not appear to me that the potential for overlooking would be any greater as a result of the proposed development. I therefore do not find harm in this regard. Furthermore, the windows would provide sufficient outlook for future occupiers.
25. With regards to private outdoor space, the LP does not appear to contain any specific requirements for flatted developments. I acknowledge that six of the properties would not have access to private space in the form of balconies or patios, and that where balconies would be provided, these would be fairly small. However, a reasonable amount of shared outdoor space would be provided to the rear of the building. It is not unusual for the occupiers of flats to rely on shared outdoor space, and as such, I can see no harm in relation to this issue.

Furthermore, the site is within walking distance of Shelley Park and Boscombe Cliff Gardens.

26. Three of the proposed flats would be north facing and single aspect. The appellant has provided a Daylight Study, produced by HDSgreentech. The study concludes that the internal spaces of all three flats would achieve recommended levels of light in accordance with BRE guidance. I can see no reason to disagree with these findings.
27. As a result, I conclude that the proposal would provide suitable living conditions for future occupiers, as well as the occupiers of No. 24 Florence Road, with particular regard to outlook, daylight, privacy and access to outdoor private space. It would therefore conform with LP Policies CS6, CS21 and CS41 as well as NP Policy BAP7 and the guidance contained within Residential Development: A Design Guide, September 2008. The relevant aspects of these policies and guidance seek to provide adequate living conditions for all.

Sustainable Construction

28. The Council's officer report notes that there is a lack of information provided in terms of the way in which the development would be adapted to mitigate the impacts of climate change. Among other things, this would include provision of charging points for Ebikes, sustainable drainage and the use of green roofs and landscaping. I note that some aspects have been met, including a landscaping scheme and a drainage strategy. I am satisfied that other elements, such as ensuring that 10% of predicted energy use is provided via renewable sources, could be secured via an appropriately worded condition.
29. As such, I find that the scheme would not conflict with LP Policies CS2, CS6 and CS41, as well as NP Policy BAP2. Taken together, the relevant aspects of these policies seek to ensure that development is well designed, including by mitigating the impacts of climate change.

Other Matters

30. The Council has concluded that the development would be harmful to several designated sites, including a Special Protection Area and Special Area of Conservation. The appellant has produced a unilateral undertaking (UU) to address this matter. It is not clear whether the Council is satisfied by the content of the UU. However, given that I am dismissing this appeal, I am not required to consider this matter further.

Conclusion

31. I have found harm in relation to the effect of the proposed development on character and appearance, including the setting of a Grade II listed building. As such, it would conflict with the development plan as a whole, notwithstanding the fact that I have not found harm in relation to living conditions or sustainable construction.
32. The Council cannot currently demonstrate a 5-year supply and the current shortfall is significant. I have no evidence before me to suggest that this position is likely to improve in the short-term. The tilted balance is not invoked, however, because the Framework at Paragraph 11d(i) and footnote 7 protects both areas and assets of particular importance, which include designated heritage assets, and provides a

clear reason to dismiss the appeal. Indeed, I have set out that the benefits of the scheme would not outweigh the harm to a designated heritage asset. I have also found additional harm in relation to housing mix and the lack of affordable housing, although these matters would attract substantially less weight given the land supply position.

33. Nevertheless, for the reasons given, the appeal is therefore dismissed.

C Butcher

INSPECTOR