



Appeal Decision

Site visit made on 20 November 2024

by Bhupinder Thandi BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 23 January 2025

Appeal Ref: APP/V1260/W/23/3327258

The Captains Club Hotel, Wick Lane, Christchurch BH23 1HU

- 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 FiveM Developments against the decision of Bournemouth Christchurch and Poole Council.
 - The application Ref is 8/22/1069/FUL.
 - The development proposed is an extension to the existing hotel to create additional hotel bedrooms and suites and ancillary plant rooms.
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Decision

1. The appeal is allowed and planning permission is granted for an extension to the existing hotel to create additional hotel bedrooms and suites and ancillary plant rooms at The Captains Club Hotel, Wick Lane, Christchurch BH23 1HU in accordance with the application 8/22/1069/FUL subject to the schedule of conditions set out at the end of this decision.

Preliminary Matters

2. The Government published a revised National Planning Policy Framework (the Framework) on 12 December 2024. Those parts of the Framework most relevant to this appeal have not been amended. As a result, I have not sought submissions on the revised Framework, and I am satisfied that no interested parties have been prejudiced by my approach.
3. The appellant has submitted a certified copy of a Unilateral Undertaking (UU) providing a financial contribution towards mitigating the impact of the proposed development upon habitat sites. I have addressed this in my reasoning below.

Main Issues

4. The main issues are:
 - The effect of the proposed development upon the living conditions of nearby occupiers with regard to overlooking, light pollution and disturbance;
 - The effect upon the integrity of the Dorset Heathlands Special Protection Area (SPA), Ramsar and the Dorset Heaths Special Area of Conservation (SAC); and
 - The effect of the proposed development upon the River Avon Special Area of Conservation (SAC);

Reasons

Living conditions of existing occupiers

5. The appeal site comprises The Captains Club Hotel which occupies a prominent position on the River Stour. The hotel has a modern appearance incorporating large amounts of glazing and is a distinctive landmark feature within the area.
6. The area is generally mixed in character comprising the hotel, a rowing club and residential development. In this context located to the north are three storey dwellings on Creedy Drive with habitable rooms and balconies facing the rear of the hotel. The highway and a pay and display car park separate the built form of the dwellings and hotel with hedgerow and trees defining the common boundary.
7. The proposal would introduce areas of glazing in the elevation facing Creedy Drive where there are currently very few. There would be windows serving a total of 30 rooms and on this basis, I acknowledge that the sense of being overlooked as well as the levels of privacy would likely change. However, the key question is whether unacceptable harm to the living conditions of occupiers would arise or would the resultant development and associated levels of privacy be appropriate and reasonable bearing in mind the presence of the hotel and the surrounding context.
8. There is no adopted numerical guidance in respect of separation distances between residential properties and commercial uses. In this regard, the consideration of the impact of the proposal upon the living conditions of existing occupiers of nearby houses is one of planning judgement based on the merits of the scheme.
9. The appellant's Overlooking Analysis document indicates that separation distances would vary but there would be a minimum distance of just over 26m between the hotel room windows proposed and 29 Creedy Drive and a distance of around 31m between the hotel and No 21 and I have no substantive evidence before me to dispute the distances set out in this assessment.
10. In my judgement and having regard to the surrounding context the separation and the greater mass and height of the proposal would be acceptable. There would be adequate separation between the windows proposed and nearby dwellings. In any case such relationships between windowed elevations are not unusual in built up areas, such as this.
11. Furthermore, the spatial relationship between the resultant development and nearby dwellings would be more generous than those generally found locally. There would be limited opportunity for direct overlooking of balconies, into windows and garden areas on account of the overall distances involved between the hotel and nearby dwellings. Accordingly, I am satisfied that the proposed development would not give rise to an unacceptable degree of overlooking that would lead to a loss of privacy.
12. Taking into account the internal layout of the hotel bedrooms and that the outlook from these rooms is onto vehicle parking areas it is unlikely that hotel patrons would spend significant periods of time at windows. It is more likely that they would use the room as a base to rest and refresh prior to and after utilising the hotel facilities or enjoying the local area. In my view the proposal would not result in unduly intrusive views into habitable rooms or balconies

from hotel bedrooms. Consequently, I am not persuaded that the proposed development would lead to existing residents altering their behaviour when in their properties.

13. The hotel has 17 bedrooms and 12 suites. The proposal would result in 29 extra rooms and 7 suites and a commensurate increase in the number of guests. Whilst the bulk of the rooms would be to the rear there are no roof terraces facing the car park and the position of the hotel entrance and facilities including the bar and restaurant would remain along the river's edge. As such, noise from occupation of the rooms is unlikely to be perceivable from outside. In addition, a condition has been imposed limiting noise from plant and machinery.
14. With the increased number of bedrooms and suites there would be additional pedestrian and vehicular activity, however, it is not an inevitable consequence that it would give rise to unacceptable levels of noise or anti-social behaviour. I am also mindful that higher noise levels are to be expected in mixed commercial areas and areas of tourist activity.
15. Hotel windows would be illuminated throughout periods of darkness but considering the comings and goings associated with patrons' independence and own work or leisure routines it is likely that lighting window conditions would be constantly changing. There is nothing to suggest that internal light levels would be excessively bright. Given the variable nature of internal lighting and that in evenings curtains would be typically drawn I am satisfied that obtrusive light spill would not occur. Furthermore, it is likely that when patrons are not in their room the key card system would turn off lights.
16. As such, I am satisfied that there would be no harmful loss of privacy, light intrusion or disturbance for existing occupiers. The proposed development would therefore accord with Policy HE2 of the Christchurch and East Dorset Local Plan Part 1 – Core Strategy (2014) (CS) which, amongst other things, requires new development to be compatible with its surroundings in terms of its relationship with nearby properties.

Impact upon the Dorset Heathlands SPA, Ramsar and Dorset Heaths SAC

17. The appeal site lies within close proximity to the Dorset Heathlands SPA, Ramsar site and the Dorset Heaths SAC. The Dorset Heathlands are an extensive network of lowland heath recognised for their importance for nature conservation. As such, it is recognised by the Conservation of Habitats and Species Regulations 2017 (the Regulations) as an area of international importance.
18. Adopting a precautionary principle and without mitigation new residential development is likely to have a significant effect on the sensitive interest features of the habitat sites, from human pressures and increased nitrogen levels either alone or in combination with other proposals causing harm to nature conservation. It is necessary for me, as the competent authority for the purposes of the Regulations, to conduct an Appropriate Assessment (AA) in relation to the effect of the development on the integrity of the SPA, Ramsar and SAC sites.
19. The Dorset Heathlands Planning Framework Supplementary Planning Document (SPD) provides a strategic mitigation framework to secure the appropriate

avoidance or mitigation measures. The document sets out Strategic Access Management and Monitoring Measures which require a mitigation payment per residential dwelling from all new development within close proximity to the protected habitat sites.

20. Provided mitigation can be secured, in the form of a developer contribution, it can be concluded proposals would not have an adverse effect on the integrity of the habitat sites from recreational disturbance, when considered either alone or in combination with other proposals.
21. The appellant has submitted a signed and dated UU which commits them to a financial contribution towards measures outlined in the SPD. I am satisfied that the contributions would sufficiently mitigate the development's impact on the integrity of the SPA, Ramsar Site and SAC.
22. As such, the proposal would accord with CS Policy ME2 and the SPD which, amongst other things, seek to protect the Dorset Heathlands.

Impact upon the River Avon SAC

23. The appeal site falls within the catchment of the River Avon SAC. It is a large lowland river system that is recognised by the Regulations as an area of international importance for its various aquatic species.
24. The River Avon SAC is in an unfavourable condition due to high levels of nutrients. New overnight accommodation development has the potential to cause adverse effects either alone or in combination with other developments through discharge, within the river catchment, of additional phosphate and thus potentially harming the water quality of the River Avon SAC.
25. Adopting a precautionary approach - the conservation objectives of the habitat site may be undermined and thus it is necessary for me, as the competent authority for the purposes of the Regulations, to conduct an AA in relation to the effect of the development on the integrity of the River Avon SAC.
26. The appellant has put forward mitigation, in the form of purchasing nutrient credits from the Bickton Strategic mitigation scheme, which I am told is the Natural England approved scheme for the River Avon SAC. In this regard, the appellants have received confirmation from Pennyfarthing Homes who operate the mitigation scheme that sufficient capacity would be available to provide the proposed development with credits.
27. Natural England has confirmed that the proposed measures would be sufficient to avoid an adverse impact to the integrity of the habitat site in relation to its specified qualifying features. Accordingly, based on the evidence before me there is reasonable certainty that the necessary mitigation can be delivered and secured by way of a Grampian condition.
28. As such, I am satisfied that the impact of the development as proposed could be mitigated and that a likely significant effect on the integrity of the River Avon SAC would not occur.

Other Matters

29. There is no doubt that the local environment would change on account of the increase in the maximum height of the hotel, the overall bulk and mass of the development and the introduction of new fenestration to the rear. However, it

would not be significantly taller than nearby dwellings with a recessed top floor. The design of the building would also taper down at the edges reducing its physical and visual impact. As such, there would not be an unacceptable change to the outlook experienced by occupiers in views so as to materially harm their living conditions.

30. There is no substantive evidence that the proposed development would unacceptably block sunlight or daylight to neighbouring dwellings. As such, I give this very limited weight in coming to my decision.
31. The Council's Parking Standard Supplementary Planning Document (SPD) indicates that the resultant optimum car parking provision would be 49 spaces. There is a privately operated pay and display 47 space car park immediately next to the hotel which is available for hotel guests and members of the public. This would provide a convenient option for most visitors. Even if this was at capacity patrons would have the option of parking at either Willow Way or Mayors Mead public car parks. Whilst capacity may be reduced due to use of the slipway at the Mayors Mead car park by boat enthusiasts this would be short term and does not significantly undermine its availability.
32. Whilst some suites would have more than one bedroom it is not necessarily the case that they would generate more vehicular demand. It is conceivable that visitors such as groups or families may well choose to book a suite rather than multiple rooms and travel together in one vehicle. Furthermore, visitors would also have the option to arrive at the hotel via taxi and therefore not generate a need for parking spaces. As such, I am satisfied that sufficient parking spaces exist locally to serve the proposed development.
33. Given the period of time patrons would spend at the hotel, either using its facilities or for overnight stays, visitors are likely to park considerately in designated areas rather than in an indiscriminate manner. It would be at the discretion of others under different legislation to enforce any perceived traffic or parking contraventions.
34. I have been provided with photographic evidence demonstrating instances of flooding close to the site. The application is supported by a site-specific Flood Risk Assessment and Drainage Strategy and there is no substantive evidence, before me, to suggest that the development would increase the risk of flooding locally or that the overall strategy proposed would not be sufficient to serve the development. Furthermore, conditions have been imposed for the detailed drainage strategy including its implementation and long-term maintenance and for an emergency flood plan.

Conditions

35. I have considered the imposition of conditions in accordance with the Framework and the Planning Practice Guidance.
36. In addition to the standard time limit condition, I have imposed a condition specifying the approved plans as this provides certainty. Conditions for details of the external materials, soft landscaping and external lighting have been imposed in order to ensure the satisfactory appearance of the development. In the interests of sustainability a condition for an energy statement and sustainable construction scheme is considered necessary.

37. In order to safeguard the living conditions of nearby residents a condition for a Demolition and Construction Environmental Management Plan and maximum noise levels from plant and machinery have been imposed.
38. The Council has suggested a condition for improvement of the National Cycle Network route. However, sufficient justification as to why this condition is necessary has not been provided. As such, the condition has not been imposed. A condition for parking and cycling provision has also been suggested. The existing parking layout is to remain unaltered and thus the condition has been amended to require the provision of cycle parking only.
39. So as to minimise flood risk conditions for a sustainable drainage system and an emergency flood plan are necessary. The Council has suggested a condition for the finished ground floor levels to accord with the submitted site section plan and for flood resilient measures. However, in my view, sufficient justification for the particular flood resilient measures outlined has not been provided and the proposal would have to be carried out in accordance with the approved plans. As such, this condition is not necessary and has not been imposed.
40. In the interests of biodiversity conditions for a mitigation scheme in respect of the River Avon SAC and a Biodiversity Site Enhancement Plan have been imposed. Finally, a condition for the works to be carried out in accordance with the submitted Arboricultural Method Statement is considered reasonable so as to protect nearby trees.
41. The Council has suggested a condition restricting construction hours. However, such matters would form part of the Demolition and Construction Environmental Management Plan and therefore a separate condition is not necessary.

Conclusion

42. For the reasons set out above the appeal succeeds.

B Thandi

INSPECTOR

Schedule of conditions

- 1) The development hereby permitted shall begin not later than three years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with drawing nos Site Location Plan Drawing Number 004 Rev B; Existing GA Ground & First Floor Plan Drawing Number 001; Proposed GA Second Floor & Roof Plan Drawing Number 002; Existing GA Elevations Drawing Number 003; Existing Site Plan Ground Floor Drawing Number 005; Existing Site Plan Roof Plan Drawing Number 006; Proposed Site Plan Ground Floor Drawing Number 007 Rev A; Proposed Site Plan Roof Plan Drawing Number 008 Rev A; Proposed Site Section Drawing Number 009 Rev A; Proposed GA Ground & First Floor Plans Drawing Number 100 Rev A; Proposed GA Second & Third Floor Plan Drawing Number 101 Rev A; Proposed GA Roof Plan Drawing Number 102 Rev A; Proposed GA Elevations Drawing Number 200 Rev A; 3D Views Drawing Number 201 Rev A and 3D Views 2 Drawing Number 202 Rev A.
- 3) No development shall take place unless proposals for the mitigation or offsetting of the impact of phosphorus arising from the development on the River Avon Special Area of Conservation, including mechanisms to secure the timely implementation of the proposed approach, have been submitted to and approved in writing by the local planning authority. Such proposals must:
 - a. Provide for mitigation which achieves a phosphorous neutral impact from the development; and
 - b. Provide details of the manner in which the proposed mitigation is to be secured. Details to be submitted shall include arrangements for the ongoing monitoring of any such proposals which form part of the proposed mitigation measures. The development shall be carried out in accordance with and subject to the approved proposals.
- 4) No development shall take place until an energy strategy and sustainable construction scheme has been submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved details.
- 5) No development shall take place until a Demolition and Construction Environmental Management Plan has been submitted to and approved in writing by the local planning authority. The Demolition and Construction Environmental Management Plan shall be adhered to throughout the construction period for the development.
- 6) No development shall take place until a detailed surface water drainage scheme for the site, based on sustainable drainage principles, has been submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved details. The sustainable drainage system shall be managed and maintained

- thereafter in accordance with an approved management and maintenance plan.
- 7) No development, above ground, shall take place until details and samples of the materials to be used in the construction of the external surfaces of the proposed development hereby permitted have been submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved details and samples.
 - 8) No development, above ground, shall take place until details of the soft landscape works have been submitted to and approved in writing by the local planning authority. The landscaping works shall be carried out in accordance with the approved details before any part of the development is first occupied. The planting shall be carried out in the first planting and seeding seasons following completion of the development; and any trees or plants which within a period of 5 years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species.
 - 9) All building services plant (including air conditioning unit and any air handling plant) shall be sited and designed in order to achieve a rating level (BS4142:2014) of 5dB below the background noise levels determined in Section 4 of the Plant Noise Assessment carried out by 24 Acoustics, dated 16th February 2023 (Ref; R9895-1, Rev 0). Within 6 months of the first use of any of the new plants hereby approved, a noise assessment shall be submitted to and approved in writing by the local planning authority.
 - 10) The development hereby permitted shall not be occupied until the cycle parking facilities have been provided in accordance with the approved plans. Thereafter those spaces shall be retained for the parking of cycles only.
 - 11) The development shall be carried out in accordance with the Arboricultural Impact Assessment and Method Statement dated November 2022.
 - 12) No external lighting is to be installed other than in accordance with a scheme which has first been submitted to and approved in writing by the local planning authority.
 - 13) The development hereby permitted shall not be occupied until an updated Biodiversity Site Enhancement Plan has been submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved details and the Ecological Assessment dated October 2022.
 - 14) The development hereby permitted shall not be occupied until an emergency plan in the event of a flood event has been submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved details and the plan maintained for the lifetime of the development.