



Appeal Decision

Site visit made on 14 January 2025

by K Reeves BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 25 March 2025

Appeal Ref: APP/V1260/W/24/3343185

Monaco Court, Charminster Road, Bournemouth BH8 9QZ

- The appeal is made under Section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant approval required under Article 3(1) and Schedule 2, Part 20, Class A of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended).
 - The appeal is made by Woodlands Property (Dorset) Limited against the decision of Bournemouth Christchurch and Poole Council.
 - The application Ref is 7-2023-2851.
 - The development proposed is erection of additional storey to accommodate 2 flats.
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Decision

1. The appeal is dismissed.

Preliminary Matter

2. The appellant submitted amended plans with the appeal to provide secure covered cycle storage. It is apparent that the plans were submitted to the Council but were not registered and taken into account by the Council when it determined the planning application. The Council have commented that those amended plans do not address the second reason for refusal. Following the Council's comments, the appellant submitted further amended plans with their final comments to increase the size of the cycle store.
3. The '*Procedural Guide – Planning Appeals – England*' advises that if an appeal is made, the appeal process should not be used to evolve a scheme. The *Holborn Studios Ltd*¹ judgement established that there are two tests that must be considered separately, namely a substantive test and a procedural test. The proposed amendment would introduce a new building for a cycle store near to the boundary of the site with a residential property where there is currently no building. The amendment would materially alter the nature of the scheme and potentially prejudice the interests of interested parties. As such, the proposed amendment involves a substantial difference, and it would cause procedural unfairness to interested parties were I to accept it. As such, it has not formed part of my assessment of this appeal.

Background & Main Issues

4. Schedule 2, Part 20, Class A of the Town and Country Planning (General Permitted Development) (England) Order 2015 (the GPDO) permits development consisting of works for the construction of up to two additional storeys of new

¹ *Holborn Studios Ltd v The Council of the London Borough of Hackney* [2017] EWHC 2823 (Admin)

dwellinghouses immediately above the existing topmost residential storey on a building which is a purpose-built, detached block of flats.

5. Development under Class A is not permitted if it would conflict with any of the limitations set out in Paragraph A.1. It must also comply with the conditions set out in Paragraph A.2. In addition, Paragraph B establishes the procedure for applications for prior approval under Part 20, Class A. The Council has not identified any conflict with Paragraph A.1 or B. It therefore considers that the proposal would fall within the scope of permitted development rights, subject to the consideration of relevant matters of prior approval set out in Paragraph A.2 and I see no reason to find otherwise.
6. The Council refused prior approval in respect of two matters set out at Paragraph A.2, that are (1)(a) transport and highways impact of the development, and (1)(g) impact on the amenity of neighbouring premises. As before, I have no evidence to dispute the Council's conclusions in respect of the other sub-sections of Paragraph A.2.
7. Therefore, the main issue is whether prior approval should be granted having regard to (a) the impact on the amenity of the neighbouring premises with particular regard to outlook and privacy, and (b) the transport and highway impacts with particular regard to cycle storage and local transport objectives.

Reasons

Amenity of neighbouring premises

8. Monaco Court is a three storey detached block of flats. The proposal would provide two extra flats through the addition of a fourth floor. The appeal building is located on a corner plot adjacent to the junction of Charminster Road and Charminster Avenue. There are vehicular entrances from both of those roads and off-street parking is available within the site.
9. Paragraph A.2.(1)(g) relates to the impact on the amenity of neighbouring premises, including overlooking, privacy and the loss of light. However, the scope of this prior approval matter is not limited solely to those amenity issues which are listed. Given the close proximity to 445 Charminster Road (No 445) and 7 Charminster Avenue (No 7), consideration of the potential effects on the outlook of neighbouring occupiers is within scope.
10. The appeal building is angled towards the side elevation of No 445, which is a dormer bungalow. The windows in the side elevation of No 445 face Monaco Court. No 445 is on higher ground level than the appeal site and the side windows are therefore level with the first floor of the appeal building. Monaco Court is therefore a noticeable presence in the outlook from those windows. However, the boundary fence and existing mature planting softens that impact somewhat. The increase in height of the appeal building would result in it being more dominant in the outlook from the side windows as it would rise significantly above the fence and planting. Due to its scale, height and siting, and its proximity from No 445, the additional storey proposed would be unacceptably overbearing and oppressive on the occupiers of that neighbouring property.
11. The existing mature planting also provides an element of screening of the side windows and the outdoor amenity space at the side of No 445 from the existing

building at Monaco Court. However, during the winter month that I visited the site, when the trees had lost their leaves, it was possible to look directly into the side windows and outdoor amenity space of No 445 from the existing building. The additional flats would be at a height in relation to No 445 where the downward angle to the side windows in that property would be such that, when combined with the existing planting, there would not be an increased loss of privacy in the rooms served by those windows nor the outdoor amenity space.

12. Adjacent to the side elevation of Monaco Court is No 7, which is a bungalow that is also on higher ground level than the appeal site. To the side of No 7 is the driveway and parking area that serves that property. In front of, and behind, the dwelling are outdoor amenity spaces that are laid out as garden. The appeal building is sufficiently distanced from the garden spaces to the extent that the outlook from those areas of the neighbouring property would not be materially affected by the proposal. There would be an increase in dominance of the appeal building on the driveway and parking area but given that it is already a fairly imposing structure when viewed from that part of the neighbouring property, and having regard to the lack of material harm caused to the outlook from the garden spaces, the proposed development would not be unacceptably overbearing and oppressive on the occupiers of that neighbouring property.
13. For these reasons, despite the absence of material harm to the privacy enjoyed by the occupiers of No 445 and the outlook from No 7, I conclude that the proposed development would have harmful impact on the living conditions of the occupiers of No 445 in respect of the outlook from that property. Consequently, the proposal would not accord with Condition A.2.(1)(g) of Schedule 2, Part 20, Class A of the GPDO.

Transport impact

14. The Council's second reason for refusal sets out that the proposal does not include the requisite level of cycle parking provision. The Parking Standards Supplementary Planning Document (2021) (SPD) advises that cycle parking is part of meeting the local transport objective of encouraging cycling to reduce the use of private motor vehicles. The SPD guidance indicates that one secure covered cycle space per bedroom should be provided on site. The two proposed flats would have two bedrooms each and four cycle spaces are therefore required.
15. The plans submitted with the planning application did not include cycle storage. As explained earlier, amended plans have been submitted during the appeal process but I have not been able to accept them. As such, on the basis that no cycle storage is shown on the originally submitted plans, the proposal would not provide adequate and suitable cycle storage facilities that would help to meet local transport objectives.
16. For these reasons, I conclude that the proposal would have unacceptable transport and highway impacts with particular regard to cycle storage and local transport objectives. Consequently, the proposal would not accord with Condition A.2.(1)(a) of Schedule 2, Part 20, Class A of the GPDO.

Other Matters

17. I am aware that the site lies within the vicinity (within 5km and beyond 400m) of the Dorset Heathlands Special Protection Area, Dorset Heathlands Ramsar and

Dorset Heaths Special Area of Conservation, which are afforded protection under the Conservation of Habitats and Species Regulations 2017 (as amended). The appeal proposal would result in the net increase of two dwellings. However, as I am dismissing the appeal as the proposed development would not constitute permitted development in any case, it is not necessary for me to consider this particular issue further.

18. The concerns expressed regarding the Council's conduct during the processing of the application fall outside of the remit of this decision.

Conclusion

19. For the reasons given above and having had regard to all other matters raised, the appeal should be dismissed.

K Reeves

INSPECTOR