



Appeal Decision

Site visit made on 12 June 2025

by **Lewis Condé BSc, MSc, MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 17th July 2025

Appeal Ref: APP/V1260/W/24/3354650

98 Lowther Road, Bournemouth BH8 8NS

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission under section 73 of the Town and Country Planning Act 1990 (as amended) for the development of land without complying with conditions subject to which a previous planning permission was granted.
- The appeal is made by European Emerging Markets Limited against the decision of Bournemouth Christchurch and Poole Council.
- The application Ref is 7-2023-25256-B.
- The application sought outline planning permission for the demolition of the existing building and the erection of a block of 9 flats with cycle and bin stores without complying with conditions attached to planning permission Ref 7-2021-25256-A, dated 23 September 2022.
- The conditions in dispute are Nos 1, 5 and 9 which state that:
 - (1) *"The development hereby permitted shall be carried out in accordance with the following approved plans: Existing Floor plan 98 Lowther Rd, Existing Elevations 98 Lowther Rd, J.26.2021-01b Block & Location plan, Proposed Floor layout plan J.26.2021-03e, Proposed Elevation plan J.26.2021-04a, Proposed Bin & Cycle stores J.26.2021-05 & Comparative layout plan 96 & 96 Lowther Rd J.26.2021-03"*
 - (5) *"All first floor windows, with exception of the upper panes to windows serving habitable rooms, in the east and west elevations (as indicated on drawing number J.26.2021-04a), shall be glazed with obscure glass to a level equivalent to Pilkington Level 3 or above (or the nearest equivalent standard) and fixed shut and shall be permanently retained as such unless otherwise agreed in writing by the Local Planning Authority"; and*
 - (9) *"The tree protection measures as detailed in the Arboricultural impact assessment & method statement ref: DS/14821/AC dated 16 November 2021 and prepared by Treecall Consulting Ltd shall be implemented in full and in accordance with the approved timetable and maintained and supervised until completion of the development"*.
- The reasons given for the conditions are:
 - (1) *"For the avoidance of doubt and in the interests of proper planning"*.
 - (5) *"To ensure the privacy of the occupiers of the development and the adjoining residential property and in accordance with Policy CS41 of the Bournemouth Local Plan: Core Strategy (October 2012)"*.
 - (9) *"To ensure that trees and other vegetation to be retained are not damaged during construction works and to accord with Policy 4.25 of the Bournemouth District Wide Local Plan (February 2002)"*.

Decision

1. The appeal is dismissed.

Preliminary Matters

2. I am also the Inspector appointed to determine an appeal¹ on the adjacent site. Given the similarities in site and development contexts between the appeal schemes, there is a degree of likeness between my decisions. However, each decision has been made upon the schemes' individual merits.

¹ Appeal Reference: Appeal Ref: APP/V1260/W/24/3352682 - 96 Lowther Road, Bournemouth BH8 8NS

3. Main parties have highlighted a discrepancy with the submitted plans whereby a window is shown to provide access to a proposed balcony/terrace area as opposed to a door. If planning permission were to be approved, a condition could be attached to rectify this issue.

Background and Main Issues

4. Outline planning permission (ref: 7-2021-25256-A) for a block of 9 flats at the appeal site was granted in 2022, with all matters approved except for landscaping. The appellant is now seeking to erect a block of flats of a different design to that approved under the outline permission, by removing conditions that contain details of the approved plans/drawings and, where relevant, replacing them with conditions specifying alternative plans.
5. The main issue is the effect of the proposal on:
 - i) the character and appearance of the area;
 - ii) the living conditions of neighbouring residents in respect of overbearing impacts and loss of outlook; and
 - iii) the living conditions of potential future residents in respect of provision of external amenity space and privacy.

Reasons

Character and Appearance

6. No. 98 Lowther Road is an existing sizeable, detached property in a predominantly residential area. The streetscene consists of primarily large, detached dwellings, set in generous plots. There is a diversity in the precise design and appearance of buildings within the street, including as result of properties having been extended or altered. Nonetheless, the surrounding built form retains a strong sense of cohesion. This is largely due to dwellings being well architecturally designed, with similarities in scale, siting and proportions, and often containing detailing reflective of the arts and crafts movement.
7. The single storey elements of the appeal proposal would be constructed together with the remainder of the development, such that their materiality would align, and they would form an integral part of the building rather than later extensions. Nevertheless, they would result in the appeal development being of considerable depth. Additionally, despite the use of appropriate materials, the flat roof elements would have little sense of cohesion with the remainder of the proposed building. This is due to their rather rudimentary design and lack of finesse, which harmfully dilutes the architectural quality of the proposal.
8. The appeal plot is large and so the proposal would not appear cramped within the site, while there is not a uniform building line to the rear of properties along the street. However, and taking account of the size of the extant permission, it remains that the proposed building would be disproportionate in scale compared to the nearby built form.
9. The considerable depth and mass of the development, and its flat roof elements, would not be prominent from public vantage points, but would remain apparent

from neighbouring properties. Moreover, irrespective of its degree of visibility the proposed development is of an unsuitable design quality.

10. The proposal would therefore have an adverse effect on the character and appearance of the area. As such, it conflicts with Policies CS21 and CS41 of the Core Strategy (adopted 2018) (the Core Strategy), as well as saved Policy 6.10 of the Bournemouth District Wide Local Plan (adopted 2002) (the Local Plan). Together, amongst other things, these require that development be of a high-quality design, reflective of its surroundings.

Living Condition of Neighbours

11. The proposed development would be sited close to the boundary with no. 100 Lowther Road (no. 100). The neighbouring building also sits near the shared boundary and has been partially extended to the rear. Nevertheless, the proposed development would project a considerable distance past its rear elevation. Notably, the neighbouring property appears to contain a habitable room at ground floor level, near the boundary, with an outlook to the rear.
12. The appeal proposal would extend further alongside the shared boundary with no.100 than the extant permission due to the incorporation of a single storey element. Regardless of the flat roof nature of the single storey element, the overall depth and height of the proposed development, together with its proximity to no. 100, would result in a significant sense of enclosure to the neighbouring property, both to the garden area and rear facing ground floor room. As such, the considerable extent of built form proposed would result in overbearing impacts and a harmful loss of outlook to residents at no. 100.
13. The fact that the proposed bike store would be set further into the appeal site's garden does not overcome my above concerns, particularly as the bike store would remain near the boundary with the adjacent property and would also add a sense of enclosure to no. 100. Nor does the fact that permitted development rights may allow for development near a boundary to be of a similar height as the single storey elements suitably justify the appeal scheme.
14. Turning to the effects of the proposal on no. 96 Lowther Road (no. 96), there again appears to be a habitable room at ground-floor level, near the boundary with the appeal site, which has an outlook to the rear. The appeal scheme would involve a combination of single and two-storey development near the shared boundary with no. 96.
15. The depth of built form near the boundary with no. 96 would notably exceed that approved under extant permission (ref: 7-2021-23976-C). Indeed, the depth the proposal together with its massing and close relationship to no. 96 would result in a dominant form of development, which would cause harmful overbearing impacts and a loss of outlook to residents of the existing neighbouring property.
16. There is an extant planning permission for the redevelopment of no. 96. If that permission was built out, the appeal proposal would not substantially extend beyond the rear elevation of the neighbouring property. This however is not within the appellant's control. Even if I were to accept that the extant permission at no. 96 would be constructed, such that this current appeal scheme would not result in harmful effects on those neighbouring occupiers, it remains that the appeal

proposal would still cause harm to the living conditions of residents at no. 100 for reasons previously outlined.

17. Overall, I find the proposal would harm the living condition of neighbouring residents in respect of overbearing impacts and loss of outlook. Accordingly, the proposal conflicts with Core Strategy Policies CS21 and CS41, and Saved Policy 6.10 of the Local Plan. Amongst other matters, these seek to ensure that development respects the amenities of neighbouring residents.

Living Condition of Potential Future Residents

18. No adopted policies or guidance that identify specific size requirements for private or communal gardens have been put before me. The Council's Residential Development Design Guide Supplementary Planning Document (adopted 2008) does though set out qualitative considerations in relation to the provision of amenity space for new developments. It also highlights that private balconies and communal gardens can be good ways of providing private external space for future occupiers of development.
19. Three of the proposed units would have access to private external amenity space in the form of a balcony area or enclosed rear garden space. These areas would provide sufficient space for occupants of the respective units to sit/relax outdoors, as well as undertaking activities such as drying of clothes. Additionally, the private external spaces are each well related to their respective units.
20. A communal garden space would also be available to occupiers of the proposed development. Although smaller than that in the previously approved scheme, the proposed communal garden area would remain of a rather generous size. Some of the communal garden would be located alongside the proposed bike store, whilst other parts would be near trees and their canopies, resulting in some shading. Still, the size and layout of the proposed communal garden remains suitable to serve the needs of the potential future occupants.
21. Meanwhile, the appellant has indicated a willingness to provide appropriate landscaping as well as communal facilities, such as a barbeque area, to make the main garden space an attractive area for future residents to utilise. The precise details of which could be suitably secured via reserved matters and/or a relevant planning condition. A pleasant and high-quality external garden area would therefore be capable of being provided.
22. Subject to a condition requiring the installation and retention of obscurely glazed screening to the proposed roof terrace (to serve Flat 5), I am satisfied that the private garden space for proposed Flat 1 would not be harmfully overlooked. The appellant has indicated a willingness to accept such a condition. Accordingly, the potential future residents of the development would also be provided with a suitable level of privacy.
23. Overall, the proposed development would not harm the living conditions of potential future residents with regards to access to outdoor space and privacy. With regards to this main issue, the appeal scheme therefore complies with Core Strategy Policies CS21 and CS41 and Saved Policy 6.10 of the Local Plan, in so far as they seek to ensure developments provide appropriate living conditions for future residents.

Other Matters

24. Although the proposal would have an adverse effect on the character and appearance of the area, I have not found there to be any harm to the setting of the nearby Portchester Road Conservation Area. This is because the scale and siting of the proposed development, together with intervening vegetation/built form, would prevent the proposal from being experienced alongside the special characteristics of the conservation area in any meaningful way.
25. The appeal site lies within the zone of influence for sites designated under the Habitat Regulations, namely the Dorset Heathlands Special Protection Area (SPA), Site of Special Scientific Interest (SSSI) and Ramsar site, as well as the Dorset Heaths Special Area of Conservation (SAC).
26. The Habitat Regulations require that permission may only be granted after having ascertained that it will not affect the integrity of the relevant protected sites. However, as I am dismissing the appeal on other grounds it has not been necessary for me to consider this further, including whether a deed of variation to the previous S.106 legal agreement would continue to secure appropriate mitigation measures.

Planning Balance & Conclusion

27. I have found no harm in respect of the effects of the proposal on the living conditions of potential future occupiers of the appeal scheme. In terms of the planning balance, the lack of identified harm is a neutral factor.
28. The appeal scheme would result in the net delivery of eight new residential units, in a location with good access to facilities and services. There would be socio-economic benefits associated with their delivery, during both construction and their subsequent occupation. Such benefits would largely also be secured via the previous permission (ref: 7-2021-25256-A), which the appellant has indicated continues to be extant. Given the previously identified harm, I do not share the appellant's views that the proposal would make a more efficient use of the land. Nonetheless, and taking account of the mix of units to be provided, as well as the potential enhanced living conditions to future residents, I still give moderate weight to the benefits of the proposed scheme.
29. Notwithstanding that the appeal scheme may also comply with other development plan policies, through its harm to the character and appearance of the area and living conditions of neighbouring residents, the proposal conflicts with Core Strategy Policies CS21 and CS41 and Saved Policy 6.10 of the Local Plan. These are important policies that govern design expectations in the authority area. They are also consistent with the aims of the National Planning Policy Framework (the Framework) in respect of achieving well-designed places and delivering a high standard of amenity for existing users. Consequently, I find the proposal to be contrary to the development plan as a whole.
30. The Council has acknowledged it cannot currently demonstrate a five-year housing land supply. I have taken account of the Framework's aims to boost significantly the supply of housing, and that it identifies that small and medium sized sites can make an important contribution to meeting the housing requirement of an area. The proposed dwellings would also be within the built-up area of Bournemouth and the Framework indicates that windfall sites should be supported.

31. The above identified support for the proposal is countered by the importance that the Framework attaches to design as a key aspect of sustainable development and its expectation that developments should deliver a high standard of amenity for existing users. Together, I give these matters significant weight.
32. Therefore, when assessed against the policies in the Framework taken as a whole, I find that the adverse impacts of the proposed development would significantly and demonstrably outweigh the benefits. The appeal scheme therefore does not benefit from the presumption in favour of sustainable development.
33. The appeal scheme conflicts with the development plan when considered as a whole, and there are no other considerations including the provisions of the Framework, that indicate a decision should be made other than in accordance with it. Accordingly, the appeal is dismissed.

Lewis Condé

INSPECTOR