
Appeal Decision

Hearing held on 16 October 2013

Site visit made on 16 October 2013

by B Hellier BA(Hons) MRTPI

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 6 November 2013

Appeal Ref: APP/G1250/A/13/2198091

Chequers Hotel, 17 West Cliff Road, Bournemouth, BH2 5EX

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
 - The appeal is made by Mr T and Mrs M Emery against the decision of Bournemouth Borough Council.
 - The application Ref 7-2012-1706-O, dated 23 November 2012, was refused by notice dated 4 March 2013.
 - The development proposed is to demolish hotel and construct new building comprising residential and holiday apartments.
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Decision

1. The appeal is dismissed.

Procedural matter

2. The proposal involves demolishing an existing four storey hotel and replacing it with a part four storey, part six storey, block of 32 flats for mixed residential and holiday use. The application was submitted in outline but with details of scale, layout and access to be determined at this stage.
3. The appellants have submitted a Unilateral Planning Obligation¹ agreeing to pay contributions to mitigate adverse impacts of the proposed development on the Dorset Heathlands, on open space and on transport infrastructure. The contributions would be paid on commencement of the development. However the open space and transport contributions would only be paid if they were found to meet the statutory tests².

Main issues

4. The principle of demolishing the existing hotel and redeveloping the site for mixed residential/holiday use is not in dispute. I consider the main issues are:
 - The effect of the proposed development on the character and appearance of the surrounding area and the setting of the West Cliff and Poole Conservation Area;
 - Whether the layout provides for a satisfactory functional relationship between the residential and holiday accommodation;

¹ Under S106 of the Town and Country Planning Act 1990

² Set out in Regulation 122 of the Community Infrastructure Levy Regulations 2010. SI 2010/948

- Whether the proposal creates a need for open space and recreation provision;
- The effect of the proposal on the transport network; and
- Whether adequate provision is made for affordable housing.

Reasons

Character and appearance

5. The appeal site is the end plot in a curving street of five substantial four or five storey Victorian detached villas¹ situated in an elevated position close to the sea on West Cliff which has become an established location for holiday accommodation. All five properties have been converted to hotels and have been considerably altered. Three, including the appeal property, now have false mansards and No.15 appears to have been substantially rebuilt with a new brick front elevation now painted. The properties are set back from the road and, whilst the front gardens have been largely given over to car parking, there are a number of specimen trees and other planting. This gives an open landscaped setting to the north side of West Cliff Road which continues across the roundabout to the grounds of the Wessex Hotel. On the other side of the road are higher density mainly four storey terraces, many now converted to hotels and holiday flats.
6. All this development is part of the original nineteenth century layout of the town and, with the exception of the appeal site, is now within the West Cliff and Poole Conservation Area. It is not clear why the property on the appeal site is excluded from the Conservation Area because its age, style, scale and layout reflects that of its neighbours.
7. To the west the land falls away into Durley Chine and the character of development changes. Admirals Walk is a 14 storey block of flats to the south of the appeal site and to the north is Crescent Court, a 6 storey block. Both are dominant buildings although they are well set back from the road and their impact on the street scene is considerably softened by trees.
8. The development potential of the site is constrained by its tapering triangular shape and limited site area of about 0.15ha. The design concept put forward by the appellants is for a redevelopment which would provide a strong gateway into and out of the old town and which would mark the transition from the modern outlying blocks of flats to the more intimate scale of development within the Conservation Area. The stepping up of the building height from four storeys at the eastern end of the site adjacent to No.15 to six storeys in the centre and towards the western end would reflect this transition.
9. However, the increase in the height and bulk of the proposed building would relate poorly to existing development. It would have a 40 metres long elevation fronting West Cliff Road which would be significantly in excess of the width of the other frontages on the street. It would project in front of No.15 and reduce the separation distance between the two properties at this point. To the rear the building would extend for 30 metres along Chine Crescent, close to the boundary and well forward of the existing building line. As a result the development would appear cramped and out of scale with the other properties on the street, particularly in views approaching from the east along

¹ Properties are 9,11 and 13 Durley Road South and 15 and 17 West Cliff Road

West Cliff Road and Chine Crescent. The limited set back and increased footprint would also contrast unfavourably with the more open and landscaped setting of the Crescent Court and Admirals Walk flats.

10. I conclude that the proposed development would have a significant adverse effect on the character and appearance of the surrounding area and the setting of the Conservation Area. It would be contrary to existing development plan policies: Policy CS41 of the Core Strategy (LPCS)¹ seeks to maintain character and local distinctiveness; and Policy D4 of the Town Centre Area Action Plan² requires proposals to respect context and setting and to be of an appropriate scale, height, mass and built form.
11. In coming to this conclusion I have taken account of the poor condition of the existing hotel and the damage that has already been caused to the Conservation Area by building alterations, loss of gardens and highway improvements. I have also had regard to the structural changes taking place in the tourism industry and the benefits of replacing the existing outdated hotel accommodation with good quality visitor accommodation and much needed housing. Even so these public benefits do not outweigh the harm that would be caused to the heritage significance of the Conservation Area and I find that the proposal would be a poor design response to local character contrary to the provisions of the National Planning Policy Framework³.

Residential/holiday mix

12. The existing hotel has 22 bedrooms with a nominal 44 bed spaces. LPCS Policy CS28 permits the loss of a tourism business which is no longer viable so long as there is no harm to the tourism offer in the town. It was agreed that this requirement would be satisfied if the proposed development included 7 holiday flats with 45 bed spaces. The submitted layout shows all five flats on the ground floor and two on the first floor allocated for holiday use. The Council considers that the mix of residents and visitors on the first floor would give rise to potential noise and disturbance for residents and associated management problems with holiday flat tenants.
13. The proposed layout on the first floor would be far from satisfactory. However it was agreed that an acceptable solution could be negotiated to the internal layout to give greater physical separation, either horizontally or vertically. This could be secured by condition. Subject to such a condition I find that a satisfactory functional relationship between the residential and holiday accommodation would be achievable.

Open space provision

14. Saved Policy 7.21 of the Bournemouth District Wide Local Plan (DWLP)⁴ states that residential development should make provision for recreation facilities directly related to and necessary for that development. A detailed methodology for calculating payments for offsite provision is set out in Supplementary Planning Guidance⁵ in relation to four recreational elements: playing fields; playgrounds; amenity open space; and sports and recreation

¹ Bournemouth Local Plan: Core Strategy. Adopted October 2012

² Bournemouth Local Plan: Town Centre Area Action Plan. Adopted March 2013

³ National Planning Policy Framework. DCLG. March 2012. Paragraphs 58 and 134

⁴ Bournemouth District Wide Local Plan. Adopted February 2008

⁵ Open Space and Recreation Supplementary Planning Guidance. Adopted July 1999. Updated May 2010

facilities. The Council considers that the appeal site is inadequately served in respect of all four elements and that as a consequence the proposal should attract a developer contribution of £16157.25. It has identified schemes arising from its strategies for playgrounds¹ and sport and recreation facilities² to which the developer contribution would be directed, including a new natural playground on West Cliff which has a budget estimate of £30,000.

15. However within walking distance of the appeal site there is a new play area in Central Gardens together with a tennis centre and, not far away, playing fields, golf course and bowling green at Meyrick Park. Even closer are the West Cliff woodlands and open space together with access to the promenade and beach at Durley Chine. No evidence was presented of a significant shortfall in open space or recreation provision or to show that additional provision is required as a result of the proposal. Consequently the requirements of DWLP Policy 7.21 would be met.
16. Planning obligations may only be sought where they are necessary to make the development acceptable, directly related to the development, and fairly and reasonably related in scale and kind to the development. The contribution sought in this instance would fail to meet the first two of these tests. I have therefore not had regard to the submitted S106 obligation in so far as it relates to open space provision.

Transport network

17. The Local Transport Plan (LTP3)³ estimates that as a result of growth from new homes and the expansion of the economy in South East Dorset there will be 31,030 additional daily trips between 2011-2014 about a quarter of which would be as a result of new housing development. LPCS Policy CS14 requires a financial contribution from new development towards transport schemes planned to mitigate the impact of this growth. An associated Supplementary Planning Document⁴ has been adopted which sets out a four year costed programme of improvements based on LTP3. To deliver these schemes it calculates that each additional daily trip generated should attract a contribution of £350. In the present case this would give rise to a contribution of £27,950.
18. To ensure that the contribution is spent on improvements that directly benefit occupiers of the development the Council has identified a priority scheme in the programme for upgrading a pelican crossing to a puffin crossing in Durley Chine Road. The crossing is on a convenient walking and cycling route to a local primary school and the town centre. The improvement would make the crossing safer and more pedestrian friendly so that occupiers of the proposed development would be more likely to travel on foot or by bicycle and thus congestion on the road network would be reduced.
19. I conclude that the proposed development, when taken together with other infill sites within the built up area, would contribute to a cumulative adverse impact on the highway network and that the proposed financial contribution would be an appropriate mitigation. The submitted S106 obligation in so far as it relates to a transport contribution would deliver this mitigation and satisfy LPCS Policy CS14.

¹ Bournemouth Playground Strategy 2009-2014

² Bournemouth and Poole: Sport and Recreation Built Facilities Strategy and Action Plan June 2008

³ Bournemouth, Poole and Dorset Local Transport Plan 3. Approved April 2011

⁴ South East Dorset Transport Contribution Scheme 2. Supplementary Planning Document. Adopted April 2012

Affordable housing

20. It is common ground that the proposal should offer some affordable housing provision and that this should be delivered off site by means of a financial contribution. Policy AH1 of the Affordable Housing DPD¹ seeks to achieve a minimum provision of 40% affordable housing in new residential development and a charging mechanism is set out in supplementary guidelines². Adopting this mechanism a contribution of £508,875 would be sought towards affordable housing schemes at Duck Lane/Holloway Avenue and Columbia Road which are both programmed for 2015.
21. Where schemes are not viable with 40% affordable housing provision the policy allows for a lower level to be negotiated. Although the appellants have not at this stage carried out a viability assessment they consider it likely that their proposal would fall into this category and they are not prepared to enter into a S106 obligation for the full contribution sought. They suggest a condition to secure agreement to a scheme prior to the start of development. However such a condition would not be possible because no payment of money or other consideration can be required by condition when granting a permission³.
22. The position could be resolved in two ways. The appellants could enter into an obligation to make the requested contribution now and, once they have carried out a viability assessment, seek to alter it to reflect the findings by formally seeking a modification⁴. Alternatively they could carry out an assessment at the outline application stage. In the absence of either of these options before me I find that inadequate provision has been made for affordable housing.

Other matters

23. Chine Crescent has parking on one side and is used as a rat run between West Cliff Road and Durley Chine Road. Local residents consider that the additional traffic movements generated by a new access would add to highway dangers. They are also concerned that the proposal would increase pressure on the already overloaded on street parking provision. However visibility is adequate and if used with proper care and attention the access would not be unduly hazardous. The appeal site is close to the town centre and on a bus route so that car ownership would not be essential. For such a location the proposed 18 onsite parking spaces would meet the car parking standards of the highway authority. I also noted on my site visit that parking spaces on nearby streets were not used to their full capacity.
24. The proposed building would be higher than the existing hotel and closer to the flats in Crescent Court. The separation distance between facing balconies in the two buildings would be about 25 metres which is the minimum recommended by the Council⁵ to avoid intrusive overlooking. Occupiers of flats in the front of Crescent Court, particularly on the ground and first floors, would lose some daylight and sunlight. However there are already intervening trees within the grounds of Crescent Court and the building would not be so near as to be unduly overbearing. I do not consider the effect on the privacy or outlook of occupiers would be unacceptable.

¹ Affordable Housing Development Plan Document. Adopted December 2009

² Affordable Housing Supplementary Planning Document. Adopted November 2011

³ Circular 11/95 The Use of Conditions in Planning Permissions. Paragraph 83

⁴ Under S106BA of the Town and Country Planning Act 1990

⁵ Residential Development: A Design Guide. Section 3.7

Conclusion

25. I have found in favour of the appellants in relation to open space provision. I have also found that transport impacts would met by the submitted planning obligation and that a satisfactory relationship between residential and holiday flats could be secured by condition. However resolving these particular matters does not overcome the significant harm the proposal would cause to the character and appearance of the surrounding area and to the setting of the Conservation Area, the further harm from the lack of provision for affordable housing, and the conflict with development plan policies CS41, D4 and AH1.
26. For the reasons given above and having regard to all other matters before me I conclude that the appeal should be dismissed.

Bern Hellier

INSPECTOR

APPEARANCES

FOR THE APPELLANT:

Robin Henderson	Agent. Ken Parke Planning Consultants
Myra and Trevor Emery	Appellants

FOR THE LOCAL PLANNING AUTHORITY:

Charles Raven	Senior Planning officer
Mark Smith	Tourism Officer
Katherine Denman	Planning Officer (Conservation)
Catherine Miles	Urban Design Officer
Trevor Sills	Transport Officer

THE FOLLOWING LOCAL RESIDENTS:

Gary Munday
Iris McHugh
John Gordon
Rossana Openshaw
Mr and Mrs D Yeomans
Peter Ling

DOCUMENTS

- 1 Arboricultural Method Statement
- 2 Additional conditions suggested by appellants
- 3 West Cliff and Poole Conservation Area boundary

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