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## Appeal Decision

Hearing held on 20 February 2024

Site visit made on 20 February 2024

by Benjamin Webb BA(Hons) MA MA MSc PGDip(UD) MRTPI IHBC

an Inspector appointed by the Secretary of State

Decision date: 08 March 2024

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Appeal Ref: APP/V1260/W/23/3331735

1-3 Moorlands, 50 Haven Road, Poole BH13 7LU

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a failure to give notice within the prescribed period of a decision on an application for planning permission.
  - The appeal is made by Mr Ethan Brighton of Fortitudo Limited against Bournemouth Christchurch and Poole Council.
  - The application, Ref APP/23/00548/F, is dated 24 April 2023.
  - The development proposed is demolition of existing dwellings and erection of 12 apartments with underground parking.
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### Decision

1. The appeal is dismissed, and planning permission is refused.

### Preliminary Matters

2. The Council failed to determine the application within the required timeframe. It has however produced an officer report and draft reasons for refusal. I have taken these into account in defining the main issues below.
3. The Council notified interested parties of the hearing venue later than was required. Having raised the matter at the hearing, I am satisfied that this did not prejudice the interests of any party directly affected.

### Main Issues

4. The main issues are:
  - the effects of the development on the living conditions of occupants of (a) 4 De Mauley Road, in relation to privacy and outlook, and (b) No 1, 48 Haven Road in relation to privacy, outlook, and noise and disturbance; and
  - whether the development would preserve or enhance the character or appearance of Canford Cliffs Village Conservation Area (the Conservation Area).

### Reasons

#### *Living conditions*

##### (a) No 4

5. No 4, which faces onto De Mauley Road, stands within a large plot to the rear of Moorlands. The side elevation of No 4 runs roughly parallel with the rear

- elevation of the rear extension of Moorlands, and features a long conservatory. A modest gap exists between. A single first floor window which serves one of the 3 units into which Moorlands is split is located within the rear extension. This currently allows direct views towards the conservatory and adjacent garden space at No 4.
6. The proposed building would feature a broader rear elevation at similar depth to the existing extension. This would incorporate 5 French doors at first floor level opening onto a full width balcony, and 4 dormer windows within the rear roof slope. Some of these openings would provide the sole outlook from main daytime living spaces of the 4 flats they would serve, and the balcony would provide outdoor amenity space. As the dormers would be positioned at a greater height than the existing window, they would provide a broader field of view. The development would therefore substantially increase the scope for and intensity of views towards the conservatory and garden of No 4.
  7. A number of overgrown evergreen ornamental shrubs stand within the garden of No 4 along part of the boundary with Moorlands. Where present, these currently filter views between the plots. Provided that the shrubs were retained without change this would be similarly true in relation to the proposed development. But whilst the shrubs could therefore potentially serve a useful function in providing a degree of privacy, their suitability for this role over the long term is uncertain. If subject of ordinary pruning it is furthermore apparent that screening would be reduced. Little scope would exist to establish alternative screening within the boundary of the appeal site itself, and no scope to reduce overlooking from the proposed building has been identified. The development would thus fail to directly mitigate the adverse effects of overlooking to which it would give rise. In this regard the responsibility for addressing the matter cannot be reasonably passed to the occupants of No 4.
  8. In relation to outlook, the width of the proposed rear elevation would modestly exceed the depth of the side elevation of No 4. The massing of the proposed building would also be greater, and increased relative to the existing. However, the relationship would not be wholly uncharacteristic of one which might exist between 2 properties standing side to side, as is currently illustrated by the relationship between Moorlands and 2 De Mauley Road. On that basis the development would not be perceived as unduly overbearing of No 4, or have an unacceptable effect on the outlook of its occupants.
  9. For the reasons set out above I conclude that the development would cause significant harm to the living conditions of occupants of No 4 due to loss of privacy. The development would therefore conflict with Policy PP27 of the Poole Local Plan, which amongst other things seeks to secure development which would not result in a harmful impact upon amenity for local residents.

(b) *No 1, 48 Haven Road*

10. No 48 stands directly towards the east of Moorlands. It is longitudinally split into 3 properties numbered 1-3, each of which has a garden to the rear. The **Council's concerns relate to** No 1, which occupies the third of No 48 closest to Moorlands.
11. No 1 is accessed from the side, but the principal openings are located within the front and rear elevations. A driveway runs along the side, at the end of which stands a garage. The amenity space to the rear of No 1 is fairly open

given that it merges with the driveway and is separated from Moorlands by a low fence. It is apparent that views into much of this space are currently possible from a number of windows within the side elevations of Moorlands, including a large dormer in the roof of the rear extension. Though the garage screens part of the space from view, it is overlooked by the first-floor windows of Nos 2 and 3. The existing privacy of the amenity space is therefore limited.

12. The long side elevation of the proposed building would feature a series of 4 large windows at first floor level. None of these windows would be positioned further back than the rear elevation of No 1. Given the size of the gap that would exist between the buildings, a reasonably direct view into part of the amenity space to the rear of No 1 would nonetheless be possible from the rearmost window. The window in question would however serve a bedroom, and the flat's principal daytime outlook would be towards the rear, as considered above. Taking both this, and the extent to which the amenity space is currently overlooked into account, the effects would not be unacceptable.
13. A reasonable gap would continue to exist between the proposed building and No 1. This would be similar in width to the gap which currently exists between the original part of Moorlands and No 1. Though the proposed building would be of greater mass, depth, and of slightly greater height than the building of which No 1 forms part, this gap would be sufficient to avoid any unacceptably overbearing effect. More so given that the space most immediately affected at No 1 would be the driveway.
14. The existing noise environment is characterised by the sound of traffic using Haven Road. The latter appears to be a reasonably busy thoroughfare. In common with No 1, space along the side of Moorlands is used as a driveway, at the end of which are garages. Vehicular movements therefore already occur both sides of the boundary, and vehicular noise is an established feature.
15. The ramp serving the proposed basement car park would be located in the same position as the existing driveway. This would obviously see a higher level of use than the driveway, but unlike the existing arrangement, cars would quickly dip below ground level, and once within the basement, noise would be further contained. Again, the adjacent space at No 1 is a driveway, and none of the principal windows serving No 1 are located within the side elevation. Whilst no noise modelling has been set before me, taking account of the above, it appears unlikely that the development would give rise to unacceptable levels of noise and disturbance.
16. For the reasons set out above I conclude that the development would not cause unacceptable harm to the living conditions of occupants of No 1 on any of the grounds claimed. The development would comply with Policy PP28 of the Poole Local Plan which requires vehicle access to flats to avoid harm to the quiet enjoyment of the rear gardens of neighbouring residents, and no conflict would arise with Policy PP27 of the Poole Local Plan, as outlined above. The scheme would nonetheless remain in overall conflict with Policy PP27 given my findings in relation to No 4 above.

#### *Conservation Area*

17. The site is located within the Conservation Area. Whilst the desirability of preserving or enhancing the character or appearance of conservation areas is set out within statute, paragraph 205 of the National Planning Policy

Framework (the Framework) makes clear that great weight should be given to the conservation of designated heritage assets.

18. The Conservation Area covers a number of residential streets, together with a small cluster of commercial buildings. Insofar as it is relevant to this appeal, the significance of the Conservation Area resides in the late C19th street layout and spacious plot pattern, together with its collection of predominantly early C20th buildings and mature landscaping, the latter featuring large numbers of conifers. Early C20th buildings continue to provide the area with a sense of historic and architectural identity, despite numerous examples of more recent development.
19. Historic mapping shows the incremental addition of dwellings following the establishment of the street layout. This is reflected in stylistic differences between buildings of different date. Within this context the influence of Arts and Crafts is generally apparent. It is however less strongly expressed in the form and detailing of the scatter of imposing early buildings such as Winterbourne, than in **the 'cottage'** designs introduced by the early 1920s. The latter, which include Moorlands, and Lavender Cottage next door but one, provide the core of the historic building stock. These dwellings are generally characterised by casement windows, often exhibiting strong horizontal emphasis, tapering chimney stacks, roughcast, and steep hipped roof forms clad with clay tiles. Whilst some more recent designs have sought to provide a contemporary interpretation of the style, Moorlands and Lavender Cottage are amongst the best original examples. Extension to the rear of Moorlands means that its form is now less intact than that of Lavender Cottage, and the original plot has been reduced in size. But neither this, nor the garage and related hardstanding detract in any significant way from appreciation of Moorlands within the streetscene. Indeed, Moorlands remains architecturally distinctive, and viewed together with Lavender Cottage it makes a strongly positive contribution to the significance of the Conservation Area.
20. The Council maintains a Local List, and Moorlands is not included. Local listing is however only one way in which non-designated heritage assets can be identified. Dwellings of similar date exhibiting similar styling can be found elsewhere. Nonetheless, in this case the heritage interest of Moorlands specifically derives from a combination of its presence within the Conservation Area and the positive contribution that it makes to the Conservation Area's significance. Within this context **I share the Council's view that** Moorlands should be considered as a non-designated heritage asset.
21. As the appeal scheme would see Moorlands demolished, its heritage interest would be lost. This would in turn harmfully undermine the historic and architectural integrity of the Conservation Area. The proposed building would itself have little in common with the cottage designs which predominate as a group within the Conservation Area, including that of Lavender Cottage. This would be particularly marked by the presence of sash windows. Whilst the proposed form and styling would indeed be more reminiscent of that seen on earlier buildings, the proportions of the building would not. The bulky roof form, depth, and overall massing of the proposed building would otherwise appear at odds with the **more 'modest'** form and scale of domestic development within the Conservation Area. This would be apparent in direct comparison with No 48 and Lavender Cottage, whilst the slab-like form of the building and part of its bland west elevation would have a strong visual presence within De

- Mauley Road. The overall spaciousness of the plot would be much reduced. The development would therefore appear both contextually and architecturally incongruous.
22. The fact that substantial modern blocks of flats occur within the immediate setting of the Conservation Area opposite the site does not alter my assessment above. There are no such blocks within the Conservation Area, and the blocks in question detract from appreciation of the significance of the Conservation Area. As such they form a negative component of the setting.
23. The Canford Cliffs and Penn Hill Conservation Areas Boundary Review document states that high quality designs for replacement buildings and extensions using sustainable construction methods and materials able to meet the rigours of climate change will be supported within the Conservation Area. Whilst this statement clearly indicates that scope for redevelopment exists within the Conservation Area, it cannot be sensibly interpreted as providing in principle support for the general replacement of buildings. The proposed building would not in any case **represent 'high quality design' given my findings** above.
24. The appeal scheme would involve the loss of some existing trees on site. It appears that at least one of these trees located at the front of the plot is covered by an area Tree Preservation Order of 1960s vintage, and the trees notably include conifers. Though the trees are unremarkable when considered individually or as specimens, value lies in the contribution they collectively make to local identity and the verdant character of the Conservation Area. Given the proportion of the plot required to accommodate the development there would be little scope to mitigate the loss with any meaningful new planting.
25. I therefore find that the scheme would fail to preserve or enhance the character or appearance of the Conservation Area, including through the loss of a non-designated heritage asset. The harm caused to the significance of the Conservation Area would be less than substantial. Such harm attracts considerable importance and weight. In accordance with paragraph 208 of the Framework it is necessary to weigh this harm against the public benefits of the scheme.
26. Given my findings above I can attach no weight to **the appellant's** claim that the development would improve the Conservation Area and landscaping of the plot.
27. The principal consideration advanced in favour of the scheme is otherwise the net addition of 9 flats. This would help to address a sizeable shortfall in the **Council's demonstrable supply of deliverable housing sites**, which, for the purposes of the appeal, was agreed to stand at around 3 years. The contribution made by the development would nonetheless be modest in scale. It would also not be achieved without giving rise to adverse effects on the living conditions of neighbours, highlighting the poor standard of proposed design. That and the above being so, I attach little weight to the social and economic benefits of **the scheme's** provision of housing. The public benefits generated by the development would consequently fail to outweigh the harm that it would cause to the significance of the Conservation Area.

28. For the reasons set out above I conclude that the development would fail to preserve or enhance the character or appearance of the Conservation Area. It would therefore conflict with Policy PP30 of the Poole Local Plan which broadly mirrors national heritage policy as set out within the Framework.

#### Other Matters/Considerations

29. The development would be likely to increase recreational pressure on a number of habitats sites. These have been identified as the Dorset Heaths Special Area of Conservation, the Dorset Heathlands Special Protection Area (SPA) and Ramsar sites, and the Poole Harbour SPA and Ramsar sites. A Section 106 Agreement was provided to secure contributions towards mitigation in line with local strategy, however this was incomplete. The appellant subsequently made a contribution direct to the Council secured by a Unilateral Undertaking. Had I been minded to allow the appeal, and the circumstances existed in which planning permission could be granted, it would have been necessary for me to examine these matters in further detail. However, as I am dismissing the appeal for other reasons, further consideration is not required.

30. **In view of the Council's housing land supply position the appellant has highlighted the 'tilted balance' set out within paragraph 11 of the Framework.** However, given that my findings above provide a clear reason for refusing permission, this is not applicable.

#### Conclusion

31. For the reasons set out above the effects of the development would be unacceptable, giving rise to conflict with the development plan. There are no other considerations which alter or outweigh these findings. I therefore conclude that the appeal should be dismissed.

*Benjamin Webb*

INSPECTOR

## APPEARANCES

### For the Appellant

Ethan Brighton	Head of Planning, Fortitudo
Simon Ible	Director, Fortitudo
Graham Keevill	Keevill Heritage Ltd

### For the Local Planning Authority

Shelley Edwards	Senior Planning Officer
David Hodges	Development Management Manager
Aliis Kodis	Urban Design Officer
Margo Teasdale	Senior Conservation Officer

### Interested parties

Allan Taylor	Neighbour
Jeremy Gardiner	Neighbour

Richborough