



Appeal Decisions

Hearing held on 19 August 2009

by **Ken Barton** BArch DipTP Regd Architect

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

The Planning Inspectorate
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Decision date:
28 August 2009

Appeal A. APP/G1250/A/09/2102191

Appeal B. APP/G1250/A/09/2108362

96 Lowther Road, Bournemouth, Dorset BH8 8NS

- The appeals are made under section 78 of the Town and Country Planning Act 1990 against refusals to grant planning permission.
- The appeals are made by European Equities PLC against the decisions of Bournemouth Borough Council.
- Application A, ref.7-2008-23976 dated 18 November 2008, was refused by notice dated 10 February 2009.
- Application B, ref.7-2009-23976-A dated 25 March 2009, was refused by notice dated 25 June 2009.
- The development proposed in applications A and B is to demolish a house and erect a block of 10 flats, with bin and cycle stores and 3 car parking spaces.

Summary of Decision: Appeal A is dismissed. Appeal B is allowed and planning permission granted subject to conditions as set out below in the Formal Decision.

Application for costs

1. At the Hearing an application for costs was made by the Appellant against Bournemouth Borough Council. This application is the subject of a separate Decision.

Main issues

2. The main issues in respect of both appeals are the likely effects on the character and appearance of the area and on the amenities of residents.

Reasons

3. The appeal property, No.96, is a sizeable 2-storey detached house, situated on the south side of Lowther Road in a late Victorian/Edwardian suburb, not far from shops and other facilities and bus routes leading into Bournemouth town centre. There are many similar properties along the road, some in use as single residences and others which have been divided into flats. There are also plots where houses have been replaced by newer buildings, including blocks of flats, some of which have been allowed on appeal. The Council do not object in principle to replacement of No.96 with a building containing smaller units, for which there is an acknowledged need in the Borough, but they have strong concerns about both the current applications.
 4. With application A, the proposed block would be 3-storeyed, with the second floor being mainly within the roof space, and the flats would comprise 8 one-bedroom and 2 two-bedroom units. On-site parking spaces for 3 cars would be
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provided in front of the block. Planning permission was refused partly on the basis of the inadequacy of parking facilities and the consequences of this for highway safety, but the Council subsequently withdrew this objection. Whilst parking is still a matter of concern to some Councillors and local residents, having regard to the sustainable location of the site and the scope for on-street parking, I concur with the view that the proposal would not result in unacceptable parking or highway difficulties.

5. As to likely visual impact, with application A the new block would be sited up to 3.7m or so closer to the highway than the existing house and the whole length of its eastern side wall would be set 1m from the boundary with No.94, whereas at present only a projecting chimney feature extends so close. The eaves and ridge of the new block would be higher than those at No.94 and with the wide, projecting gabled form of the eastern part of its north frontage, I consider that the block would be seen as unduly intrusive in the street scene and uncomfortable in its relationship to No.94. This would be the case notwithstanding the screening effect of a tree in the front garden of No.94. The height and depth of the eastern wall of the block, and the mass of the gable in the south elevation, would also appear overbearing in its relationship to No.94, especially as seen from within the rear garden of No.94 close to the house. Whilst some screening is provided at present by vegetation within the appeal site, because of the intended proximity of the new building to the boundary, this could not be retained or replicated with the redevelopment.
6. It would be possible to safeguard occupants of No.94 against overlooking from the first floor bedroom window to Flat 6, in the east elevation of the proposed block, by installing fixed obscure glazing; although that would not be entirely satisfactory for occupants of the flat, where that is the only bedroom. Living conditions for occupants of Flats 3 & 4, facing north directly onto the parking/manoeuvring area in front of the block would also be far from satisfactory. These considerations add weight to my concerns about the likely harmful visual impact of the proposal on the street scene and character and appearance of the area, which I consider would not be acceptable.
7. Application B was designed to seek to overcome the Council's objections to application A. The block would again be 3-storeyed with accommodation in the roof space, but would provide 8 one-bedroom, 1 two-bedroom and 1 studio flats within a modified block form. The front of the block would be set closer to the highway than the existing house, but to a lesser extent than in application A and would be in rough alignment with the front of No.94. Amongst other alterations, the width and height of the frontage gable feature would be reduced and I consider that the relationship between the proposed block and No.94 and the impact of the proposal on the street scene would be improved, compared with application A. The same would apply in the view from the rear of No.94, where the lower height and varied form of the east wall and rear gable of the block would be less imposing. Although the rearward projection of the block would be greater than in application A, it would include a flat roofed single-storey portion. The bedroom side window in Flat 6 would be omitted and any disturbing effect on the neighbouring property would not be so unreasonable, in my opinion, as to warrant withholding planning permission.
8. Similarly with the outlook from windows and the garden at the rear of No.98, the block of flats would project beyond the back wall of the adjacent house, but

the distance between the side walls of the buildings would be greater than it is at present and the hipped roof form of the block at this point would help to reduce its bulk and visual impact. The 45 degree test regarding outlook from windows, referred to in the Council's adopted supplementary planning guidance, would be adequately complied with and there would also be scope for the retention and provision of planting to provide screening.

9. Gardens in this part of Lowther Road on the southern side are comparatively long, and there would be sufficient space at the rear of the application B block to provide a generous communal amenity area for future occupants, as well as enclosed private spaces for 2 flats and a store for 10 bicycles as proposed. There is also adequate space for the rear storage of refuse and the Appellant confirmed that he would be prepared to locate this store at the rear and to arrange for collection by contractors, if that were deemed necessary. It is not unusual in this locality, however, for refuse stores to be located in front of buildings and I consider that the frontage arrangement proposed at the appeal site would be acceptable, especially since there would be reasonable scope for screening by planting with application B.
10. The scope for landscape planting and appropriate surface treatment could also help improve privacy and outlook for Flats 3 and 4 facing towards the parking/manoeuvring area and I consider that the proposals in this regard would be satisfactory. The same applies in respect of bedroom windows facing onto the access pathway along the western side of the block, which would be wider than in application A. Whilst this greater width of separation between the proposed flats and the side of the house at No.98 would allow the depth of the building to be more apparent from the road, I consider that with the reduced eaves height and hipped roof form of this part of the building it would not be seen as unreasonably dominant or out of place. This would also be assisted by the proposed inclusion of various features such a door with a canopy in the front elevation and a chimney at the side, together with the articulation of the design and use of brick, render and tile hanging.
11. Whilst it would not be possible to offset the harmful impact of application A by any conditions that might reasonably be attached to a planning permission, in my opinion, I consider that with certain safeguards the application B proposal could be acceptable in terms of its impact on the character and appearance of the area and the amenities of residents. The conditions that would be needed to ensure this are largely those suggested by the Council, and include approval of details of external materials, drainage, landscape, tree protection, boundary treatment, parking/access/turning and working hours.
12. The Appellant has signed a S.106 obligation which is acceptable to the Council, meets the tests of Circular 5/2005 and overcomes concerns raised in respect of effects on open space and recreational facilities, on Dorset Heathlands Special Protection Area, Ramsar Site and Dorset Heaths Special Area of Conservation, and on existing transportation infrastructure facilities in the Borough. Subject to the conditions indicated above, therefore, I consider that the application B proposals would adequately comply with the aims of national and local policies that seek to ensure that development respects its locality and the amenities of residents, including the adopted Bournemouth District Wide Local Plan policies 4.19, 6.2 and 6.10. I have taken account of all other matters raised and my conclusion is that appeal B should succeed.

Formal Decision

13. I dismiss appeal A.

14. I allow appeal B and grant planning permission to demolish a house and erect a block of 10 flats, with bin and cycle stores and 3 car parking spaces in accordance with the terms of application Ref.7-2009-23976-A, dated 25 March 2008, at 96 Lowther Road, Bournemouth, Dorset BH8 8NS, subject to the following conditions:

- 1) The development hereby permitted shall begin not later than three years from the date of this decision.
- 2) No development shall take place until samples of the materials to be used in the construction of the external surfaces of the buildings hereby permitted have been submitted to and approved in writing by the Local Planning Authority. Development shall be carried out in accordance with the approved details.
- 3) Development shall not begin until details of drainage works, incorporating sustainable urban drainage systems, have been submitted to and approved in writing by the Local Planning Authority. The drainage works shall be completed in accordance with the approved details prior to occupation of any dwelling or in accordance with a timetable to be agreed with the Local Planning Authority.
- 4) No development shall take place until full details of hard landscape works have been submitted to and approved in writing by the Local Planning Authority and those works shall be carried out as approved. The details shall include existing and proposed finished levels, layout of parking spaces, and surfacing materials.
- 5) No development shall take place until full details of soft landscape proposals have been submitted to and approved in writing by the Local Planning Authority. The details shall include a planting plan, schedule of plants, implementation timetable and a landscape management plan. The landscape proposals shall be implemented and maintained thereafter in accordance with the approved details.
- 6) Tree protection measures as detailed in the submitted arboricultural method statement dated 21 January 2009 shall be implemented in full in accordance with the approved timetable and maintained and supervised until completion of the development.
- 7) Development shall not begin until there has been submitted to and approved in writing by the Local Planning Authority details of boundary treatment, which shall include a plan showing positions, height, design and materials. The boundary treatment shall be completed in accordance with the approved details prior to occupation of the dwellings and retained thereafter.
- 8) No dwelling shall be occupied until the vehicular access, turning area and parking spaces have been constructed in accordance with details which shall have been submitted to and approved in writing by the Local Planning Authority and the spaces shall be kept available for the parking of a car at all times.
- 9) All on-site working, including demolition and deliveries to and from the site, associated with the implementation of this planning permission shall only be carried out between the hours of 0800 and 1800 Mondays to Fridays, 0800 and 1300 Saturdays, and not at all on Sundays or Bank Holidays.

K. Barton
INSPECTOR

APPEARANCES

FOR THE APPELLANT:

Robin Henderson MA(Hons) MRTPI	Associate, Ken Parke Planning Consultants
Max De Kment Patrick Daly	European Equities PLC Accompanying Max De Kment

FOR THE LOCAL PLANNING AUTHORITY:

Barry Carse BA BPI MRTPI	Principle Planning Officer, Bournemouth Borough Council
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INTERESTED PERSONS:

Cllr Cheryl Johnson	Local Councillor, Bournemouth Bourough Council
Councillor Carol Ainge	Local Councillor, Bournemouth Bourough Council
Susan Delafield	Local resident
Ettore Bernardi MEng MIMI	Local resident
Terry Leonard	Local resident

DOCUMENTS (provided at the Hearing)

- 1 Report to Planning Board meeting on 17 August 2009 regarding an outline planning application at 115 Lowther Road.
- 2 Council e-mails regarding planned open space/recreational improvements in the vicinity of Lowther Road, with attached map.
- 3 Transport infrastructure improvement projects in the vicinity of Lowther Road, with attached map.
- 4 Council's adopted Interim Planning Framework, Developer Contributions for Transport document.
- 5 Appeals A and B, applications for full awards of costs made by the Appellant.

PHOTOGRAPHS (provided at the Hearing)

- A View of the front of 96 Lowther Road and adjacent properties, put in by Mr Bernadi.