
Appeal Decision

Site visit made on 16 February 2017

by Andrew Dawe BSc(Hons) MSc MPhil MRTPI

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

Decision date: 28 March 2017

Appeal Ref: APP/B1225/W/16/3162354

Spyway Orchard, Durnford Drove, Langton Matravers, Dorset BH19 3HG

- 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 R Turner, Turner 2K (Swanage) Ltd, against the decision of Purbeck District Council.
 - The application Ref 6/2015/0687, dated 13 November 2015, was refused by notice dated 28 July 2016.
 - The development proposed is outline application (with all matters reserved) - rural exception site for a development of 28 dwellings (22 affordable and 6 open market).
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Decision

1. The appeal is allowed and planning permission is granted for outline application (with all matters reserved) - rural exception site for a development of 28 dwellings (22 affordable and 6 open market) at Spyway Orchard, Durnford Drove, Langton Matravers, Dorset BH19 3HG in accordance with the terms of the application, Ref 6/2015/0687, dated 13 November 2015, subject to the conditions in the attached Annex.

Procedural Matters

2. The application was submitted in outline, with all matters (access, layout, scale, appearance and landscaping) reserved for future consideration. Block and site plans have been submitted showing only an illustrative layout for the proposed development. I have determined the appeal on that basis.
 3. The Council in its decision notice, refers to the documents: 'Conserving Character' Landscape Character Assessment and Management Guidance for the Dorset Area of Outstanding Natural Beauty (AONB) (the LCAMG); and 'A Framework for the Future' Dorset AONB Management Plan (the AONB Management Plan). I have applied some weight to those documents due to their role in supporting the relevant development plan policies.
 4. There are differences between the original planning application form and appeal form in respect of land ownership. Clarification has been submitted in respect of this matter from both the Council and appellant, explaining why the appellant is recorded as the sole owner on the appeal form. Notwithstanding this, the appellant, during the appeal process, highlighted that a small area of the appeal site may be owned by the owners of Langton House and so issued them with the requisite notice of the appeal. I am therefore satisfied that the correct procedure in this regard has been followed and that those other
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possible owners have had the opportunity to make representations. They have therefore not been prejudiced in respect of this matter.

Main Issues

5. The main issues are:

- i) whether or not the proposal can be considered as a rural exception site for residential development in the open countryside in respect of the provision for affordable housing;
- ii) the effect of the proposed development on the character and appearance of the AONB.

Reasons

Whether or not the site can be considered a rural exception site

- 6. The site is located in the countryside, being outside of the village settlement boundary, where residential development is not normally permitted. However, policy RES of the Purbeck Local Plan Part 1 (the Local Plan) sets out that affordable housing will be allowed in the open countryside in and around settlements subject to various criteria.
- 7. Those criteria include a need to be satisfied that there is an identified need in the Parish or immediately adjoining Parishes which cannot otherwise be met; it would not comprise scattered, intrusive and isolated development and is close to sustainable transport modes; that the number of dwellings would be commensurate with the settlement hierarchy, of character appropriate to the location and of high quality design; and for secure arrangements to ensure the continued affordable housing benefits.
- 8. From the submissions, including the results of a Housing Needs Survey relating to Langton Matravers and reports generated from the housing register relating to this and adjacent Parishes, it is clear that there is a local need for affordable housing need. Furthermore, the degree of need would indicate that, in accordance with policy RES, it would be appropriate in principle to address some of that need from development outside of the settlement boundary. I have not received any substantive evidence to clearly demonstrate to the contrary, or in respect of the availability of other such sites.
- 9. The Council does not dispute that the proposed 6 market houses would be necessary in order to ensure the deliverability of the affordable housing as an exception site and I have no substantive basis to consider otherwise. Furthermore, in the context of the size of the settlement as a whole, and given that identified need for affordable housing, the number of proposed dwellings would not be disproportionate. Provision for rural exception sites is also consistent with the aims of the National Planning Policy Framework (the Framework) in terms of delivering local needs for affordable housing. The site is also in a fairly sustainable location on the edge of the village.
- 10. A planning obligation has been submitted to secure the proposed affordable housing, to meet the local need. For the above reasons I consider that this would be necessary to make the development acceptable in planning terms, directly related to the development and fairly and reasonably related in scale

and kind to the development. It would therefore meet the tests set out in paragraph 204 of the Framework.

11. For the above reasons, I conclude on this issue that the site would represent a rural exception site for the provision of affordable housing, in accordance with policy RES of the Local Plan, subject to further consideration below of the proposal's effects on the character and appearance of the AONB.

Character and appearance of the AONB

12. The site is within the AONB. Paragraph 115 of the Framework states that great weight should be given to conserving landscape and scenic beauty in AONBs. Policies D and LHH of the Local Plan together, in respect of this issue, require development proposals to positively integrate with their surroundings and to conserve the appearance, setting, character, interest, integrity, health and vitality of landscape assets. Policy CO specifically refers to exception sites being acceptable in the countryside subject to not having a significant adverse impact on the environment, visually, ecologically, or from traffic movements.
13. The proposed development would occupy an existing fairly large, gently sloping, field adjacent to the southern edge of Langton Matravers. The site currently contributes to the open and spacious setting of the village in this location, along with fields to the east and west of the site and the open grounds of Langton House to the south. However, unlike those surrounding areas, the site is relatively discrete due to the strong presence of mature trees around its perimeter and trees and vegetation on the western side of Durnford Drove, opposite the site. The removal of some of those trees on the site has been agreed with the Council, in relation to a new Tree Preservation Order and existing trees along the western side of the site would be removed. However, there would also be a scheme of new tree planting, such that the overall effect would be unlikely to be diminished to a material extent.
14. The proposed development would have a relatively high density compared generally to the nearby existing village properties, particularly those of Gypshayes backing onto the footpath running along the northern site boundary. Those properties have particularly long and mature rear gardens. However, from vantage points on footpaths to the east and south-east of the site, it would also be seen to some extent in the context of the much more clearly visible dwellings of The Hyde, to the north-east of the site. Those dwellings are generally located fairly close together, lining the road up to the edge of the open countryside. The illustrative site layout also shows how the proposed buildings would be set away from the eastern boundary. Together with the high degree of softening or screening from the trees surrounding the site, even in winter months with the leaves off, the proposal would be unlikely to have a dominating effect on that existing open setting south of the settlement when viewed from those vantage points.
15. From footpaths to the south of the site extending beyond the car park at the southern end of Durnford Drove, and those to the west of the site, the proposed development would be largely screened or significantly softened by a combination of intervening landform, trees, or the significant combined massing of buildings relating to Langton House. From those westerly footpaths, the closest part of the development comprising the nearest dwelling to Durnford Drove would also be seen to some extent in the context of those existing dwellings fronting that road immediately to the north. It would also

not appear as an alien built form within otherwise completely open countryside given the context of those buildings relating to Langton House which can be clearly seen from those vantage points.

16. From the closer vicinity on Durnford Drove, in front of the site, the transformation from the currently informal, open field to a formal housing scheme would be clearly evident. I have also had regard to the extent to which the proposal would be seen by visitors en route to the National Trust car park and the coast rock/cliff formation referred to by the Council as 'Dancing Ledge'. However, the nearest houses to the road, and those likely to be the most prominent, would be on the side of the site nearest to those existing houses fronting the road and so would be seen to an extent in that context. Those proposed on the southern side of the site would be set well back from the road and behind the existing barn and existing and proposed trees. They would therefore be less prominent.
17. The pleasant openness and tranquillity of the countryside to the south of the settlement is currently experienced when walking along the footpath to the north of the site, particularly as the dwellings to the north are significantly screened by the mature vegetation within the intervening rear gardens. The proposed scheme, particularly given its relatively high density, would in visual terms distract from that existing locally appreciated character, along that stretch of the path. However, in terms of noise generation, once completed, being a residential development where it is likely that there would be mainly rear gardens backing onto that path, it is unlikely that the levels generated would be to a harmful extent. Whilst construction activity would inevitably generate varying degrees of noise in that local context, that would be over a relatively limited period of time.
18. The nature of Durnford Drove clearly changes to the south of those existing dwellings, where it becomes narrower with trees or other vegetation either side. The proposed development would erode that to some extent, but only for a relatively short stretch immediately to the south of the nearest existing house. The southern part of the frontage would retain the existing barn and land around it including existing and new trees. From the point at which the road currently narrows, buildings associated with Langton House are also visible such that, along with the barn, that vista is not seen in the context of a lack of built presence. Those existing buildings of Langton House also already have a significant presence in relation to the approach to the car park and footpaths beyond.
19. Concerns have been raised about light pollution arising from the proposal. However, in respect of the wider landscape, and given the proximity to the existing village, there is no substantive basis for considering that this would be materially increased to an unacceptable level. Lighting details could also be considered at the reserved matters stage to ensure that any harmful pollution would be prevented.
20. Paragraph 116 of the Framework states that planning permission should be refused for major developments in AONBs except in exceptional circumstances and where it can be demonstrated they are in the public interest. There is no definition of 'major' in this context, in respect of numbers of dwellings, and I have found that the proposal would not be disproportionate to the size of the existing settlement. Furthermore, for the above reasons, the proposed

development would be unlikely to have a harmful impact on the wider AONB landscape, as opposed to more localised effects. For these reasons, the proposal does not warrant being considered a major development under paragraph 116 of the Framework.

21. For the above reasons, the proposal would not be seen as clearly impinging on the openness of the limestone plateau, in wider landscape terms. However, there would be some localised effects which would detract to some degree from the existing pleasant open rural nature of this part of the AONB. As such, I conclude on this issue that, in having regard to Policies D, LHH and CO of the Local Plan, supported by the LCAMG and AONB Management Plan, and to section 7 of the Framework requiring good design and paragraph 115, there would be some, albeit fairly limited, adverse impact on the character and appearance of the AONB.

Other matters

22. In respect of flooding I have had regard to the local concerns with existing drainage and about this being exacerbated by the proposal. However, based on the submitted evidence in respect of sewerage, drainage and flooding issues, I note that Wessex Water and the Local Lead Flood Authority have raised no objections subject to further mitigation details that can be secured by conditions. I have no substantive basis upon which to consider differently.
23. In respect of concerns about loss of privacy to neighbouring residents, this is a matter that would need to be considered in detail at the reserved matters stage, whereby the layout is not set at this outline stage. Nevertheless, based on the illustrative site layout drawing, I consider that a scheme could be designed to avoid an unacceptable level of overlooking of neighbouring properties and a harmful loss of privacy. The same would apply in respect of any concerns relating to loss of sunlight or daylight or any overbearing impact.
24. I have had regard to the additional vehicles that would be generated as a result of the proposal. The illustrative site layout shows that there would be adequate space for sufficient on and off-street parking within the site and for an access road of suitable width to allow two way traffic flow. Furthermore, it is unlikely that the additional number of vehicles would cause such an increase in traffic flows on the local network as to materially affect its capacity or increase the risk of collisions, including at existing road junctions with Durnford Drove. Despite concerns raised by local residents about the junction with the High Street, the Council also confirms that there were not any recorded accidents there within the five years prior to the Council's case officer report being written, and that it meets the minimum visibility standards. There would also be appropriate provision for pedestrian access to and from the site via footways.
25. I have also had regard to there being no objections from the highway authority with regard to highway safety and traffic flows and have no substantive basis to come to a different conclusion on this matter. The additional number of vehicles would also be unlikely to cause a harmful material increase in air pollution in the context of existing levels of vehicle movements in and around the village.
26. In respect of protected species on the site, I note that the proposal has taken account of the likely presence of Great Crested Newts and evidence of badger

activity. Mitigation measures are included within the submitted biodiversity mitigation plan, including enhanced habitat at the eastern end of the site, free from housing. Other measures to ensure the protection of nesting birds together with enhancement measures are also proposed. The implementation of the mitigation plan can be secured by condition. As such I am satisfied that the proposal would be likely to protect the biodiversity interests of the site. Local residents have also claimed there to be dormice present. However, I have received no substantive evidence, in the form of survey documentation, to support those claims.

27. Concern has been expressed as to the effect of the proposal on tourism in the locality, including in respect to holiday accommodation at Langton House. However, I have identified that there would only be some fairly limited adverse impact on the character and appearance of the AONB due to the nature and context of the proposal. Furthermore, in respect of its relationship to Langton House, it would be partially screened and softened by boundary trees and again, being a residential use, would be unlikely to be a significant noise generator. It would also be located on just one side of the large grounds of Langton House and with the proposed houses likely to be set away from the boundary. As such the existing sense of openness and spaciousness of those grounds would be likely to be retained. Together with its location immediately on the edge of the existing settlement, I have no substantive reason to consider that the proposal would deter people from visiting the area.

Planning balance

28. The Framework sets out that there should be a presumption in favour of sustainable development and indicates that to achieve that, economic, social and environmental gains should be sought jointly and simultaneously through the planning system.
29. I have had regard to the great weight that should be given to conserving the landscape and scenic beauty of the AONB. In this regard, I have found that there would be some, albeit fairly limited, adverse impact on the character and appearance of the AONB.
30. However, I have also found there to be some factors that would minimise the impact on the character and appearance of the wider AONB. I have also had regard to the reference in policy RES of the Local Plan to exception sites ideally not comprising intrusive development, and to policy CO where it refers to such sites being acceptable subject to not having a significant adverse impact on the environment, visually, ecologically, or from traffic movements. These policies do not therefore rule out development with some degree of environmental impact.
31. Furthermore, and importantly, the provision of 22 affordable dwellings would be a significant contribution towards addressing the local need in a fairly sustainable location on the edge of the village. I have also had regard to the Framework's aim to boost significantly the supply of housing, including affordable housing. I have therefore applied substantial weight to the proposed affordable housing provision. This factor, together with the lesser impact on the wider AONB and my finding that there would not be any other matters that would represent unacceptable harm, would therefore outweigh that more localised degree of harm that I have found would be caused to the AONB. Taking account of the development plan as a whole, it would therefore

be a sustainable form of development for which there is a presumption in favour.

32. It is disputed by the parties as to whether the Council can demonstrate a five year supply of deliverable housing sites (5 year HLS). Under paragraph 49 of the Framework, housing applications should be considered in the context of the presumption in favour of sustainable development. Relevant policies for the supply of housing should not be considered up-to-date if the local planning authority cannot demonstrate a 5 year HLS. However, in this case I have found that the proposal would comply with the development plan, taken as a whole. As such, with or without a 5 year HLS, my decision would not be altered.

Conditions

33. The Council has suggested nine conditions that it considers would be appropriate were I minded to allow the appeal. I have considered these in the light of advice in the Government's Planning Practice Guidance and amended some of the wording and omitted one. The standard conditions to ensure the development is implemented in accordance with the reserved matters, required to be first submitted and approved, and within the standard time period, would be necessary.
34. In the interests of preventing the risk of flooding of the site and surrounding area, conditions to secure the submission and implementation of a detailed and finalised surface water management scheme and details of foul water drainage disposal would be necessary.
35. In the interests of the character and appearance of the site and surrounding area, conditions to ensure the protection of trees to be retained, and that the reserved matters landscaping scheme takes account of those proposals for planting set out in the submissions would be necessary. To protect the biodiversity interests of the site, a condition to ensure that the development would be carried out in accordance with approved mitigation details would also be necessary.
36. The Council has also suggested a condition to secure details of all external facing and roofing materials. However, as this is an outline application with all matters, including appearance, reserved, it would be inappropriate and unnecessary to include such a condition at this stage.

Conclusion

37. For the reasons given above, and taking all other matters raised into consideration, I conclude that the appeal should be allowed.

Andrew Dawe

INSPECTOR

ANNEX – Conditions

- 1) Details of the access, appearance, landscaping, layout, and scale, (hereinafter called "the reserved matters") shall be submitted to and approved in writing by the local planning authority before any development takes place and the development shall be carried out as approved.
- 2) Application for approval of the reserved matters shall be made to the local planning authority not later than 3 years from the date of this permission.
- 3) The development hereby permitted shall take place not later than 2 years from the date of approval of the last of the reserved matters to be approved.
- 4) Before any groundworks start, a detailed and finalised surface water management scheme for the development site, based upon the hydrological and hydrogeological context of the development, together with details of responsibility, maintenance and management of that scheme and associated infrastructure, shall be submitted to and approved in writing by the Local Planning Authority. The submitted scheme shall be substantiated by adequate ground investigation. The approved scheme shall be fully implemented before the first occupation of any of the dwellings and thereafter managed and maintained in accordance with the approved details. These details shall include a plan for the lifetime of the development, the arrangements for adoption by any public body or statutory undertaker, or any other arrangements to secure the operation of the surface water drainage scheme throughout its lifetime.
- 5) Before any groundworks start, a scheme of foul water drainage disposal from the development shall be submitted to and approved in writing by the Local Planning Authority. This shall include details of the on-going management and maintenance of the scheme. The approved scheme shall be fully implemented before the first occupation of any of the dwellings. It shall be maintained and managed in accordance with the approved details.
- 6) All works impacting on retained trees during the construction of the development shall be carried out as specified in the SoundWood Tree Consultancy Arboricultural Method Statement Reference SW/AMS/266b/15, dated 24 September 2015.
- 7) The reserved matter landscaping scheme required to be submitted under the terms of condition 1 shall take account of the landscape proposals shown on the SoundWood Tree Consultancy Development Site Planting Specification Reference SW/AMS/266c/15 dated: 25 September 2015 and accompanying plan – Replacement Planting Layout SW5 dated: 25 September 2015.
- 8) The development hereby permitted shall be carried out and maintained in accordance with the approved biodiversity mitigation plan dated 24 February 2015 agreed by Dorset County Council on 25 February 2015 unless a subsequent variation is agreed in writing with the Local Planning Authority.