
Appeal Decision

Site visit made on 1 November 2017

by Robert Parker BSc (Hons) Dip TP MRTPI

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

Decision date: 29 November 2017

Appeal Ref: APP/B1225/W/17/3178926

86 Wareham Road, Lytchett Matravers, Poole BH16 6DT

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Mr N Rubenstein of OOTA Property Ltd against the decision of Purbeck District Council.
 - The application Ref 6/2017/0152, dated 16 March 2017, was refused by notice dated 2 July 2017.
 - The development proposed is demolition of existing buildings and erection of shop unit with 1 no. ground floor flat and 2 no. flats above and detached block of 2 no. garden flats, with associated works to existing access onto Wareham Rd and surface parking.
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Decision

1. The appeal is allowed and planning permission is granted for demolition of existing buildings and erection of shop unit with 1 no. ground floor flat and 2 no. flats above and detached block of 2 no. garden flats, with associated works to existing access onto Wareham Rd and surface parking at 86 Wareham Road, Lytchett Matravers, Poole BH16 6DT in accordance with the terms of the application, Ref 6/2017/0152, dated 16 March 2017, subject to the conditions set out in the attached schedule.

Procedural Matters

2. Since the Council issued its decision the Lytchett Matravers Neighbourhood Plan (LMNP) has been made. This now forms part of the development plan. My determination of this appeal takes account of the altered policy context.
3. My site visit for this case took place at the end of the school day. I therefore had the opportunity to witness highway conditions during the busiest period.

Main Issues

4. The main issues in this case are:
 - a) the effect of the proposal on the character and appearance of the area; and
 - b) the effect on the living conditions of the occupiers of No 84 and No 88 Wareham Road, with particular reference to noise and disturbance.

Reasons

Character and appearance

5. The appeal premises form part of a continuous frontage of development on the east side of Wareham Road. The building was vacant at the time of my visit but

until recently it was occupied as a shop and maisonette. The surrounding area is predominantly residential in character with the local primary school and pre-school directly opposite the site.

6. As noted within the Lytchett Matravers Townscape Character Appraisal (TCA), the majority of the village is comprised of suburban estate type development, much of which is laid out as residential cul-de-sacs. The TCA describes the settlement as lacking a strong sense of distinctiveness and high townscape quality. Despite this, it provides a pleasant living environment.
7. The east side of Wareham Road is a zone of mixed residential character. One of the principal routes into the village, the land behind the street frontage has been progressively infilled with modern housing, most recently at Cecil Place. The Council contends that backland development is inappropriate but in my view such development is increasingly becoming part of the character of the area.
8. Although described in the planning application as 'garden flats', Flats 4 and 5 would have the general appearance of a bungalow. The building would be positioned on lower ground towards the rear of the site, alongside a sizeable 'flat over garages' building in Cecil Place. The vehicular access would run parallel to and alongside an existing driveway serving garaging at the rear of Nos 88-92 Wareham Road immediately to the north of the site.
9. The proposed building would be modest in scale and height, due in part to its pyramidal roof, and it would be discreetly sited. The means of access would not draw attention to the development as being out of character, given the existing driveway adjacent. Having regard to this, and the close proximity of existing backland development to the site, I do not consider that the rear block would have a significant adverse effect on the character or appearance of the area.
10. The Council's evidence is silent regarding the proposed replacement building at the front of the site. I take this to mean that it is content with this part of the scheme. I see no reason to take a different view. The new building would fit comfortably into the street scene of Wareham Road, adding to the variety of building designs and providing a neat transition between the chalet bungalows on the one side and the terrace of two-storey cottages on the other.
11. Accordingly, I conclude on this issue that the proposal would not cause unacceptable harm to the character or appearance of the area. It would positively integrate with its surroundings, compliant with Policy D of the Purbeck Local Plan Part 1 (2012) (PLP) and Policy 2 of the LMNP. There would be no conflict with the requirement of the National Planning Policy Framework (the Framework) that developments should respond to local character.

Noise and disturbance

12. The Council is concerned that the occupants of residential properties on either side of the site would be adversely affected by the vehicular movements associated with the new parking area at the rear. This area would contain a total of 7 parking spaces, one for each of the proposed flats and two for visitors. The scheme would generate some modest activity from comings and goings, but the Council has produced no substantive evidence to persuade me that this would lead to significant disturbance for the occupiers of No 84 and No 88 Wareham Road.

13. Any detrimental impacts on the residents of No 84 would be adequately mitigated by the erection of a timber fence along the southern boundary of the site. This would also prevent light trespass into the adjoining rear garden. Vehicles using the new access would be noticeable for the occupiers of No 88, but given the level of activity connected with the former shop use and the driveway immediately adjacent, I do not consider that the increase in vehicular movements would be materially harmful.
14. I therefore conclude that the proposal would not cause unacceptable noise or disturbance for the occupiers of No 84 and No 88 Wareham Road. There would be no conflict with Policy D of the PLP or the Framework insofar as they seek to secure a good standard of amenity for all existing and future occupants of land and buildings.

Other Matters

15. The appeal site lies within the defined settlement policy boundary for Lytchett Matravers. Residential development is therefore acceptable in principle, subject to compliance with other policies in respect of detailed matters. With a net increase of 4 dwellings on the site, the scheme would make a useful contribution to the supply of housing. It would also help to facilitate the retention of a community facility, in accordance with Policy CF of the PLP and Policy 7 of the LMNP. These matters weigh in favour of the proposal.
16. The parish council and others have questioned the adequacy of the proposed parking provision. In my opinion, the residential parking would be adequate, bearing in mind the small size of the flats, the fact that they would be within walking distance of shops and facilities in the village and the availability of bus services to larger settlements. As regards parking for the retail unit and coffee shop, this would be broadly similar to existing. Whilst I acknowledge the concerns in relation to highway conditions at school pick-up and drop-off times, there remains sufficient on-street parking in the area to accommodate any overspill parking from the development.
17. One objector comments that the proposal would be non-compliant with parking standards in the LMNP. However, I understand that these standards were removed from the neighbourhood plan following examination.
18. In my judgement, there would be an acceptable standard of visibility for drivers entering and exiting the site. Vehicles within the development would be manoeuvring at low speed and overall traffic generation would be very modest and insignificant in the context of existing traffic volumes on Wareham Road. Having regard to this, I concur with the Highway Authority that there would be no highway safety grounds on which to dismiss the appeal.
19. The scheme proposes to dispose of surface water by soakaway. This would be the most sustainable solution. Whilst I note the comments regarding ground conditions I am content, on the basis of the evidence presented, that a solution is achievable, with a potential fallback of connecting to the mains sewer if all else fails. This is a matter that can be addressed by planning condition.
20. The proposed replacement building at the front of the site would be deeper than existing and it would be closer to the boundary with No 84, with additional mass at first floor level. There would be some impact on the neighbours, but given that their kitchen door already looks out onto a blank wall at short range

I do not consider that the development would be unacceptably overbearing or that there would be a loss of daylight sufficient to justify dismissing the appeal.

21. Concern has been expressed by the residents of No 84 regarding overlooking from windows in Flat 3. The views afforded by these windows across the neighbours' rear garden would be oblique and the area closest to their dwelling would remain private. This situation is not uncommon within built-up areas and already exists to some degree between No 82 and No 84 Wareham Road. Whilst I note the additional concerns in relation to views from the scheme back towards the bedroom window in the gable of No 84, these would be too distant to result in a material loss of privacy.
22. The development would include some windows on the north elevation, facing towards 88 Wareham Road and the gardens of No 90 and No 92 beyond. Given the small size of the openings at first floor and the fact that the existing maisonette has larger windows in broadly similar positions, I do not consider that there would be any material reduction in privacy for neighbouring occupiers.
23. My attention is drawn to a potential landownership dispute in respect of land near the northern site boundary. This is a civil matter which does not affect my consideration of the appeal. In any event, it was established at the site visit that the dispute relates to land outside of the red line site boundary.
24. I note the concerns regarding precedent. However, it is an established principle that each application should be considered on its own planning merits. I have determined the appeal on this basis.
25. I have given careful consideration to all other matters raised in representations, including the fears regarding noise during construction and potential disturbance arising if the new shop had extended opening hours, but none is of such weight or substance as to outweigh my conclusions on the main issues.

Conditions

26. I have considered the suggested conditions against the tests set out in paragraph 206 of the Framework and advice contained within the Planning Practice Guidance. Where necessary I have made adjustments to improve precision or enforceability.
27. In addition to the standard time limit condition I have attached a condition to identify the approved plans, to provide certainty. To preserve the character and appearance of the area conditions are necessary to require tree protection and replacement tree planting.
28. Insufficient detail of boundary treatments has been provided and therefore a condition will require these details to be submitted for approval by the Council and then implemented prior to occupation, in the interests of protecting the living conditions of neighbouring residents and the appearance of the area.
29. A condition is necessary in relation to bird boxes and bat tubes/boxes, to secure net gains to biodiversity, in accordance with paragraph 109 of the Framework. To prevent flooding a further condition is needed to require the submission of a scheme of surface water drainage.
30. It is essential to provide the proposed access, parking and turning areas in the interests of highway safety. A condition is therefore needed to require the

construction of these areas prior to occupation of the scheme. To ensure a satisfactory appearance, this condition also includes provision for the Council to approve the surfacing materials prior to the works taking place.

31. Flats 4 and 5 have no horizontal subdivision and would therefore qualify as dwellinghouses to which permitted development rights would apply. The future enlargement of these units through alterations or additions to their roofs would have potential implications for the character and appearance of the area and the living conditions of neighbours. It is therefore reasonable to apply a condition to ensure that the Council retains control over this type of development.
32. Finally, in the interests of neighbour privacy, a further condition is necessary to ensure that the obscure glazing shown on the plans for the south elevation of the front building is provided prior to occupation and thereafter retained.

Conclusion

33. For the reasons given above I conclude that the appeal should be allowed.

Robert Parker

INSPECTOR

SCHEDULE OF CONDITIONS

- 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans: Drg nos. MDS 1271/300, MDS 1271/301B, MDS1271/302B, MDS 1271/303B, MDS 1271/304C and MDS 1271/305D.
- 3) No development shall take place until a scheme for dealing with surface water from the development has been submitted to and approved in writing by the local planning authority. This must include details of the on-going management and maintenance of the scheme. The appropriate design standard for the drainage system must be the 1 in 100 year event plus an allowance for the predicted increase in rainfall due to climate change. This requirement is above and completely separate to any Building Regulations standards. Prior to the submission of those details, an assessment must be carried out into the potential for disposing of surface water by means of a sustainable drainage system. The results of the assessment must be provided to the local planning authority. The approved drainage scheme must be implemented before the first occupation of any of the buildings and thereafter maintained and managed in accordance with the agreed details.
- 4) No development shall take place until protective tree fencing has been erected in the position shown on Appendix 2 to the approved Tree Survey, Arboricultural Impact Assessment and Method Statement by Treecall Consulting Ltd ref DS/43017/AC dated 23rd March 2017. The fencing shall be retained for the duration of construction works and there shall be no storage of materials or plant, raising or lowering of ground levels or burning of waste within the protected area.
- 5) The replacement tree planting works detailed in the approved Tree Survey, Arboricultural Impact Assessment and Method Statement by Treecall Consulting Ltd ref DS/43017/AC dated 23rd March 2017 shall be carried out during the first planting season (October to March) following the first occupation of any of the buildings. The planting scheme shall be maintained in accordance with the approved details. Any tree which within a period of five years from planting fails to become established, becomes seriously damaged or diseased, dies or for any reason is removed shall be replaced in the next planting season by a tree of a species, size and maturity to be approved in writing by the local planning authority.
- 6) The development shall not be occupied until the access, turning and parking areas shown on the approved plans have been laid out and surfaced in a material to be first agreed in writing by the local planning authority. Thereafter, these areas must be permanently maintained, kept free from obstruction and available for the purposes specified.
- 7) The development shall not be occupied until the bird boxes and bat tubes/boxes recommended on page 3 of the Walkover Ecology Assessment by Emma Pollard ref: SY 945 948 dated November 2016 have been installed, in accordance with details to be first submitted to and approved in writing by the local planning authority.

- 8) The development shall not be occupied until details of all boundary treatments (including heights, materials and finishes) have been submitted to and approved in writing by the local planning authority. The boundary treatments shall be completed in accordance with the approved details prior to the development being occupied and they shall be retained in their agreed form thereafter.
- 9) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any order revoking and re-enacting that Order with or without modification), there shall be no additions or alterations to the roofs of Flats 4 and 5 hereby permitted without a separate grant of planning permission from the local planning authority.
- 10) Flats 2 and 3 hereby permitted shall not be occupied until the rooflights (shown on the approved plans as serving bathrooms) on the south elevation have been fitted with obscured glazing. Once installed the obscured glazing shall be retained thereafter.

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