
Appeal Decisions

Site visit made on 20 May 2019

by Nick Davies BSc(Hons) BTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 19 August 2019

Appeal A - Appeal Ref: APP/B1225/W/19/3220927

Land adjoining 11 Bell Street, Swanage BH19 2RY

- 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 and Mrs Scott against the decision of Purbeck District Council.
 - The application Ref 6/2018/0296, dated 31 May 2018, was refused by notice dated 21 August 2018.
 - The development proposed is four new dwellings on surplus land and garden.
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Appeal B - Appeal Ref: APP/B1225/W/19/3220929

Land adjoining 11 Bell Street, Swanage BH19 2RY

- 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 and Mrs Scott against the decision of Purbeck District Council.
 - The application Ref 6/2018/0459, dated 22 August 2018, was refused by notice dated 7 November 2018.
 - The development proposed is two new dwellings on surplus land and garden.
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Decisions

1. **Appeal A** - The appeal is dismissed.
2. **Appeal B** - The appeal is allowed and planning permission is granted for two new dwellings on surplus land and garden at Land adjoining 11 Bell Street, Swanage BH19 2RY in accordance with the terms of the application, Ref 6/2018/0459, dated 22 August 2018, and the plans submitted with it, subject to the conditions in the attached schedule.

Application for costs

3. An application for costs was made by Mr and Mrs Scott against Purbeck District Council in respect of Appeal B. This application is the subject of a separate Decision.

Procedural Matter

4. The decisions to refuse planning permission were made by Purbeck District Council, which ceased to exist on 1 April 2019, following a merger with East Dorset District Council, North Dorset District Council, Weymouth and Portland Borough Council, and West Dorset District Council to form the new Dorset Council. Provisions within the Local Government (Structural Changes) (Transitional Arrangements) (No.2) Regulations 2008 allow for any "plan, scheme, statement, or strategy" prepared by one of the merging authorities to be treated as if "it had been prepared and, if so required, published by the

single tier Council for the whole or such part of its area as corresponds to the area to which the particular plan, scheme, statement or strategy relates". The status of the Purbeck Local Plan Part 1 (2012) (the PLP) and the Swanage Local Plan (2017) (the SLP) have not therefore changed as a result of the merger.

5. As set out above, there are two appeals on this site. Appeal A relates to the provision of 4 dwellings (Units A, B, C and D). Appeal B relates only to 2 dwellings (Units A and B), and the details for these 2 dwellings are the same as for Appeal A. I have considered each proposal on its individual merits. However, to avoid duplication I have dealt with the two schemes together, except where otherwise indicated.

Main Issues

6. The main issue in both appeals is whether the proposals would preserve or enhance the character or appearance of the Herston Conservation Area.
7. With regard to Appeal A, there is an additional main issue of whether the proposals would preserve the setting of 17 Bell Street, which is grade II listed.

Reasons

Conservation Area

8. The appeals relate to land that lies behind the frontage development in Bell Street to the west, and Steer Road to the east. The land is associated with a pair of semi-detached houses, which are accessed by a public footpath linking Bell Street and Steer Road, which runs along the south-eastern boundary of the land. The gardens of the semi-detached houses are contained by timber fencing and the remaining land, which is the subject of the appeals, is disused and unkempt.
9. The appeal sites, and the existing pair of houses, lie in the Herston Conservation Area (the CA). The special interest of the CA is derived from its historic origins as a separate village dating back to 1086, and its subsequent growth in connection with the mining industry. The CA contains a mix of house types, with late nineteenth century development associated with the growth of Swanage, mixed with the more rural vernacular housing of the original village. The use of local stone in construction across the various periods and styles provides a particularly distinctive quality.
10. The Herston Conservation Area Appraisal Document (2008) (the CAAD), identifies 2 zones within the CA. The appeal sites fall within Zone 1, comprising the two roughly parallel north-south roads, Jubilee Road and Bell Street. The CAAD identifies that, in this zone, coursed rubble stone walls play an important role in defining property boundaries and are prominent along road and footpath edges. It also notes that broad views across the valley to the ridge beyond can be obtained from most parts of the Zone. I saw that the appeal land contributes positively to this character, as the footpath boundary is formed from a low stone wall, which allows views through the site to the hills beyond. However, the land is not identified as a Notable Open Green Space within the CAAD, which is perhaps a reflection of the limited role it plays in the character of the CA as a whole, due to its largely inconspicuous location behind the frontage development.

11. Units A and B would be located to the northern edge of the land, adjacent to the existing semi-detached houses. They would be of comparable scale and form to the existing houses, and their design would draw on the features identified in the CAAD as being characteristic of Zone 1. The walls would be Purbeck stone, and the steep pitched roof would be covered in natural slate. The window proportions would match the traditional casements, and a brick-built chimney stack with a simple clay pot would be installed. The siting, form and design details of the two houses would therefore positively integrate with the adjacent houses and the wider CA.
12. The location of Units A and B to the northern edge of the land, adjacent to the existing semi-detached pair, means that they would not be a prominent feature in the CA. They would not intrude into the sense of spaciousness behind 11, 17 and 19 Bell Street, when viewed from the road in front of these properties. Looking down Bell Street from the south, the roofs of the proposed houses would be visible, but their form and materials would be in character with the surrounding development.
13. The two houses would also be visible from the footpath between Bell Street and Steer Road but, as a result of their siting, scale and design, they would sit comfortably alongside the existing pair of houses. In the absence of Units C and D, the spaciousness of the land in front of the existing houses would be maintained, and there would be a significant gap between Unit B and the houses fronting Bell Street to preserve views through the site to the ridge beyond. Consequently, I find that Units A and B would preserve the character and appearance of the CA, leaving the significance of the heritage asset unharmed.
14. Units C and D would also incorporate design details that draw on the positive characteristics identified in the CAAD. However, due to their position on the site, they would have a significantly greater impact on the character and appearance of the CA. The houses would be very close to the footpath between Bell Street and Steer Road. Consequently, they would block views through the site to the ridge beyond, resulting in the loss of a characteristic feature of this part of the CA. They would also intrude into the spacious backdrop that is currently seen behind 11, 17 and 19 Bell Street when viewed from various points along the road, thereby reducing the contribution that the current openness of the site makes to the character of the CA. I therefore find that Units C and D would harm the character and appearance of the CA.
15. The harm that would arise from Units C and D would be localised, and therefore the impact on the CA, as a whole, would be less than substantial within the meaning of Paragraph 193 of the National Planning Policy Framework (the Framework). However, less than substantial harm does not mean less than substantial weight should be afforded to this harm. Rather, as the Framework sets out, great weight should be given to the conservation of designated heritage assets.
16. The Framework advises that 'less than substantial harm' should be considered in a balanced manner, against benefits associated with the development. In this regard, the proposal would contribute to meeting the Council's housing requirement and meeting local housing demand, as well as providing other benefits that arise from new housing generally. However, this is limited to the two additional houses which would be provided by Appeal A, as I have found no

harm from units A and B (Appeal B), and this therefore reduces the weight to be attached to this accordingly. The proposal would also result in the redevelopment of what is currently an unkept area of land, and the renovation of existing historic outbuildings on site, and I afford these benefits modest weight. I am mindful that the Framework supports the use of suitable sites within existing settlements for housing. However, again the weight I attach to this benefit is reduced by the fact that I have found that the site could be developed for two houses without resulting in the harm that I have found in Appeal A.

17. Taking the above points together, the public benefits arising from Units C and D would not outweigh the harm that I have identified to the character and appearance of the CA. I therefore conclude that the proposals under Appeal A would be contrary to Policies D and LHH of the PLP, and Policy STCD of the SLP, which seek to ensure that developments positively integrate with their surroundings and conserve the appearance, setting and character of heritage assets and areas of high townscape value.
18. As I have found that Units A and B would preserve the character and appearance of the CA, it follows that I conclude that the proposals under Appeal B would accord with Policies D and LHH of the PLP, and Policy STCD of the SLP.
19. The Council's reasons for refusal also refer to the Purbeck District Design Guide, but I have not been provided with a copy of this document, and neither party has directed me to any particular advice within it. I therefore afford this matter limited weight.

Listed building

20. 17 Bell Street is a grade II listed building that borders the site of Appeal A. It is described as a traditional Purbeck cottage, constructed of Purbeck stone walls and roof, with a stone stack and boundary walls. Although it fronts Bell Street, it is set back from the road, and its front elevation is quite well concealed by the vegetation in the front garden. However, the side and rear elevations are very close to the footpath that runs between Bell Street and Steer Road, and can be observed at very close quarters by passing pedestrians.
21. Approaching from the northeast, via the footpath, the listed building can be seen in an open setting, comprised of its own small rear garden and the much larger open area within the site of Appeal A. There is disagreement about whether this land was historically associated with the listed building, or formed part of its original rural context. However, I saw that it currently forms an important part of its setting, insofar as it allows the building to be seen in a degree of isolation, which historically would have been the case, based on the evidence before me. Houses C and D would be very close to the listed building, and would rob it of this open setting. Although the appellant suggests that the scale and form of the houses would be sympathetic to the listed building, the eaves and ridge would be considerably higher. The presence of the proposed houses would mean that views of the listed building from this approach would be dominated by much larger buildings in the foreground, which would therefore be harmful to its setting.
22. Standing in front of the listed building in Bell Street, it is possible to see the ramshackle single-storey outbuildings within the site of Appeal A to the rear.

The proposed houses C and D would be much larger, and would be seen in very close association with the listed building from this viewpoint. They would also be visible over the garage roof of No 11A Bell Street, where they would have a domineering appearance in such close proximity to the more diminutive listed building. They would also be seen from further up Bell Street, through the gap between Nos 17 and 19. From this viewpoint, the appeal site currently provides an open green backdrop to the listed building. The resultant loss of spaciousness behind the building would be damaging to its setting.

23. I have already concluded that the public benefits associated with the development do not outweigh the less than substantial harm to the CA that would result from Units C and D. It therefore follows that they also do not outweigh the harm to the setting of the listed building. I therefore conclude that Appeal A would be contrary to Policies D and LHH of the PLP, and Policy STCD of the SLP. Taken together, these policies seek to ensure that developments positively integrate with their surroundings, and conserve the setting of heritage assets and areas of high townscape value.

Other Matters

24. The impact of the development on the living conditions of the occupants of nearby dwellings has been raised. The concerns principally relate to the relationship between Unit B and the houses to the west. I saw that the orientation of the site, and the distance to Unit B, means that there would be no significant loss of light from windows in the rear elevations of these properties. The proposed hipped roof would reduce the impact on the outlook from these windows; the sectional drawing shows that the available vertical angle of outlook would not be very much different to the existing situation. I observed that the more open outlook to the northeast would be unaffected. Reasonable levels of privacy can be maintained through the imposition of a condition to ensure that obscure glazing is installed in the nearest side-facing window.
25. The proposed houses would not have off-street parking, but the accessibility of the location means that the highway authority has not objected on these grounds. I saw that there was some on-street parking availability in the area, and that increased pressure for these spaces would be unlikely to result in any highway danger.
26. Although concerns have been raised about foul drainage, surface water drainage and water supply, there have been no objections from any of the statutory undertakers regarding these issues, therefore I have no substantive evidence to lead me to a different conclusion in this respect. In any event, a suitable means of managing surface water drainage can be secured through an appropriate planning condition.
27. There are no records of protected species using the site, so there is no evidence that the proposals would result in any significant harm to biodiversity.
28. Concern has also been expressed regarding the lack of detail on the proposed recycling/waste arrangements. However, space is shown on the drawings within the curtilages of Plots A and B for these facilities.

29. Although the site lies within an Area of Outstanding Natural Beauty (AONB), it is surrounded by built development, so the proposals would not have a significant impact on the special landscape character of the AONB as a whole.

Conditions

30. In accordance with the legislation, I have imposed a condition limiting the period within which the development must commence. I have also included a condition specifying the relevant plans as this provides certainty. The Council has submitted a schedule of suggested conditions to cover other matters. I have considered these against the advice in the Planning Practice Guidance (the PPG). Where I have agreed that the conditions are necessary, I have altered some of them, in the interests of clarity and precision, to better reflect the guidance.
31. In view of the proposed increase in hard-surfacing, I agree that a condition is necessary to ensure that a suitable means of surface water drainage is installed, in order to avoid any flooding impact on adjacent properties and/or further downstream. As I am only allowing Appeal B, there would be a significant area of undeveloped land within the appellant's control within which the proposed soakaway drainage could be achieved. As there do not appear to be any particular circumstances that would affect the feasibility of providing a satisfactory drainage system, I have amended the Council's wording so that it is not a pre-commencement condition.
32. The boundary treatments, particularly those at the end of the rear gardens, will be visible from the adjacent footpath. The roof will also be visible from the footpath and from Bell Street. Although natural slate is specified on the drawing, it is important that an appropriate type of slate is used, to ensure that the new roof sits comfortably in its surroundings. I therefore agree that, in order to preserve the character and appearance of the CA, conditions are necessary to secure details of both of these matters. The approved drawings specify Purbeck stone, and I have imposed a condition requiring the development to be carried out in accordance with these drawings. It is therefore not necessary to impose a separate condition requiring the use of Purbeck stone.
33. The Council has suggested that a condition should be imposed requiring that the windows in the west elevation of Unit B, serving the bathroom and bedroom 3, are obscure glazed and fixed shut below a floor level of 1.7 metres. I agree that this is necessary for the bathroom window, as it would directly face the rear elevation of 7 Bell Street, and would only be about 15 metres from the windows in its rear gable. However, the bedroom window would be recessed a further 4 metres from the side plot boundary, and sight lines from it would be restricted by the rear wall of the proposed house. I do not therefore find that it is necessary for this window to be obscure glazed in order to maintain satisfactory living conditions for the occupants of any nearby dwellings.
34. The Council has requested that I impose a condition removing the right to construct windows, extensions, roof extensions and outbuildings that would otherwise be permitted development. The PPG advises that conditions restricting the future use of permitted development rights will rarely pass the test of necessity, and should only be used in exceptional circumstances. As the site lies in a CA, roof extensions would not be permitted development. The

- conditions and limitations placed upon new windows, extensions and outbuildings, that can be constructed as permitted development within a CA, mean that any future exercise of these rights would have a limited impact on the living conditions of adjacent occupants and the character and appearance of the CA. I do not therefore find there to be exceptional circumstances justifying the imposition of such a condition.
35. The cluster of trees identified in the Arboricultural Report lie outside the appeal site for Units A and B. One is to be removed, and the other 2 are of low quality and are not directly affected by the development anyway. I therefore find that the Council's suggested pre-commencement condition requiring approval of an Arboricultural Method Statement fails the test of necessity.
36. I have considered whether the Council's suggested condition requiring a Construction Method Statement is necessary. Paragraph 55 of the Framework says that pre-commencement conditions should be avoided unless there is a clear justification. The development proposed is of a relatively modest scale. Construction materials will be imported to the site by access roads that, in the vicinity of the appeal site, carry relatively slow-moving traffic. I do not therefore share the Council's concerns about the likely impact of construction traffic on the surrounding highway network. The construction of the dwellings is likely to result in some temporary disturbance to residents and inconvenience to traffic. However, this would be true of most development within an existing settlement, and I am not persuaded that this provides the clear justification that is necessary for such a condition.
37. The Council has requested a condition limiting the occupancy of the properties to people residing in them as their principal home. I have significant concerns about the precision and enforceability of the condition that has been suggested. However, notwithstanding these concerns, the justification for the condition is based on Policy H14 of the emerging local plan. I have not been provided with a copy of the Policy or the evidence base that has led the Council to propose it. Whilst the emerging local plan is a material consideration, it has not passed through the stage of examination, so I cannot yet conclude that it will be found sound. On the basis of current development plan policies, I do not find the condition to be necessary or reasonable.

Conclusion

38. For the reasons given above I conclude that Appeal A should be dismissed, and Appeal B should be allowed.

Nick Davies

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: 18102.22; 18102.23; 18102.24; 18102.25; 18102.26; 18102.27.
- 3) Prior to building works proceeding above damp-proof course level, details of a scheme to deal with surface water drainage from the development shall be submitted to and approved in writing by the local planning authority. The scheme shall include details of the on-going management and maintenance of the system. The scheme shall be implemented in accordance with the approved details prior to the occupation of either of the dwellings and permanently retained and managed in accordance with the approved details thereafter.
- 4) Details of the proposed boundary walls and fences shall be submitted to, and agreed in writing by, the local planning authority prior to the commencement of roofing works on the dwellings. The boundary treatments shall be installed in accordance with the approved details prior to the occupation of the dwellings and permanently retained thereafter.
- 5) Prior to the commencement of any roofing works, details of the natural slate to be used on the roofs shall be submitted to, and agreed in writing by, the local planning authority. Development shall be carried out in accordance with the approved details.
- 6) The house labelled Unit B on approved drawing 18102.24 shall not be occupied until the window at first floor level in the west elevation serving the bathroom has been fitted with obscured glazing, and no part of that window that is less than 1.7 metres above the floor of the room in which it is installed shall be capable of being opened. Details of the type of obscured glazing shall be submitted to and approved in writing by the local planning authority before the window is installed, and once installed the obscured glazing shall be retained thereafter.