



Appeal Decisions

Site visit made on 3 September 2019

by **Matthew Jones BA(Hons) MA MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 25 September 2019

Appeal A Ref: APP/B1225/W/19/3229288

61 Rabling Road, Swanage BH19 1ED

- 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 Ms Ian and Nicola Robertson and Hunter against the decision of Purbeck District Council.
 - The application Ref 6/2018/0546, dated 2 October 2018, was refused by notice dated 26 November 2018.
 - The development proposed is sever land and erect one detached dwelling and parking.
-

Appeal B Ref: APP/B1225/W/19/3229294

61 Rabling Road, Swanage BH19 1ED

- 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 Ms Ian and Nicola Robertson and Hunter against the decision of Purbeck District Council.
 - The application Ref 6/2019/0019, dated 4 January 2019, was refused by notice dated 18 February 2019.
 - The development proposed is sever land and erect one detached dwelling and parking.
-

Decisions

1. **Appeal A** - The appeal is dismissed.
2. **Appeal B** - The appeal is allowed and planning permission is granted to sever land and erect one detached dwelling and parking at 61 Rabling Road, Swanage BH19 1ED in accordance with the terms of the application, Ref 6/2019/0019, dated 4 January 2019, and the plans submitted with it, subject to the conditions in the attached schedule.

Procedural Matter

3. There are two appeals at this site. Appeal A relates to the erection of a property described as a chalet bungalow, which would incorporate two floors of accommodation, and Appeal B relates to the erection of a bungalow. 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

4. Given representations made by interested parties, I consider that the main issues for both appeals are the effect of the proposals on:
 - the character and appearance of the area; and,
 - the living conditions of the occupants of 59 Rabling Road, with reference to light, privacy, noise and outlook.

Reasons

Character and appearance

5. Rabling Road runs principally east to west, with linear rows of detached dwellings facing the highway on both sides, set behind attractive stone walling and small, softly landscaped front gardens. Despite the varietal design of its buildings, its reasonably narrow plots and discernible building lines provide a repetitive, suburban character. Although many properties have reasonably sized rear gardens, they are largely hidden from public view.
6. The road makes a turn at its western end, after which its character changes. The unifying stone walls and rows of properties make way for an expansive gap between 61 Rabling Road and 62 Victoria Avenue, containing outbuildings, the service lane and timber fencing on its east side. To the west is an area of open space beyond which is Prospect Crescent. As such, although I accept the overall character of Rabling Road as set out within the Swanage Townscape Character Appraisal Supplementary Planning Document (CASPD), I do not find that the appeal site or immediate area contribute to its defining attributes.
7. The section of Prospect Crescent on the opposite side of the open space is similar to the equivalent section of Rabling Road in that it is faced by the flank walls and side boundaries of two properties (3 Victoria Crescent and 64 Victoria Avenue). However, there is also a detached bungalow, 1 Victoria Crescent, which sits between them, fronting the open space directly opposite the site. The size and location of the plot, and its relationship with other properties, is very similar to the appeal site. As such, the infilling of the appeal site would correspond with directly comparable development within the immediate area.
8. The plot size and rear gardens would be small. However, the rear gardens would not be readily visible. The plot and building widths, and the resultant perceived building density along this section of the street, would be comparable to that elsewhere along Rabling Road, particularly the properties to the north. The replacement of existing fencing and hardstanding with a front lawn would offer a more attractive response, more in line with the small, landscaped gardens which characterise the area.
9. Given the established variety of buildings, the proposals would sit harmoniously within Rabling Road, maintaining the building line, with their principal elevations the prominent feature. The eaves heights and hipped roofs of the buildings would ensure that they would not be unacceptably intrusive or dominant features when viewed from the service lane, which is formed of small buildings, parking and vegetation. As a result, the proposals would not appear cramped or incongruous, but would enhance and consolidate the street scene.
10. I therefore find on this issue that the proposals would have an acceptable effect on the character and appearance of the area. They would accord with the design aims of Policy D of the Purbeck Local Plan (adopted 2012) (PLP), Policy STCD of the Swanage Local Plan (adopted 2017) (SWL), the National Planning Policy Framework (the Framework), the guidance within the Purbeck Design Guide Supplementary Planning Document (DGSPD), and the Swanage Townscape Character Appraisal Supplementary Planning Document (adopted 2012) (CASPD). I find no conflict with the design aims of Policy E12 of the emerging Purbeck Local Plan 2018-2034 (emerging PLP). However, as the policy is emerging and subject to change, it has had limited weight in my assessment.

Living conditions at 59 Rabling Road

11. The appeal site is located adjacent to the lower end of 59's rear garden, which contains a greenhouse and a fruit and vegetable plot. The existing shared boundary treatment is a 1.8m high close boarded timber fence atop a wall.
12. In both schemes, overlooking would be restricted to ground level. The effect of overlooking towards neighbouring properties would be adequately limited by the distances involved. Although photographs indicate that intervisibility would occur between the site and 59's garden, this would be significantly restricted by the boundary fence. Noise generated by the proposal would be akin to that typically experienced within such a residential area. Consequently, I find that the proposals would be acceptable with regard to privacy and noise.
13. However, the chalet bungalow proposed within Appeal A would effectively maintain a two-storey height. Although its design seeks to reduce its effect on 59 through its set back from the boundary, the use of hips and the pitching of the roof, it would nonetheless be a close and dominant feature when observed from the neighbouring garden. As such, it would unacceptably impinge upon the outlook of 59's residents. Further, given the building's location and height, I find it probable that the roof would unacceptably restrict evening sunlight. The relationship would not be comparable to that between 59 Rabling Road and the significantly more distant properties along Victoria Avenue to the south.
14. As such, I conclude with regard to Appeal A that, whilst the effect on privacy and noise would be acceptable, the proposal would have an unacceptable effect on the living conditions of the occupants of 59 Rabling Road with reference to light and outlook. It would conflict with Policy D of the PLP, the Framework and the guidance within the DGSPD insofar as they relate to the amenity of neighbouring residents. There would also be conflict with criterion e) of Policy E12 of the emerging PLP. However, as the policy is potentially subject to change, it has had limited weight in my assessment.
15. As Appeal B proposes a single storey bungalow, its effect with regard to outlook and light would be limited, and consistent with that of the similarly scaled outbuildings which are set in comparable locations and share similar relationships with neighbouring garden areas across the service lane. I therefore find on this issue, with regard to Appeal B, that the proposal would have an acceptable effect on the living conditions of the occupants of 59 Rabling Road, with reference to light, privacy, noise and outlook. It would comply with Policy D of the PLP, the Framework and the DGSPD insofar as they relate to the amenity of neighbouring residents. I also find no conflict with Policy E12 of the emerging PLP. However, as the policy is potentially subject to change, it has had limited weight in my assessment.

Other Considerations

16. The appellant has also drawn my attention to Policy H2 of the emerging PLP, which is currently at examination. The policy quantifies a windfall housing requirement and places emphasis on supporting windfall housing within urban locations. However, as the principle of development in these cases is already accepted by the development plan, and as the emerging policy is potentially subject to change, it has had limited weight in my assessment. The Framework also gives great weight to the benefits of the effective use of suitable sites

within existing settlements. However, I have found that the site would not be suitable in relation to Appeal A.

Other Matters

17. The site lies within the Dorset Area of Outstanding Natural Beauty (AONB). It is within the urban confines of Swanage, so the proposals would not have a significant impact on the special landscape character of the AONB as a whole.
18. I note concerns raised regarding the prospect of these decisions setting a precedent in the future. However, each proposal must be determined on its own merits, and the appeal site has its own individual circumstances in any event. I have also considered comments with regard to the ownership of the south boundary, but no substantive evidence has been supplied to indicate that this area of the site is beyond the appellant's control. The quantum of on-site parking is policy compliant, and on-street parking would be available if required.

Conditions -Appeal B

19. In the event that I was minded to allow Appeal B, the Council requested conditions to be applied, which I have assessed with regard to the tests set out in the Framework and the advice of the Planning Practice Guidance. I have amended them where appropriate for the sake of clarity and precision.
20. In addition to that setting out the statutory time limit, a condition requiring compliance with the approved plans is necessary for the avoidance of doubt and in the interest of certainty. Given the specialist advice of the Council's drainage engineer, it is necessary to ensure that surface water is adequately managed. However, to avoid duplication, this can be addressed within a single condition. The future extension into the roof, with associated openings or enlargements, has the potential to significantly harm the living conditions of the occupants of 59 Rabling Road. As such, there are expectational circumstances to justify the removal of Permitted Development Rights in relation to this matter. In the interest of highway safety, it is essential to ensure that the vehicular access is adequately surfaced and laid out.
21. The Council has requested a condition limiting the occupancy of the properties to people residing in them as their principal home. I have concerns about the precision and enforceability of the condition that has been suggested. In addition, though I note the evidence in relation to this matter, the justification for the condition is based on Policy H14 of the emerging PLP. Whilst the emerging PLP 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 and Planning Balance

22. The appellant contends that the development plan is out of date and therefore the presumption in favour of sustainable development (the tilted balance) is engaged pursuant to Paragraph 11 the Framework. However, Paragraph 11 refers to the policies which are most important for determining the application, which should not be regarded as out-of-date simply because a new plan has been submitted for examination or because they were adopted before the Framework. Due weight should be given to relevant policies in existing plans according to their degree of consistency with the Framework.

23. As the development plan supports the principle of development, the most important policies in regard to these appeals are Policies D and STCD, which relate to their design and effect on the living conditions of neighbouring occupants. Paragraph 127 of the Framework identifies the importance of design in decision making, including to provide an adequate standard of amenity for residents. As such, the policies are consistent with the Framework, and, based on the evidence before me, I find that the tilted balance is not engaged.
24. The government is seeking to significantly boost the supply of housing and the proposals would provide an infill dwelling in a location with good access to services. There would be some economic benefit through the construction phase and residential use. However, given the modest scale of the proposals I consider that these benefits would be limited. With regard to Appeal A, I have found that the scheme would harm the living conditions of adjacent residents. This is a matter to which I attribute significant weight, and which outweighs the benefits of the proposal. I therefore find it would conflict with the development plan when read as a whole.
25. For the reasons given above, and taking all matters raised into account, including the planning and enforcement history at the site, I conclude that Appeal A should be dismissed, and Appeal B should be allowed.

Matthew Jones

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: 1465/3, the Block Plan, and the Site Location Plan.
- 3) Before groundworks commence, a scheme for the management of surface water drainage shall be submitted to and approved in writing by the Council. This shall include details of how the discharge of surface water to the highway will be prevented. The scheme shall be designed to a standard to cater for a 1 in 100 year event plus an allowance for climate change. Before any details of the scheme are submitted to the Local Planning Authority, an assessment shall be carried out of the potential for disposing of surface water by means of a sustainable drainage system, and the results of the assessment shall have been provided to the Local Planning Authority. The approved drainage scheme shall be implemented before the first occupation of the building. It shall be retained in accordance with the agreed details.
- 4) 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), no new roof windows, dormer windows or roof enlargements will be constructed on the northern, eastern or southern roof slopes of the property.
- 5) Before the development is occupied or utilised, the first 5 metres of the vehicle access, measured from the rear edge of the highway, excluding the vehicle crossing, must be laid out and constructed to a specification submitted to and approved in writing by the Local Planning Authority.