



Appeal Decision

Site visit made on 9 September 2019

by Andrew Tucker BA (Hons) IHBC

an Inspector appointed by the Secretary of State

Decision date: 02 October 2019

Appeal Ref: APP/B1225/W/19/3227558

251 High Street, Swanage BH19 2NG

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a grant of planning permission subject to conditions.
 - The appeal is made by Alvid New Homes against the decision of Purbeck District Council.
 - The application Ref 6/2018/0556, dated 10 October 2018, was approved on 18 February 2019 and planning permission was granted subject to conditions.
 - The development permitted is demolition of existing dwelling and construction of three flats.
 - The condition in dispute is No 3 which states that: *'The properties shall only be occupied by a person as his or her only or principal home. The occupier shall supply to the Council (within 14 working days of the Council's request to do so) such information as the Council may reasonably require in order to determine compliance with this condition'*.
 - The reason given for the condition is: *'To ensure that the approved properties are not used as second homes, which would harm the sustainability of local communities and would not contribute towards meeting local housing need'*.
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Decision

1. The appeal is allowed and the planning permission Ref 6/2018/0556 for the demolition of existing dwelling and construction of three flats at 251 High Street, Swanage BH19 2NG granted on 18 February 2019 by Purbeck District Council, is varied by deleting condition No 3.

Preliminary Matter

2. On 1 April 2019 Purbeck District Council merged with East Dorset District Council, North Dorset District Council, West Dorset District Council and Weymouth and Portland Borough Council to become Dorset Council. The development plans for the merged local planning authority remain in place for the former area of Purbeck District Council until such a time as they are revoked or replaced. It is therefore necessary for me to determine this appeal with reference to policies set out in the plans produced by the now dissolved Purbeck District Council.

Main Issue

3. Whether the condition is reasonable and necessary, with reference to Policy H14 of the emerging Purbeck Local Plan 2018 – 2034 (PLP).

Reasons

4. Evidence before me suggests that there is an issue with a high number of second homes in the Purbeck area, with particular concentrations in coastal areas and within the Area of Outstanding Natural Beauty (AONB). There is concern about the impact this has on housing stock availability, and that a high proportion of homes that are not permanently occupied harm the fabric of communities in the area. In light of this the Council has included Policy H14 in the emerging PLP to ensure that new housing in the AONB is only occupied as a principal residence.
5. The approved scheme is for three small flats in a coastal location within the AONB, that could be very attractive as second homes. The condition subject of this appeal has been imposed by the Council to ensure that the approved flats are only occupied as principal residences.
6. However, Policy H14 of the PLP has not been adopted. This limits the weight that should be attached to the Policy as emerging policies do not have the same statutory force as adopted policies under s38(6) of the Planning and Compulsory Purchase Act 2004. There is no comparable Policy within the existing development plan. Although this means that there would be no conflict between an existing Policy and the emerging Policy, the introduction of the emerging Policy does significantly change the approach when compared with the existing adopted development plan. As such, with reference to the condition tests set out in paragraph 55 of the National Planning Policy Framework (the Framework), the condition can only be considered necessary and reasonable if sufficient weight is given to the emerging Policy.
7. Paragraph 48 of the Framework establishes that weight can be given to relevant policies in an emerging plan according to the stage of preparation, the extent to which there are unresolved objections and the degree of consistency with the Framework. The emerging plan is at an advanced stage of preparation, and the principle of managing the occupancy of new housing in this manner could be considered consistent with the social objective of sustainable development as set out in paragraph 8 of the Framework.
8. However, I note the significant level of objection to the Policy as it stands. Many objections submitted suggest that the Policy is not sound as it does not go as far as it should, that it does not cover holiday lets and that it should extend to a wider geographical area. Whilst most of the objectors do not oppose the principle of a Policy that seeks to manage second homes, such objections are unresolved and therefore significantly reduce the weight that should be applied to the Policy at this stage.
9. It is not appropriate for me within the scope of this appeal to consider whether the Policy is sound. This could undermine the plan-making process as it is a matter for the Local Plan Inquiry. The Council has suggested that determining the appeal while the examination is underway may be premature, and has therefore suggested that the determination of the appeal is delayed until the examination has taken place. However, the Council considered it appropriate to impose the condition subject of this appeal on the basis of the emerging Policy. I do not consider it to be reasonable to the appellant for my decision to be delayed.

10. On this basis I am not satisfied that it is necessary or reasonable to impose such a condition, as it relies on the emerging PLP Policy, which has a significant level of unresolved objections and therefore, in accordance with paragraph 48 of the Framework, should be given limited weight.

Other Matters

11. Third party comments have been submitted in relation to the lack of parking, overdevelopment of the plot, and the effect of the development on the occupiers of neighbouring properties. It is possible for me within the scope of this appeal to reverse or vary any part of the decision of the Council, whether the appeal relates to that part or not. I have therefore carefully considered the other matters raised.
12. In terms of the lack of parking provision, I note that the site is well located within easy access of local facilities and services. It is therefore possible that future occupiers could have a low level of car ownership. Taking this into account, and the presence of the existing bungalow that also does not have any dedicated parking, I am satisfied that the approach is acceptable.
13. In terms of the design of the building and whether it could be considered overdevelopment I note that the appeal site lies within the Swanage Conservation Area. Based on the evidence before me and my observations on site, including the poor design of the existing bungalow, I find that the proposal would have a neutral effect on the significance of the conservation area and would therefore preserve its character and appearance.
14. The officer report sets out in detail how the living conditions of the occupiers of neighbouring properties have been considered in the design of the proposal. There would be some effect on levels of light reaching properties either side of the development. However as both properties benefit from an otherwise open southerly aspect, I am satisfied that this would not be adverse. Furthermore, direct overlooking has been carefully considered through the design and placement of windows and incorporation of obscured glazing. I am therefore satisfied that the development would not harm the living conditions of the occupiers of existing properties to the sides and rear of the site.

Conclusion

15. For the reasons above, I conclude that the appeal should succeed. I will vary the planning permission by deleting the disputed condition.

Andrew Tucker

INSPECTOR