
Appeal Decision

Site visit made on 15 October 2019

by Benjamin Webb BA(Hons) MA MA MSc PGDip(UD) MRTPI IHBC

an Inspector appointed by the Secretary of State

Decision date: 12 November 2019

Appeal Ref: APP/P1235/W/19/3233125

Tidesreach, 1 Bowleaze Cove way DT3 6RY

- 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 Fovargue against the decision of Dorset Council.
 - The application Ref WP/18/00836/FUL, dated 25 October 2018, was refused by notice dated 25 April 2019.
 - The development proposed is described as demolish existing dwelling and erect apartment block.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. The spelling of the appellant's surname differs between the application form and appeal form. The spelling on the application form is also not wholly legible. As the Council has otherwise used the spelling as shown on the appeal form, I have done the same for the purposes of the banner heading above.

Main Issues

3. The main issues are the effect of the development on:
 - the living conditions of future occupants of the development with regard to coastal erosion and flood risk;
 - the character and appearance of the area; and
 - the living conditions of occupants of adjacent development with regard to outlook.

Reasons

Coastal erosion and flood risk

4. Part of the site falls within a potential 100-year cliff top recession band, as outlined in Managing Coastal Change Document: 1 Version: 1 Coastal Risk Planning Guidance for West Dorset, Weymouth & Portland 2013 (the CRMG). As such, it can be considered to fall within a coastal change management area (CCMA), as defined within the Glossary of the National Planning Policy Framework (the Framework). Policy ENV7 of the West Dorset, Weymouth & Portland Local Plan 2015 (the Local Plan) seeks to direct development away from areas at risk of coastal erosion. Paragraph 168 of the Framework

additionally states that development within CCMA's will only be appropriate where, amongst other things, it is demonstrated that it will be safe over its lifetime.

5. In these regards the appellant's geotechnical report (the GTR) states that shoreline recession is not considered to be a significant risk. This is given the 125 metre distance from the site to the nearest undefended cliff, and based on the assumption of a 'design life' of 60 years. Whilst it is unclear whether the design life is the same as the lifetime of the development, the nature of risk, and how this might change and evolve over time, is not explored in any detail within the GTR. Nor is the period beyond 60 years.
6. I acknowledge that the CRMG attaches only a 5% probability of erosion reaching the landward limit of the recession band within 100 years. However, whether or not the limit was reached, the physical effects of erosion would be experienced well in advance of the eroding cliff face, thus potentially affecting not only land within the site, but areas of land in close proximity to it. This could include the means of access to and from the proposed development along Bowleaze Cove way, given that the road lies closer to the cliff than the site. Under such circumstances unacceptable adverse impacts on the living conditions of future occupants could arise both as a result of the direct risk to safety from coastal erosion, and the reasonable on-going fear of the risk.
7. Paragraph 6.5 of the CRMG states that granting of time-limited planning consents may be appropriate within the CCMA. This reflects advice in paragraph 169 of the Framework. However, the application does not seek a temporary planning permission. Furthermore, the proposed development would not be one of the intrinsically less permanent types of tourism-related development the CRMG considers to be potentially suitable within the CCMA.
8. I accept that the GTR concludes that the proposed development will not significantly affect the stability of the site or the surrounding area. However, this would not alter the existence of the risk arising from coastal erosion within the immediate setting of the site, or the adverse effect this might have on future occupants.
9. Though no detailed evidence has been submitted in relation to the risk of coastal flooding, table 1-4 of the CRMG does not identify the zone within which the site falls as being at risk of flooding. As such it does not appear that the development would be at future risk from coastal flooding.
10. For the reasons outlined above I conclude that it has not been demonstrated that the development would provide safe living conditions for future occupants with regard to risks from coastal erosion. It would therefore conflict with Policy ENV7 of the Local Plan, as outlined above; supporting guidance within the CRMG; and relevant provisions within the Framework related to coastal change.

Character and appearance

11. The appeal site is located on the west side of Bowleaze Cove way, which rises steeply uphill from the seafront. Viewed travelling uphill, the existing dwelling has a strong visual presence within the streetscene. It is however sufficiently low in profile that when travelling downhill, it does not interrupt the attractive panoramic view from Bowleaze Cove way, across Weymouth.

12. Dwellings along the west side of the road between the appeal site and Overcombe Drive, mainly comprise split-level detached bungalows and houses. As levels fall to the west, these dwellings present either one or 2-storeys to the street, and thus appear to be of typically domestic scale. Ridge heights are generally staggered, following the rise/fall of Bowleaze Coveway.
13. The proposed development would see a building constructed on the site whose height was similar to that of neighbouring 3 Bowleaze Coveway. However, viewed from the street, No 3 stands upslope of the appeal site. As ground levels fall steeply both within and outside the site, a building at the proposed height would appear obviously inconsistent with the prevailing staggered pattern of building forms along Bowleaze Coveway. This would be made more apparent by the fact that the building would feature a floor of accommodation at much the same level as the roof of No 3, and would be accentuated by the substantial scale, and visual prominence of the building. In terms of scale, mass and site coverage, the proposed building would furthermore appear at odds with the more modest forms of existing dwellings along the west side of Bowleaze Coveway. The combined effects would cause the development to appear visually obtrusive within the streetscene, when travelling both downhill as well as uphill. Indeed, when travelling downhill, it is likely that the increased height of the building, relative to that of the existing dwelling, would cause it to intrude on the view.
14. Though various apartment blocks featuring 3-storeys of accommodation occur along Preston Road to the east, none of these directly inform the character of Bowleaze Coveway in the vicinity of the appeal site. Their existence therefore has little bearing on the acceptability of the proposed design viewed within its immediate context.
15. Whilst the 'contemporary' nature of the design proposed, as too the mixed architectural character of the area has been emphasised by the appellant, this in no way alters the fact that the proposed building would fail to integrate with its setting.
16. A large flat roofed pub building stands opposite the site. This is however both visually and spatially distinct from the sequence of dwellings on the west side of Bowleaze Coveway. Furthermore, whether or not the attention of users of Bowleaze Coveway was drawn more towards the proposed development than to the pub, in view of my reasons above, it is unlikely that this would provide any obvious benefit.
17. For the reasons outlined above I conclude that the development would have an unacceptably adverse effect on the character and appearance of the area. It would therefore conflict with Policy ENV10 of the Local Plan, which amongst other things states that development should be informed by the character of the site and its surroundings; Policy ENV12 of the Local Plan, which amongst other things seeks to secure development whose design, scale and mass of complements and respects the character of the surrounding area; and relevant design-related provisions of the Framework.

Outlook

18. The development would result in a significant increase in the height, extent and massing of built form positioned directly adjacent to the boundary between No 3 and the appeal site. The change would be clearly appreciable from the

adjacent driveway and garden of No 3, and from windows positioned in the side elevation of the dwelling. Though these windows are not the sole windows within the rooms that would be affected, in some cases they provide the principal outlook. The increased sense of enclosure along the boundary would be oppressive in its effect, and would not be substantially relieved by the staggered height of the proposed building. This is because the overall massing of built form along the boundary would remain substantial. The development would as such cause significant harm to the outlook of occupants at No 3.

19. 2B Preston Road shares a boundary with the appeal site, but is located at a much lower level. The change in levels is partly accounted for by substantial retaining walls. Given their height, these walls cause significant overbearing both of the amenity space to the rear of No 2B, and ground floor windows which overlook this space. Further direct overbearing arises from the close proximity of the neighbouring building. Whilst the raised position of the existing dwelling on the appeal site also modestly impinges on the outlook from No 2B, its current effect is less pronounced than that of the retaining walls and more immediate neighbours.
20. The relationship would nonetheless change as a result of the development. The much greater height, mass and site coverage of the proposed building, relative to that it would replace, would cause it to be more visually apparent, and indeed imposing viewed from No 2B. This would be appreciable both from ground floor level, and from first floor windows. Given the extent of existing overbearing of No 2B, the further diminution in the quality of outlook that would result from the development would cause considerable harm.
21. Dwellings located adjacent to the west boundary are similar in character to No 2B. These dwellings would be closest to the 3-storey section of the proposed building. The stark difference in height is clearly illustrated on the submitted sections. Though substantial boundary planting would reduce the extent to which this was apparent from a lower level, the considerable increase in the extent and overall mass of built-form adjacent to the boundary would again have an oppressive overbearing effect, appreciable from first floor level.
22. For the reasons outlined above I conclude that the development would have an unacceptable adverse effect on the living conditions of occupants of neighbouring dwellings. It would therefore conflict with Policy ENV16 of the Local Plan, which amongst other things states that development proposals will only be permitted where they do not have a significant adverse effect on the amenity through overbearing; and relevant provisions the Framework concerned with securing high standards of amenity.

Other Matters

23. The Council indicates that it does not have a 5-year supply of deliverable housing sites, and so policies most important for determining the application are out-of-date. Under paragraph 11 of the Framework planning permission should therefore be granted unless any adverse impacts would significantly and demonstrably outweigh the benefits, or if specific policies within the Framework that protect areas or assets of particular importance provide clear reasons for refusal. Footnote 6 indicates that these policies include those related to coastal change. As such the tilted balance set out in paragraph 11 does not apply.

24. The development would provide a net increase of 5 dwellings, making a small contribution towards meeting the general need for housing within the Council area. Minor economic benefits would be generated during the construction process, and as a result of increased use of local services by future occupants. These benefits would not however be sufficient to outweigh the combined weight of the harms identified in my reasons above.

Conclusion

25. For the reasons set out above, and having regard to all other matters raised, I conclude that the appeal should be dismissed.

Benjamin Webb

INSPECTOR