



Appeal Decision

Site visit made on 3 February 2020

by Martin Andrews MA(Planning) BSc(Econ) DipTP & DipTP(Dist) MRTPI

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

Decision date: 01 April 2020

Appeal Ref: APP/D1265/W/19/3237536

Land at Chesterfield Place, Upwey, Weymouth DT3 5LY

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a failure to give notice within the prescribed period of a decision on an application for outline planning permission.
 - The appeal is made by Palmer Homes Ltd against Dorset Council.
 - The application Ref. WP/19/00496/OUT, is dated 19 June 2019.
 - The development proposed is an outline application for the demolition of existing outbuildings and the erection of 18* No. dwellings with associated access road, parking and landscaping. (*see paragraph 2 below)
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Decision

1. The appeal is dismissed.

Preliminary and Procedural Matters

2. The application is for outline planning permission with all matters other than access reserved for subsequent consideration. The application form referred to the erection of 18 dwellings, but this was subsequently amended to 17 on 26 July 2019. The application was preceded by an application (Ref. WP/18/00832/OUT), also for 18 dwellings on the same site, and refused on 19 April 2019. Of the four reasons for the refusal of that application, the first included references to the matters identified in the single main issue in this appeal in paragraph 5 below.
3. A planning obligation by way of a Unilateral Undertaking ('the UU') under section 106 of the Town and Country Planning Act 1990 dated 16 December 2019 has been submitted by the appellant. This relates to the provision of six affordable dwellings as part of the appeal scheme.
4. The appeal is against the Council's failure to make a decision on the application within the statutorily prescribed period. However, the Council's Appeal Statement includes the wording of the reason for refusal if the application had been determined. A second initially suggested refusal reason has effectively been withdrawn by the Council as a result of the UU referred to above.

Main Issue

5. The main issue is the effect of the site's development on the character and appearance of the area, having regard in particular to its location within the Upwey Conservation Area and the 'Important Open Gap' as referred to in the West Dorset, Weymouth and Portland Local Plan 2011-2031 adopted in 2015 ('the Local Plan'). In considering the main issue I have taken into account the

indicative plans submitted as part of the application, albeit that the purpose of the latter's predominantly outline form is to establish whether or not the principle of the site's residential development would be acceptable.

Reasons

6. The appeal site lies immediately west of the rear gardens of a line of houses fronting Dorchester Road, with to the north east the Victorian terraced buildings of Prospect Lane, and to the south the Miles Gardens cul-de-sac and its recent westward extension (referred to by the parties as 'the Morrish scheme', allowed at appeal: Ref. APP/P1235/W/15/3134052). Both Prospect Lane and Miles Gardens are exceptions to the otherwise linear development along this part of the western side of Dorchester Road.
7. Plans within the appellant's application and appeal documentation clearly show the immediate wider context for the site, which amongst other matters informs my Decision. This is comprised of a roughly rectangular area, with Dorchester Road as the eastern boundary and the remaining boundaries as Elwell Street (northern), Church Street (western) and Stottingway Street (southern). In broad terms the part of the rectangle outside the Defined Development Boundary for Upwey ('the Upwey DDB') is covered by both the village's Conservation Area and the Important Open Gap ('the IOG'), but with the AONB lying immediately to its west and north. The thrust of the Council's concern is that the proposed development would result in unacceptable visual harm to the open character and rural appearance of this part of the conservation area.
8. The IOG is not directly referred to in Local Plan Policy ENV3 but is identified in its preamble as one of the categories that will contribute to a 'Green Infrastructure Network' ('GIN'), which is the title of the policy. The latter states in (ii) that '*Development that would cause harm to the green infrastructure network or undermine the reasons for an area's inclusion within the network will not be permitted unless clearly outweighed by other considerations*'. In the preceding paragraph the Local Plan explains, amongst other matters, that the GIN can include '*small open gaps which prevent neighbouring communities that have distinct and separate characters from merging into one another, areas of particular local landscape or townscape importance*'.
9. The proposed development of the site would clearly extend the edge of the Upwey DDB westward in a part of the IOG where the Morrish Scheme has recently extended the built form of Miles Gardens on its western flank. This extension and the appeal scheme are sufficiently close to one another to be reasonably assessed as having a cumulative impact. This would be especially so in the event that a permission in this case made it difficult for the Council, in all fairness, to resist development of other land (including that owned by the appellant) along the western edge of the DDB to the north of Prospect Place.
10. The main harm that would result from the appeal site in itself being developed is firstly the principle of an incremental and piecemeal erosion of the IOG and secondly the more tangible consequence of a fundamental change from a rural to a suburban character. The conservation area boundary for the most part coincides with the IOG and indeed the Council's appeal statement explains that the two go together to safeguard the rural and historic landscape setting of Upwey. This loss of a hectare of the IOG, particularly at a point along its eastern boundary where there would be both an existing and potentially

additional cumulative effect, would inevitably cause harm to the character and appearance of the conservation area.

11. In terms of the development's visual effect on the landscape and particularly as perceived in public views, I have considered the appellant's Landscape Impact Appraisal ('the LIA'). There are some elements of this with which I can agree, particularly as regards the relatively restrained impact of the scheme in the longer distance photographic viewpoints. Furthermore, in some of the closer views, notably from public footpaths S1/81 & S1/83, the impact would be ameliorated by a combination of the fact that there are already existing views of the built-up side of the DDB and that there would be a screening and 'softening' of the development edge as suggested in the LIA's mitigation proposals.
12. However, with that said, this would not be easily achieved given the two storey built form indicated and the substantial rise in land level across the site. And even if this were to be a pessimistic view, the relatively modest adverse visual effect on the remaining rural landscape within the IOG that would remain would still not fully counter the harm accruing from the actual loss of part of the GIN. Such a loss would conflict with Policy ENV3, which states in Part (ii) that *'development that would cause harm to the green infrastructure network or undermine the reasons for an area's inclusion within the network will not be permitted unless clearly outweighed by other considerations'*.
13. As I have indicated in paragraph 10 above, the effects on the integrity of the GIN and on the character and appearance of the conservation area are inextricably linked. As a result, I consider the Council is correct to conclude that it is the open nature of the site on the edge of the built up area of Upwey that is the defining characteristic of the character and appearance of this part of the conservation area. Accordingly, the harmful conflict with Policy ENV3 from the site's development within the GIN would have a concomitant effect on the conservation area, contrary to Policy ENV4.
14. The Morrish Scheme, which in outline form was allowed on appeal, has been cited in the grounds of appeal as being a consideration in favour of the appeal development. However, having read the Inspector's Decision I can see no reference to the IOG, with the main issue being confined to the effect on the Upwey Conservation Area and the rural landscape. As the decision post-dates the adoption of the Local Plan this is puzzling, but whatever the explanation it must reduce the validity of any comparison between the outline permission for the extension to Miles Gardens and the current appeal proposal.
15. Furthermore, I am minded to endorse the Council's view that in any event there are such factors as the 'buffering' effect of that site's location from the linear development along Stottingway Street to the south and the children's playground to the north, which along with the development's lower density and mainly single storey form reduce the weight of argument that the Morrish Scheme serves as any form of precedent for the appeal proposal.
16. There is a further matter as regards the effect of the development on the character and appearance of the conservation area that is quite separate from the IOG. This relates to the use of Prospect Place as the proposed access for the 17 dwellings and has been the subject of representations by both the Council and local residents, many of whom live in this road.

17. I saw on my visit that at present Prospect Place is an unmade private road serving attractive Victorian terraced houses and which terminates in the access to the appeal site and the beginning of the public footpath across the fields to Church Street. In the appeal application the means of access to the development is not reserved and such details as there are, appear to be limited to those shown on the composite Location, Block and Site Plan, Drawing No. 18114.01D. Ostensibly, this appears to be a conventional formal access road with two kerbed footpaths, all of a form of construction typically using tarmac for the finished surfaces.
18. Whilst I accept that this new road has been designed to meet the Highway Authority's technical and safety standards for 17 new dwellings and the existing houses in Prospect Lane, including parking spaces for residents of the Lane, I consider that an access of this formal design would be entirely unsympathetic to the traditional and rural character and appearance of the Lane and thereby harmful to these aspects of the conservation area. Furthermore, the amount of traffic that would result from the proposal would compound the harm to the character of the conservation area, albeit in itself this is a factor that in all probability would be outweighed by an otherwise favourable conclusion on the appeal scheme.
19. On the main issue I conclude that the site's development would have a significantly adverse on the character and appearance of the area, having regard in particular to its location within the Upwey Conservation Area and the 'Important Open Gap'. This would conflict with Local Plan Policies ENV1, ENV3, ENV 4 & ENV10 and with Government policy that informs and complements these policies in Sections 15 & 16 of the National Planning Policy Framework 2019 ('the Framework'). However, I must also weigh any merits of the proposal against that preliminary finding. And in that context there are two further specific matters to be addressed, both of which also arise in the Framework.
20. The conservation area is a designated heritage asset and paragraphs 195 and 196 of the Framework advise as to the protocol for when a proposed development would lead to the significance of the asset being caused 'substantial harm' or 'less than substantial harm' respectively. The appeal scheme would result in a hectare of the conservation area changing from a rural to a suburban character and appearance with an associated impact on the existing landscape and openness, and also have an adverse effect on Prospect Place. However, because of the large size of the conservation area I consider that in this case the harm would be 'less than substantial', albeit at the upper end of that spectrum rather than the lower end as argued for the appellant. Paragraph 196 then requires any public benefits of the proposal to be weighed against the harm caused.
21. In this appeal I am able to do this in conjunction with the evaluation required under paragraph 11d) and footnote 7 of the Framework because the Council can only show a housing land supply of 4.88 years as opposed to the minimum requirement of five years. The primary benefits of the scheme are that it would make a contribution of 17 dwellings towards the Council's housing requirement, with six of these being policy compliant affordable units, and that this would be in a sustainable location given the reasonable proximity to the facilities of Upwey, Broadwey and Redlands (a pub, village stores, school, community sports hub) and a regular bus service to the railway station in the village and

Dorchester / Weymouth. There would additionally be a short-term economic fillip from the construction and longer term economic and social benefits associated with the occupation of the dwellings.

22. Notwithstanding these supportive factors for development, I regard them as being significantly and demonstrably outweighed by the harm that I have identified in respect of the adverse effect on the conservation area and the GIN, particularly taking into account that this harm would be exacerbated by the principle of an incremental and piecemeal erosion of the IOG from a development outside the DDB. The conditions suggested by the parties would not make the proposal acceptable.
23. In the interests of clarity, the exacerbation of harm referred to above would not apply in the event of consideration of housing development on the appeal site or other land on the edge of the DDB as part of any Review or Replacement Local Plan. The other elements of harm that the Council have identified in this case and with which I have concurred would still be relevant and significant, but in the preparation of a replacement or new Local Plan this could be weighed against any harm that would no doubt arise from the development of many of the alternative sites put forward to meet the ongoing requirement for housing in the locality. Similarly, the advantages of each site, in this particular case including its acknowledged locational sustainability, could be factored into the comparative evaluation of all potential sites that would be needed for a housing supply strategy spatially and quantitatively consistent with the policies in the Framework when taken as a whole.

Other Matters

24. Local residents have raised a number of issues additional to the main issue summarised in paragraph 5 above. These include the effect on the living conditions of occupiers of dwellings in Prospect Place in terms of noise and disturbance. However, these and other points were evaluated in the Officer's report on the previously refused application for 18 dwellings and acknowledged in the evidence for this appeal. I agree with the Council's appraisal but do not see the need to supplement the reasons for my Decision on the main issue.
25. In the same vein, the Council has made some criticisms of the Indicative Layout, including the development's relationship with the existing No. 817 Dorchester Road. However, these alleged shortcomings of the layout were not included in the deemed reason for refusal and are matters of detail reserved for future consideration. I would only have needed to consider the points raised by the main parties in a situation where I had been minded to allow the appeal having had regard to the main issue.

Conclusion

26. For the reasons set out above and having had regard to all other matters raised, the appeal is dismissed.

Martin Andrews

INSPECTOR