
Appeal Decision

Site visit made on 18 May 2020

by Nick Davies BSc(Hons) BTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 22 May 2020

Appeal Ref: APP/D1265/W/19/3237292

Land Adjacent to Black Dog Inn, 50 Main Street, Broadmayne DT2 8ES

- 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 Barry Crook against the decision of Dorset Council.
 - The application Ref WD/D/19/000375, dated 29 January 2019, was refused by notice dated 11 July 2019.
 - The development proposed is 2 no. 3-bedroom houses.
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Decision

1. The appeal is allowed and planning permission is granted for 2 no. 3-bedroom houses at Land Adjacent to Black Dog Inn, 50 Main Street, Broadmayne DT2 8ES in accordance with the terms of the application, Ref WD/D/19/000375, dated 29 January 2019, and the plans submitted with it, subject to the conditions in the attached schedule.

Main Issues

2. The main issues are:
 - a) The effect of the development on the character and appearance of the area;
 - b) The effect of the development on the living conditions of the occupants of 5 Sherren Cottages and 8 High Trees with regard to outlook and privacy; and,
 - c) Whether the development would provide suitable living conditions for future occupants with regard to privacy.

Reasons

Character and appearance

3. The Black Dog Inn is a 2-storey red-brick pub that sits immediately adjacent to the main road through the village of Broadmayne, which is lined by a range of buildings of mixed eras and designs. The appeal site comprises part of the carpark that lies to the rear of the building. Access is obtained via a gap in the frontage development between the pub and 1–3 Sherren Cottages, a terrace of 2-storey red-brick houses with decorative flint banding and slate roofs. The carpark is a wide expanse of tarmac, bordered by existing dwellings on three sides, and the pub and beer garden on the other. Although set back from the road behind the frontage buildings, the appeal site is visible from Main Street

through the access, and also from the west, across the beer garden. In both cases it is seen in the context of existing development of mixed character.

4. Viewed through the access point, the appeal site is framed by 1-3 Sherren Cottages on one side, and the pub on the other. Both of these buildings are 2-storey red-brick buildings with slate roofs. The proposed houses would be similar in scale, proportions and materials to the frontage buildings, so would appear respectful of their surrounding context. Consequently, they would provide a more visually attractive focal point for views down the access road than the currently open carpark, temporary structures and boundary wall/fence. When viewed from Main Street to the west, near its junction with Bakers Paddock, the houses would be seen in the context of the pub, 4-6 Sherren Cottages and 9 & 10 High Trees, all of which are 2-storey buildings with pitched roofs. The houses would therefore be in keeping with the scale, form and appearance of these surrounding buildings.
5. The houses would have a close visual relationship with 4-6 Sherren Cottages, which front the eastern side of the carpark. The Council has raised concerns that the position of the proposed development would not relate positively to these adjacent buildings, resulting in harm to local character. However, the submitted drawings show that the general positioning and orientation of the buildings would be similar to an extant planning permission¹ for two bungalows, although the houses now proposed would be further from Sherren Cottages. Although the 2-storey nature of the houses would give them a greater visual presence, their scale and form would be more in keeping with the surrounding buildings, resulting in a more harmonious visual relationship.
6. Viewed from Main Street, through the access, the houses would appear as a continuation of the sinuous building line created by the frontages of 1-3 and 4-6 Sherren Cottages. They would therefore relate well to the existing pattern of development. From the junction with Bakers Paddock, there is no discernible pattern to the layout of the buildings within which the houses would be seen. Consequently, as the general scale and form of the houses would be in keeping with surrounding buildings, the juxtaposition of the proposed development with Sherren Cottages would not be visually harmful.
7. I therefore conclude that the development would not harm the character and appearance of the area. The proposal would therefore comply with Policy ENV12 of the West Dorset, Weymouth & Portland Local Plan 2015 (the Local Plan), which seeks to ensure that the design and positioning of buildings respects the character of the surrounding area. The proposal would also accord with the aims of the National Planning Policy Framework (the Framework) to achieve well-designed places.

Living conditions of occupants of existing properties

8. 4-6 Sherren Cottages is a terrace of three houses that lies close to the eastern boundary of the appeal site. The terrace faces the site, and is only separated from it by the footpath that gives access to the front doors of the cottages. The proposed semi-detached pair of houses would be perpendicular to the terrace, and positioned 10.3 metres from the front elevation of Nos 5 and 6 Sherren Cottages. The Council's reason for refusal refers to harm to the living conditions of the occupants of No 5 through a loss of outlook, and a

¹ LPA reference: WD/D/15/000381

representation has been received relating to loss of light and privacy for the occupants of No 6.

9. 5 Sherren Cottages has two ground-floor, and two first-floor, windows facing the site. One of the first-floor windows is obscure glazed and one of the ground floor windows is a small one located adjacent to the front door. These windows would face the gable end of the proposed houses, so there would be some impact on the outlook from them. However, the 10.3 metre distance means that a largely open outlook would still be available from the first-floor windows over the sloping roof to either side of the ridge. The larger ground floor window would also retain a relatively open horizontal field of view through the gap between the pub building and the houses. Due to the distance between the buildings, the vertical field of view over the gable, from the ground floor windows, would also be at a relatively shallow angle.
10. I am mindful that the extant permission is for a single storey building, but it would be significantly closer to Sherren Cottages, and would have a wider footprint. The impact of a taller, narrower, more distant building would not have a significantly greater impact on the outlook from the windows in the front elevation of the terrace. In any event, as the cottages face onto a pub carpark, they have been designed so that the main outlook from habitable accommodation is from the patio doors and windows in the rear elevation, which look out onto its private garden. The outlook from these windows would be unaffected. I therefore find that there would not be a harmful impact on the living conditions of the occupants of No 5 through loss of outlook.
11. 6 Sherren Cottages has the same window arrangement as No 5, but in a mirrored fashion. The proposed houses would lie to the northwest, so would have no impact on the amount of sunlight reaching these windows. The distance between buildings, and their orientation, means that there would also be little impact on daylight. There would only be one side-facing window in the house facing Sherren Cottages, which would be small and obscure glazed, as it would serve a bathroom. Due to the distance and angle of view, the windows in the rear elevation of the houses would not result in any overlooking of the front elevation of No 6. The garden of the nearest house would be close to the ground floor windows, but privacy could be maintained through normal domestic boundary screening. This area is, in any event, currently part of a pub carpark. The proposal would not, therefore, lead to a harmful loss of light or privacy for the occupants of 6 Sherren Cottages.
12. 8 High Trees is a bungalow, on slightly higher ground, to the south of the appeal site. It has previously been extended at the rear, and has large windows serving habitable rooms that look towards the appeal site. The boundary between the rear garden of the bungalow and the site is marked by a wall/fence, which is more than two metres high. There is also some planting on the appeal site boundary that provides additional screening. The proposed houses would be roughly parallel with the rear elevation of 8 High Trees. Due to the boundary treatment, there would be no loss of privacy from the proposed ground floor windows and gardens. However, there would be a first-floor bedroom window in each of the houses, that would be at a higher level than the wall/fence, and would face the rear garden and windows of No 8.
13. The back gardens of the proposed houses would be approximately 9 or 10 metres in length, so the first-floor windows would be a respectful distance from

the rear garden boundary of 8 High Trees. There would, inevitably, be some views over the boundary, but the existing screening would mean that privacy in large parts of the garden would be retained. The boundary screening could be secured and reinforced through a landscaping condition. Any remaining overlooking of the garden would not be so extensive, or at such close quarters, that there would be a harmful loss of privacy.

14. The parties do not agree on the distance between the windows in the proposed houses and those in the rear elevation of 8 High Trees. The Council estimates the distance would be about 18 metres, whereas the appellants suggest that there would be a 24-metre separation. The lack of agreement may be partly due to the extension to the rear elevation of No 8, which does not appear on the base maps used by the appellants. On the evidence before me, and from my own observations on site, the windows in the rear elevation of No 8 are about 11 metres from the boundary. The windows in the proposed houses would be a further 9 or 10 metres away, so the separation distance would be around 20 to 21 metres. The Council has not provided any locally adopted design guidance on recommended spacing, but 21 metres is often considered to be an acceptable back-to-back distance for opposing elevations.
15. Bearing in mind that the two clear-glazed first floor windows would serve bedrooms, it is unlikely that they would give rise to regular or prolonged overlooking. Furthermore, in view of the distance between windows, any overlooking would not be at such an intensity that it would result in a loss of privacy for occupants within the bungalow. I therefore find that the proposal would not be harmful to the living conditions of the occupants of 8 High Trees. I have considered the representations from the occupants of other dwellings in High Trees, who also raise concerns about loss of privacy. As their gardens and windows are all as far, or further, away than those of No 8, it follows that I also conclude that the impact on their living conditions would not be harmful.
16. To conclude on this issue, the development would not harm the living conditions of the occupants of Sherren Cottages or High Trees. The proposal would therefore comply with Policy ENV16 of the Local Plan, which seeks to ensure that development does not have a significant adverse effect on the living conditions of occupiers of properties through loss of privacy or excessive overshadowing or overbearing impacts. The proposal would also meet the Framework's aim to create places with a high standard of amenity for existing and future users.

Living conditions of future occupants

17. The proposed houses would provide an acceptable standard of internal accommodation for future occupants. Furthermore, the Council does not raise any concerns regarding the quantity of outdoor amenity space provided. This issue is therefore only concerned with whether the outdoor space would provide a suitable level of privacy for the occupants of Plot 2.
18. The front elevation of 6 Sherren Cottages would look towards the rear garden of Plot 2 at a distance of less than 4 metres. Privacy at ground floor level could be maintained through normal domestic boundary treatments, which could be secured through an appropriately worded planning condition. There is, though, a clear-glazed first floor window, which could not be screened in this way. However, whilst this window would be close to the boundary, it is a relatively small window, probably serving a bedroom, which is unlikely to be a constant

source of overlooking. Parts of the garden would be a considerable distance from the window, so its presence is unlikely to make occupants feel uncomfortable about using the outdoor space.

19. In any event, the impact of this window on the living conditions of the occupants of Plot 2 would be very similar to the impact of the extant permission for two bungalows. I appreciate that a projecting element of the equivalent unit under that scheme would have provided a shielded patio area close to the rear elevation. However, such a secluded area could very easily be provided within the proposed plot through, for example, the provision of fence or trellis panels projecting from the corner of the house, or through judicious planting. Again, this could be secured through a landscaping scheme.
20. I am therefore satisfied that the development would provide occupants with outdoor amenity space that could be made sufficiently private, through appropriate hard and soft landscaping. The development would therefore accord with Policy ENV16 of the Local Plan, which seeks to ensure that proposals minimise their impact on the amenity and quiet enjoyment of existing and future residents.

Other Matters

21. I have had regard to other issues that have been raised in representations, including the impacts of the development on local wildlife and highway safety. However, these impacts would be no different to those resulting from the extant permission for two bungalows. Concern has also been raised regarding the loss of carparking for the pub, but the scheme now proposed would result in the loss of less of the parking area than the development permitted by the extant consent. Similarly, I see no reason why the proposed houses would result in more noise than the permitted scheme. Therefore, these other matters do not outweigh my findings on the main issues above.

Conditions

22. 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.
23. In order to protect the appearance of the area, I agree that conditions are necessary to secure appropriate external materials and window details. A condition securing a landscaping scheme is required to ensure that the development is assimilated into its setting, and to ensure that appropriate means of enclosure and screening are provided to maintain the privacy of existing and proposed occupants. I agree that it is necessary to secure the provision of the carparking facilities, in the interests of highway safety. In view of the potential for excavations to encounter unexpected contamination, a condition is necessary to ensure it is reported and suitably mitigated.
24. The application form does not clarify whether surface water drainage will be dealt with by soakaways or mains drainage. However, the Council's Technical

Services department raises no objections to either means of disposal. As the site is already entirely hard-surfaced, the development will not lead to an increase in surface water. There is no evidence to suggest that mains foul drainage is unavailable. In these circumstances I see no necessity for a condition requiring submission of foul and surface water drainage details, as these matters can be satisfactorily dealt with under other regulatory regimes.

25. The Council has suggested a condition removing permitted development rights for extensions, enlargements or outbuildings to protect the amenity of neighbouring properties. No justification for the proposed condition has been provided, or any indication of why the conditions and limitations imposed by the legislation² would not provide the necessary safeguards. The PPG advises that the blanket removal of freedoms to carry out small scale domestic alterations, that would otherwise not require an application for planning permission, are unlikely to meet the tests of reasonableness and necessity. In the absence of any reasoned justification, I therefore conclude that the suggested condition would not meet the advice in the PPG.

Conclusion

26. For the reasons given above, I conclude that the appeal 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: S-1253-01 – Site Location Plan; PL-1253-02 – Proposed Plans; PL-1253-01A – Proposed Block Plan; PL-1253-03A – Proposed Elevations.
- 3) Development shall not proceed above damp-proof course level until details of the materials to be used in the construction of the external surfaces of the buildings hereby permitted have been submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details.
- 4) Development shall not proceed above damp-proof course level until details of both hard and soft landscape works have been submitted to and approved in writing by the local planning authority. The details shall include boundary treatments; hard surfacing materials; planting plans; written specifications (including cultivation and other operations associated with plant and grass establishment); schedules of plants noting species, plant supply sizes and proposed numbers/densities where appropriate; and an implementation programme. The landscaping works shall be carried out in accordance with the approved details before any

² The Town and Country Planning (General Permitted Development) (England) Order 2015

part of the development is occupied, or in accordance with the agreed implementation programme. Any trees or plants which, within a period of 5 years from the completion of the development, die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species.

- 5) Prior to the installation of any windows or external doors a schedule and detailed sections (scale 1:20) of all new windows and doors (including materials and finishes) and surround details (lintels, cills, etc) in the development shall be submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details.
- 6) Prior to the occupation of the houses hereby approved the parking spaces for each unit shall be provided in accordance with the approved plans. These parking spaces shall be kept available at all times for the parking of motor vehicles by the occupants of the houses and their visitors and shall be used for no other purpose.
- 7) Any contamination that is found during the course of construction of the approved development that was not previously identified shall be reported immediately to the local planning authority. Development on the part of the site affected shall be suspended and a risk assessment carried out and submitted to and approved in writing by the local planning authority. Where unacceptable risks are found remediation and verification schemes shall be submitted to and approved in writing by the local planning authority. These approved schemes shall be carried out before the development is resumed or continued.