

## Appeal Decision

Site visit made on 8 June 2020

**by Tobias Gethin BA (Hons), MSc, MRTPI**

**an Inspector appointed by the Secretary of State**

**Decision date: 22 June 2020**

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**Appeal Ref: APP/D1265/W/20/3245923**

**Yew Tree Cottage, Brister End, Yetminster DT9 6NH**

- 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 Mrs R Willson against the decision of Dorset Council.
  - The application Ref WD/D/19/002275, dated 9 September 2019, was refused by notice dated 11 December 2019.
  - The development proposed is for a new single storey dwelling on area of garden of a listed cottage.
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### Decision

1. The appeal is allowed and planning permission is granted for a new single storey dwelling on area of garden of a listed cottage at Yew Tree Cottage, Brister End, Yetminster DT9 6NH in accordance with the terms of the application, Ref WD/D/19/002275, dated 9 September 2019, and subject to the conditions set out in the schedule to this decision.

### Procedural Matters

2. On 1 April 2019, West Dorset District Council merged with a number of other district and borough councils to become a Unitary Authority, Dorset Council. The development plans for the merged local planning authorities remain in place for the area within the Dorset authority which they relate to, until such time as they are revoked or replaced. It is therefore necessary to determine this appeal with reference to policies set out in the plans produced by the now dissolved district council.

### Main Issue

3. The main issue is the effect of the proposed development on the character or appearance of the conservation area and the setting of the nearby listed building.

### Reasons

4. Located at the junction of Downs Lane and Brister End, the appeal site consists of a relatively small, elevated corner plot containing, amongst other aspects, mature landscaping, various trees, and hedgerows fronting the highway. Backing on to Vecklands wood, the site's verdant nature contributes to the semi-rural character and spacious appearance of the surrounding area. However, located on the edge of the settlement of Yetminster, there are numerous properties in the locality and the site is situated in close proximity to various developments on three sides. This includes Yew Tree Cottage, Downalong, and Hillside and its nearby parking area that extends towards the

site. I observed on my site visit that these properties are all next to existing built form and this provides the surrounding area with a strong sense of linear development which runs along both sides of Brister End. I also noted that Hillside's parking area sits almost adjacent to the site and is a notable feature in the locality. Given its location within this context and its use as a domestic garden, the site therefore reads as forming part of the developed extent of the village and the generally continuous linear pattern of housing in the locality.

5. The site is located opposite a listed building, Yew Tree Cottage, situated on the other side of the highway and within the Yetminster Conservation Area (CA). Section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 (as amended) requires special regard to be had to the desirability of preserving the (listed) building or its setting or any features of special architectural or historic interest which it possesses. Section 72(1) of that Act requires that with respect to any buildings or other land in a conservation area, special attention shall be paid to the desirability of preserving or enhancing the character or appearance of that area in the exercise of planning powers. The National Planning Policy Framework (Framework) also sets out that when considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation.
6. The CA incorporates a relatively large area and, with the exception of some modern in-fill, covers much of the linear development running along the historic settlement of Brister End. In relation to the significance of the CA, the Council's Yetminster Conservation Area Appraisal sets out its special interest as including, amongst other aspects, the influence of the three manorial prebends on the development of Yetminster, the pleasant landscape setting, attractive gardens visible from the public realm, interesting archaeology, historical houses including 56 listed buildings, a large group of quality buildings covering most of the village centre, various valuable details including gates and posts, and the consistent use of local materials.
7. Stating that the various gateways into the historic core are important, the Appraisal identifies Brister End as one of those important gateways having several historic properties, plots and the bridge points. It sets out that the preserved yew trees belonging to Yew Tree Cottage and its garden (the appeal site) mark the entry into Brister End, and that highway boundaries are characteristically either retaining walls or hedgebanks. However, its references to The Station House and the railway bridge, river and nearby field indicate that the focus of the Brister End gateway into Yetminster lies away from the site and its position on the southern edge of the CA. Unlike the Vecklands wood and the area between Eastlands and the railway line, the Appraisal also does not identify the site as an important undeveloped green space, nor is it within a key view or vista.
8. Dating from the 17<sup>th</sup> century, Yew Tree Cottage is a grade II listed building. The cottage and its front boundary wall and gate is listed due to its special architectural or historic interest. The listing entry identifies notable characteristics of the cottage, including its historical evolution, architectural features and various internal and externally-facing materials. The cottage's significance as a designated heritage asset derives from these aspects and its setting which, I observed on my visit, involves its semi-rural situation. This includes its highway frontage, the various nearby buildings on both sides of

Brister End, and the soft landscaping and various trees in the surrounding area and which includes the appeal site.

9. The proposed development would result in the removal of some trees and soft landscaping on the site. However, various existing trees, including the preserved yew trees, would be retained, while the adjoining trees in Vecklands woods would not be harmed. The majority of the existing hedgerow fronting the highway would be retained and new hedging behind the visibility splays and supplementary planting would be provided.
10. The proposed dwelling would be elevated above the highway, but the elevation would not be significant due to the dwelling's limited height and given that it would also be partly built down into the sloping plot. Although it would introduce built form on the site, the proposed dwelling would also not be particularly visible from the public realm given its set-back, its modest form and height, and the screening and softening effect that would be provided by retained and replaced hedgerows, trees and other soft landscaping on the site. Accordingly, the site would retain its verdant appearance and the proposed development would not appear as a prominent or particularly visible feature. It would therefore also neither harm the open and verdant setting of Vecklands wood or the locality's semi-rural character and spacious appearance. The presence of the nearby limekiln and whether the silver birch and hedges at Downalong may be removed in future do not lead me to a different conclusion.
11. The elevated position and set-back situation of the proposed dwelling would be similar to other properties in the surrounding area. Its limited size and relatively large garden areas mean that the development would not dominate the plot and would reflect the spacing between built form in the locality. Given the position of existing development nearby, it would also neither be isolated nor incongruous and would instead appear as an acceptable addition which would reflect and continue the linear pattern of development which faces the highway in the locality. In coming to this view, I have taken account of the location of Downs Lane and the position of the previous buildings on the site.
12. Downs Lane is relatively narrow and the hedgerow running along both sides is an important feature of the Lane. However, at approximately 6 metres, the section that would be removed to allow for vehicle parking within the site would be relatively short. Except in close proximity, the new access would only be visible in glimpsed views in the surrounding area. The submitted evidence indicates that the appellants also have permission to fell some trees on and near the proposed access irrespective of the appeal proposal.
13. The replacement hedge behind the visibility splays would mean that the Lane's sense of enclosure would not be unacceptably affected by the development. The new access on to the Lane would also not appear out of character in the surrounding area given the existing accesses to nearby plots. This includes on Brister End, some of which are relatively wide, and the accesses to Vecklands wood and Mill Farm on Downs Lane, which I observed on my site visit are located just up from the site.
14. The site currently forms part of the garden of Yew Tree Cottage, and features such as the yew trees, old well pump and gate piers and boundary wall provide a connection between it and the cottage. However, historical maps in the appellants' appeal statement and Design, Access, Planning and Heritage Statement show that the site previously contained buildings and there is little

substantive evidence before me which indicates that those buildings or the site have a connection of historical significance with the cottage. The submitted ownership details of the site reinforce this. Furthermore, the site and cottage are physically and visually separated by the highway and the listing entry includes no reference to the appeal site.

15. The dwelling would be modest in size, have a simple design and incorporate high quality materials which would reflect their surroundings. The dwelling's set back, the position of the parking area and the screening provided by boundary treatment and soft landscaping would ensure that the development would not be particularly visible in the same views as Yew Tree Cottage and that the site would retain its verdant appearance. Rather than encroaching on the cottage, it would instead appear as a minor background element. The retaining of the pedestrian entrance, gate piers, well pump and preserved yew trees on the site – which would not be unacceptably dominated by the new dwelling – would also ensure the existing features that connect the site and the cottage remain.
16. The proposed development would be located within the Yetminster CA and situated within the setting of Yew Tree Cottage. However, for the above reasons, I am satisfied that it would not harm the special qualities and significance of the CA as a whole, whose character and appearance would be preserved. The effect of the appeal proposal on the setting of the listed building would be neutral and thus its significance as a designated heritage asset would not be harmed. The setting of the listed building would therefore be preserved while the cottage's historic fabric and architecture would also not be affected.
17. For the above reasons, I conclude that the proposed development would not harm the character or appearance of the conservation area or the setting of the nearby listed building. I therefore find that it accords with Policies ENV4 and ENV12 of the West Dorset, Weymouth & Portland Local Plan 2011-2031 (2015). Amongst other aspects, these set out that development should be of a high quality design which complements and respects the character of the surrounding area, relates to adjoining buildings, and conserves and where appropriate enhances the significance of heritage assets. The proposal would also be consistent with the provisions in the Framework in relation to conserving and enhancing the historic environment.

### **Other matters**

18. A number of other matters have been raised by interested parties and I have taken them all into account. Those related to planning include highway safety and the privacy of adjoining occupiers with regards to overlooking. However, whilst I take these representations seriously, I have not been presented with compelling evidence to demonstrate that the appeal proposal would result in unacceptable effects in relation to these matters. Consequently, they do not lead me to a different overall conclusion that the appeal should be allowed. The restrictive covenant on the site is not determinative as to the acceptability of the proposed development and I have restricted my considerations to the planning merits of the appeal proposal.
19. The Council indicates that it has not got sufficient supply of housing and I note that it has not pursued any alleged conflict with issues such as the site's location in relation to the settlement boundary and accessibility. I have determined the appeal on this basis and on the evidence before me.

20. The Yetminster and Ryme Intrinseca Neighbourhood Area was designated on 13 June 2016 and the evidence before me indicates that the Yetminster Neighbourhood Plan is currently in an early pre-public-consultation draft form. On this basis, I attach limited weight to it. Accordingly, and given my above findings, its assessment of the site as being unsuitable for development does not lead me to a different conclusion to allow the appeal.

### **Conditions**

21. I have had regard to the various planning conditions that have been suggested by the main parties. I have considered them against the tests in the Framework and the advice in the Planning Practice Guidance. I have made such amendments as necessary to comply with those documents, to ensure that details are submitted to and considered by the Council where relevant and for clarity and consistency.
22. In addition to the standard time limit condition, I have imposed a condition requiring that the development is carried out in accordance with the approved plans in the interests of certainty. Conditions relating to external materials and joinery are reasonable and necessary in order to ensure that the development's external appearance would be appropriate in relation to its surroundings.
23. A condition securing compliance with the tree protection measures and recommendations in the submitted arboricultural report is necessary to ensure that the trees and hedges to be retained are adequately protected from damage. A condition requiring the submission of hard and soft landscaping details is also necessary to ensure that the appearance of the site and the development would be appropriate in relation to its surroundings.
24. A condition requiring the submission and approval of drainage details is necessary to ensure that no groundwater enters the foul water drainage system. A condition covering highway access and parking is necessary to maintain highway safety and ensure that sufficient parking provision is available for the development. However, with the proposed site plan showing the access and parking area and the landscaping condition securing further relevant details, I have amended the Council's proposed condition and not included the requirement for such details to also be submitted and approved by the Council as part of this condition. The amended condition is also now similar to that recommended by the highway authority.
25. The Council's Officer Report sets out that the mitigation and enhancement measures within the appellants' Preliminary Ecological Appraisal Report should form part of the development. From the evidence before me, I concur and find that the measures are necessary to ensure biodiversity is preserved and enhanced. Accordingly, I have also imposed a condition securing compliance with the measures in the appellants' Preliminary Ecological Appraisal Report.

### **Conclusion**

26. For the above reasons, the appeal is allowed.

*Tobias Gethin*

INSPECTOR

## **SCHEDULE OF CONDITIONS**

- 1) The development hereby permitted shall begin not later than three years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans: drg 1251/001; drg 1251/002; drg 1251/003; drg 1251/030; drg 1251/040; drg 1251/041; drg 1251/042; and drg 1251/050.
- 3) Before any foul drainage pipework is installed, the details of that system and how it will be implemented to ensure it results in a sealed system shall be submitted to and approved in writing by the Local Planning Authority. The system shall thereafter be installed in accordance with the approved details prior to occupation of the development hereby permitted and thereafter retained.
- 4) No development above ground shall commence until a landscaping scheme, containing details of both hard and soft landscape proposals by reference to site layout drawings of an appropriate scale, has been submitted to and approved in writing by the Local Planning Authority.  
The details to be submitted shall include, as appropriate, the following:
  - (a) Planting plans: to include details of all tree, shrub, and hedge planting (including schedule of plants, species, positions and/or numbers and/or density, planting size, implementation timetables and maintenance schedules).
  - (b) Car parking layouts and materials.
  - (c) Means of enclosure.
  - (d) Hard surfacing materials.
  - (e) Historic landscape features and proposals for their restoration and retention.
  - (f) Written specifications.

Planting shall be carried out before the end of the first available planting season following substantial completion of the development. In the five year period following the substantial completion of the development, any trees that are removed without the written consent of the Local Planning Authority or which die or become (in the opinion of the Local Planning Authority) seriously diseased or damaged, shall be replaced as soon as reasonably practical and not later than the end of the first available planting season, with specimens of such size and species and in such positions as may be agreed with the Local Planning Authority. In the event of any disagreement the Local Planning Authority shall conclusively determine when the development has been completed, when site conditions permit, when planting shall be carried out and what specimens, size and species are appropriate for replacement purposes.
- 5) No development above damp course level shall commence until samples of the proposed externally facing materials to be used in the construction of the development hereby permitted have been made available for inspection on the site and approved in writing by the Local Planning Authority. The samples shall include: a sample panel, measuring at least 1 metre by 2 metres, showing the proposed facing stone, coursing, mortar mix and pointing detail; and the materials to be used in the construction and finish of

the timber clad walls, window lintels, wall plinth, balcony balustrading, and roofs. The development shall thereafter accord with the approved details.

- 6) Prior to the installation of external doors and windows on the development hereby permitted, detailed drawings showing the design, materials, finish and construction specifications of all proposed external doors and windows shall be submitted to and approved in writing by the Local Planning Authority. The development shall thereafter accord with the approved details.
- 7) Prior to occupation of the development hereby permitted, the vehicle access arrangement to the highway and the parking area shown on Drawing Number 1251/003 shall have been constructed and made available for use. Thereafter, the access and parking area shall be maintained, kept free from obstruction and kept available for the purposes specified.
- 8) The development hereby permitted shall be carried out in accordance with the mitigation steps set out in paragraphs 3.5 to 3.9 and the recommendations in section 4 of the submitted Arboricultural Impact Assessment and Tree Protection Plan (by Bosky Trees, dated 4<sup>th</sup> September 2019) in relation to how the existing trees to be retained are to be protected and managed before, during and after development.
- 9) The development hereby permitted shall be carried out in accordance with the mitigation and enhancement recommendations in sections 4.3, 4.4 and 4.5 of the submitted Preliminary Ecological Appraisal Report (by Nash Ecology, dated August 2019).

**END OF SCHEDULE**