



Appeal Decision

Site visit made on 23 June 2020

by M Bale BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 10 July 2020

Appeal Ref: APP/D1265/W/20/3245034

18 Breach Lane, Shaftesbury SP7 8LE

- 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 McCarthy against the decision of Dorset Council.
 - The application Ref 2/2019/1073/FUL, dated 31 July 2019, was refused by notice dated 26 September 2019.
 - The development proposed is to erect 1 No. dwelling, create new vehicular and pedestrian access and form 2 No. additional parking spaces (demolish existing garage).
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Decision

1. The appeal is dismissed.

Procedural matter

2. The proposal was described on the application form as 'demolish garage & construct new dwelling with new access to the highway'. The appellant has confirmed in his appeal statement that there was no objection to the Council's alternative description used on the Decision Notice and that I should describe the proposal in that way. This is reflected in my heading above.

Main Issues

3. The main issues are the effect of the development on the character and appearance of the conservation area, and the effect on the living conditions of the occupiers of No.22, with particular regard to outlook and privacy.

Reasons

Character and appearance of the conservation area

4. The part of the conservation area surrounding the site contains a wide variety of dwellings of mixed scale and appearance. Interspersed with more modern development are some older buildings, including the two terraces of Nos. 4-10 and 12-18 Breach Lane. These older buildings provide a tangible link to the historic development of the area and so I find the terraces to be non-designated heritage assets that contribute to the significance of the conservation area.
5. Breach Lane has an informal, semi-rural character. There are a wide variety of irregularly formed parking spaces that mainly adjoin the highway edge. In places it has often been necessary to lower ground to accommodate them. Nos. 4-18 are set well back from the highway and, while No.18 has a garage with driveway to the side of the dwelling, the land to the front of these dwellings

has a generally open appearance. Behind the appeal site and other neighbouring development, when viewed from Breach Lane, the land rises steeply and this landform, together with the open land to the front, is an important part of the area's character and appearance.

6. The existing garage means there is not an undeveloped gap between Nos.18 and 22, but even if it were considered an unattractive structure, the garage is small scale and is not readily visible within the street scene. As such, it does not detract from the appearance of the area and there are greater views through the appeal site to the rising land than many other locations on Breach Lane. However, the scale of the dwelling, which would provide a transition in height between No.18 and the lower No.22 would not obliterate views, nor undermine the dramatic effect of the topography and contribution that the rising land makes to the character and overall appearance of the area.
7. The dwelling would stand further forward than No.18, but not so far as No.22. Therefore, despite a lack of windows in the side elevation, the projection would not be so great as to harmfully intrude into the street scene. The dwelling would broadly continue the linear form of development on Breach Lane. As such, I find that the general design and siting proposed would not harm the character and appearance of the area.
8. Sufficient parking for the existing and proposed dwellings would be provided through formalised access and parking areas for both the existing and proposed dwellings. There is an existing drive for No.18, grass covered banks would be retained at the access, and a hedge similar to many other nearby boundaries would be planted. However, notwithstanding these features, the accesses and parking arrangements would represent a significant and uncharacteristic increase in hard surfacing within the informal front garden areas. This would undermine the setting of the terrace, the contribution that the front garden land makes to the semi-rural appearance of the area, and thereby would cause harm to the character and appearance of the conservation area.
9. Although the Council's conservation officer did not object, in light of my findings above, I find that this would result in less than substantial harm to the significance of the designated heritage asset. The proposal, therefore, conflicts with Policies SB4, 7 and 24 of the North Dorset Local Plan Part 1, 2016 (LP) that collectively seek to ensure development strengthens local character, and is sensitively designed to its local context.
10. LP Policy 5, like the National Planning Policy Framework (the Framework), requires the less than substantial harm to be weighed against the public benefits of the proposal and I return to this balance later in my decision. The Council's decision notice also alleges a conflict with LP Policy 4 concerning the natural environment, including the protection of landscape character. However, my above findings indicate that no conflict with this policy would arise.

Living conditions

11. The proposed dwelling would protrude significantly to the rear of No.22, alongside its garden. It would be at a higher level to this neighbouring property. However, the existing boundary is fairly high and so would have some noticeable presence in the rear rooms and garden areas of No.22 at present. Given the low side wall height of the proposal and that the roof would

slope away from the boundary with No.22, I find that no harm would arise to the outlook from that neighbour.

12. I note that a bedroom window would face towards the garden of No.22, but I see no reason why suitable boundary treatment to prevent overlooking from it could not be secured by condition. Therefore, there would be no harm to the living conditions of the occupiers of No.22. Accordingly, the proposal would comply with LP Policies DP7 and DP25 that seek to protect such interests.

Other matters

13. There is no dispute that the Council cannot currently demonstrate a 5 year supply of deliverable housing land. The appellant has indicated that the supply is currently said to be a little above 4 years and may be less, but there is no detailed evidence in this regard. The proposal would make a contribution to the supply of housing which would be a benefit. As it only relates to a single dwelling, the benefit would be small, but in the context of the stated supply situation, I nevertheless give it moderate weight.
14. I also note that in meeting the housing land supply, Shaftesbury is considered an appropriate location for windfall development, the draft Shaftesbury Neighbourhood Plan is said to favour smaller sites and that the Town Council has not objected to the proposal. However, as the Neighbourhood Plan is not at an advanced stage, I give its policies only limited weight.

Planning balance

15. I have found that less than substantial harm would result to the significance of the conservation area. In accordance with LP Policy 5 and Framework Paragraph 196, such harm should be weighed against the public benefits of the proposal. I have given the benefits associated with the supply of housing moderate weight. Regardless of the level of harm, Framework Paragraph 193 indicates that great weight should be given to the heritage asset's conservation. Therefore, the public benefits do not outweigh the harm in this case.
16. Notwithstanding the housing land supply situation, Framework Paragraph 11(d)(i) indicates that the permission should be granted unless policies in the Framework that protect areas or assets of particular importance provide a clear reason for refusing the development proposed. Paragraph 196 is one such policy that indicates that permission should be refused. Therefore, the presumption in favour of sustainable development, outlined at Framework Paragraph 11 does not apply in this case.
17. I have found that no harm would result to the living conditions of the occupiers of No.22. This is neutral in the planning balance. Whilst there may be some other policies with which there would be no conflict, the harm that I have identified in respect of the first main issue brings the proposal into conflict with the development plan, read as a whole. There are no material considerations, including the provision of additional housing in a broadly suitable location, that indicate otherwise that permission should be granted.

Conclusion

18. For the reasons given above, I conclude that the appeal should be dismissed.

M Bale

INSPECTOR