
Appeal Decision

Site visit made on 26 June 2020

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

an Inspector appointed by the Secretary of State

Decision date: 14 July 2020

Appeal Ref: APP/D1265/W/20/3248055

1A Belle Vue Terrace, Fortuneswell, Portland DT5 1LD

- 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 Wayne Day against the decision of Dorset Council.
 - The application Ref WP/19/00209/FUL, dated 4 March 2019, was refused by notice dated 20 December 2019.
 - The development proposed is described as demolition of an existing single garage and erection of two domestic dwellings within the property curtilage.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. The planning application was made to Weymouth and Portland Borough Council, which merged with other local planning authorities to become Dorset Council in April 2019. Dorset Council is therefore referenced above.
3. The Portland Neighbourhood Plan (the NP) has now reached an advanced stage having been the subject of examination. Its policies can thus be considered to attract significant weight. However, no NP policies were cited in the decision notice, and those subsequently drawn to my attention closely overlap adopted policies in the West Dorset, Weymouth & Portland Local Plan 2015 (the LP). I have therefore considered the appeal on the basis of the cited LP policies.

Main Issues

4. The main issues are the effects of the development on:
 - the living conditions of occupants of 1a Belle Vue Terrace, with regard to outlook and privacy, and 15 Fortuneswell with outlook and sunlight; and
 - the character and appearance of the area, including whether the development would preserve or enhance the character or appearance of Underhill Conservation Area (the Conservation Area), and whether the development would preserve the setting of the Grade II listed Britannia Inn.

Reasons

Living conditions

5. The appeal site consists of a plot containing an existing dwelling, with a garage fronting Belle Vue Terrace, and rear entry onto a back lane adjoining the A354.

The plot is located at the centre of a cluster of existing dwellings on steeply rising ground.

6. Dwelling B would stand to the rear of No 1a, but on much higher ground. It is apparent that windows within Dwelling B have been sized and positioned to limit the potential for views out towards No 1a. Notwithstanding the restriction this would place on the outlook of future occupants of Dwelling B itself, this, in combination with the proposed boundary fence, would mean that future occupants of Dwelling B would not be able to see through the windows of No 1a, or into the garden to its rear. As such the privacy of occupants at No 1a would not be harmed.
7. Given the significant difference in levels, Dwelling B, and the boundary fence to the rear, would nonetheless represent a considerable physical and visual presence when viewed through the windows of No 1a, and from the garden to its rear. This would be accentuated by the existing steep terracing of the slope, and the limited size of the gap between the 2 dwellings. The effect would be unacceptably overbearing.
8. Dwellings on the opposite side of the back lane stand at a higher level than would Dwelling B, and are much greater in height. The existing gap between these dwellings and No 1a is however around twice the length of the gap that would exist between No 1a and Dwelling B. The effects on outlook therefore differ, being far less immediate and direct than they would be were Dwelling B to be built.
9. I also note that buildings are positioned at higher level than No 1a to both sides of the plot, including along Belle Vue Terrace. However, these buildings do not directly impinge on the outlook immediately to the rear of No 1a. Again therefore, the effects differ from those which would arise as a result of the proposed development, and in neither this nor the above regard, do they justify the harm that would be caused.
10. No 15 stands to the north/northeast of the appeal site, facing towards the plot on which No 1a stands. All the principal windows of No 15 appear to be located within this south facing elevation, the western half of which is more modest in height than the eastern half, containing only ground floor windows. Dwelling A would be constructed forward of this elevation, with only a parking space and narrow strip of yard between. Given the lower level at which No 15 stands, the introduction of solid built form in the location proposed, at the height proposed, would have a direct and overbearing effect on the outlook from the opposing ground floor windows at No 15, and from the yard outside. Due to relative orientation, some potential would also exist for additional shading, which would accentuate the effects of overbearing.
11. The outlook and levels of sunlight reaching other ground floor windows in the front elevation of No 15 are already restricted by heavy boundary vegetation. However, taking into account the existing position and presence of No 1a, the significant reduction in openness to the south of No 15 that would result from the construction of Dwelling A would have a somewhat oppressive effect. This would exacerbate the harm caused to the outlook of occupants of No 15 identified above.
12. For the reasons outlined above I conclude that whilst the development would not harm the privacy of occupants of No 1a, it would nonetheless have an

unacceptably harmful effect on their outlook, as too that of occupants of No 15, which would be worsened in the latter case by some likely increased shading. The development would therefore conflict with Policy ENV16 of the LP which states that development proposals will only be permitted where they do not have significant adverse effects on occupiers of residential properties through overbearing, amongst other things, and provisions of the National Planning Policy Framework (the Framework) which seek to secure high standards of amenity.

Character and appearance

13. Both the appeal site and a large proportion of the surrounding locality is located within the Conservation Area. Whilst the decision notice also makes reference to the 'setting' of the Conservation Area, this is not relevant given that none of the proposed development would take place outside it.
14. The Conservation Area covers the main commercial and related residential streets in Fortuneswell, Chiswell and part of Castletown, which consist of predominantly nineteenth century and earlier urban townscape. The significance of the Conservation Area thus lies partly in the broad range of historic building types covered, and partly in the composition and layout of the historic townscape as a whole. In this context, the arrangement of buildings on undulating, rising ground, makes a particularly important contribution to the visual character of the Conservation Area, offering varied and sometimes long ranging townscape views.
15. The Appraisal of Conservation Areas of Portland as amended 2017 (the Appraisal) identifies most of the buildings immediately surrounding the appeal site as falling within 'important building groups'. These include the terraces both sides of Belle Vue Terrace, and the prominent Grade II listed Britannia Inn. Though the dwellings immediately towards the north and southeast of the appeal site are not included within the groups identified by the Appraisal, they are nonetheless of broadly similar age and complementary character. In this regard I consider that topography, combined with the age, the dense composition, varying orientation, and visual prominence of buildings surrounding the appeal site provide a high level of visual interest. This makes a positive contribution to the significance of the Conservation Area.
16. The principal contribution made by the appeal site itself is as an open garden space across which other buildings can be viewed both from the A354, and from the back lane. These include the terrace along the east side of Belle Vue Terrace, the simple staggered arrangement of which is visually striking, and the visually prominent dwellings on the opposite side of the back lane.
17. Dwelling B would be located with its frontage on the back lane, occupying part of the existing garden space of No 1a. It would thus be prominent feature within the views identified above. In this context, the complex, split-level form proposed would find no obvious reference in the much simpler historic building forms adjacent and surrounding. Neither would the location, as no existing dwellings directly front the side of the back lane on which Dwelling B would be built. Given its prominence and failure to complement the layout and design of development within its immediate setting, Dwelling B would appear visually intrusive.

18. I note the existence of a modern split-level outbuilding in an adjacent garden. However, this is much simpler in form, and far more modest in scale and massing than would be Dwelling B. The design, spatial and visual effects are therefore not comparable.
19. Dwelling A would replace the existing garage, and would be built over the existing driveway to No 1a. No 1a would thus be accessible only through Dwelling A. From what I observed, dwellings within the Conservation Area are not typically cut off from the street frontage and accessed via driveways tunnelled through other dwellings. Though the layout of development within the Conservation Area at large is generally dense, and appreciably so within the setting of the site, in these cases, density is chiefly a product of terraced layouts. In this regard the sandwiching of No 1a between developments at both ends of the plot, leaving small spaces between, would not be consistent with the prevailing pattern. Indeed, the close proximity of the front elevation of No 1a to Dwelling A, its lack of any direct access to a street frontage other than through another building, the raised level of Dwelling B above No 1a, and the existing proximity of other buildings within the cluster, would all combine to produce a cramped layout of atypical character.
20. Aside from the access, the ground floor street facing frontage of Dwelling A would otherwise be occupied by a garage door. In this regard the design would have little or nothing in common with that of other dwellings along Belle Vue Terrace, whose street facing ground floors typically contain front doors and windows. Here I acknowledge that a set of garages lies directly adjacent, and that these are attached to a dwelling. Other garages are also visible nearby. However, as all these more modest structures are clearly outbuildings, they are not directly comparable to Dwelling A in terms of character, appearance, form or function. Viewed relative to other dwellings in the street therefore, the design of Dwelling A would appear obtrusive.
21. A palette of materials could be specified that would complement those used in historic buildings nearby. However, this would not alter the fact that both Dwelling A and Dwelling B, and the layout as a whole, would appear unacceptably intrusive.
22. Some other approved developments have been drawn to my attention, however from the limited information provided, none appears to be similar to the development proposed. I have therefore considered the appeal scheme on its own merits.
23. The particular significance of the Britannia Inn includes its specialised public house design, which incorporates brewery motifs and name panels. Within this context, historic components of the townscape surrounding the Britannia Inn provide a sense of the built and social context within which the public house functioned in the past. The appeal scheme would not entail the loss of any historic components of this setting. Though Dwelling A would stand in close proximity to the part of the Britannia Inn fronting Belle Vue Terrace, views featuring both buildings would be limited. Indeed, none of the key views of the Britannia Inn from the A354 would be affected, and nor would appreciation of the architectural design of the 2 main frontages. Notwithstanding the harm that would be caused by the appeal scheme within the broader townscape of the Conservation Area, the ability to appreciate the particular significance of the Britannia Inn itself would not therefore be adversely affected.

24. With reference to paragraph 196 of the Framework, I find that whilst the significance of the Britannia Inn would not be harmed by the development, the development would nonetheless cause less than substantial harm to the significance of the Conservation Area. Having regard to the considerable importance and weight to be given to the statutory objective of preserving or enhancing conservation areas, I attach considerable importance and weight to the harm that would arise. The development would provide 2 additional units of housing, with associated economic activity generated locally both during and after construction. The social and economic benefits would however be small in scale and nature, and when set against the unacceptable impact the development would have on the living conditions of occupants at No 15 and 1a, they attract very little weight. The benefits of the development would therefore be insufficient to outweigh the harm that it would cause to the significance of the Conservation Area.
25. For the reasons outlined above I conclude that the setting of the Britannia Inn would be preserved, but that the character and appearance of the Conservation Area would be neither preserved nor enhanced by the development. In this regard unacceptable harm would be caused. The development would thus conflict with Policy ENV 4 of the LP, which states that development should conserve the significance of heritage assets; Policy ENV12 of the LP, which seeks to secure development that respects the character of the surrounding area; and heritage and design related provisions of the Framework.

Other Matters

26. The officer report indicates that the Council lacks a 5-year supply of deliverable housing sites. No further update or details have been provided. Nonetheless, even if the Council currently does have a shortfall, Framework policy relating to designated heritage assets provides a clear reason for refusal of planning permission. Therefore in this instance the 'tilted balance' and advice to grant permission set out in paragraph 11 of the Framework, do not apply.

Conclusion

27. I have found that the development would be acceptable with regard to the privacy of occupants at No 1a, and the setting of the Britannia Inn. However, the effects of the development on the outlook of the occupants of No 1a and No 15, and the failure of the development to preserve or enhance the character or appearance of the Conservation Area, would each be unacceptable. The scheme conflicts with both the development plan as a whole, and the Framework. There are no other considerations which alter or outweigh this finding. For the reasons set out above I therefore conclude that the appeal should be dismissed.

Benjamin Webb

INSPECTOR