
Appeal Decision

Site visit made on 4 September 2020

by **L McKay MA MRTPI**

Inspector appointed by the Secretary of State

Decision date: 14th October 2020

Appeal Ref: APP/D1265/W/20/3252631 56 New Road, Lower Bryanston DT11 0DR

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission under section 73A of the Town and Country Planning Act 1990 for the development of land carried out without complying with conditions subject to which a previous planning permission was granted.
 - The appeal is made by Mr F Stocks against the decision of Dorset Council.
 - The application Ref 2/2019/1333/VARIA, dated 22 September 2019, was refused by notice dated 2 January 2020.
 - The application sought planning permission to erect 1 No. dwelling (demolish existing) without complying with a condition attached to planning permission Ref 2/2017/0864/FUL, dated 18 August 2017.
 - The condition in dispute is No 2 which states that: *The development hereby permitted shall be carried out strictly and only in accordance with the following approved drawings and details: 01,31,32 forming the approved application.*
 - The reason given for the condition is: *For the avoidance of doubt and to clarify the permission.*
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Decision

1. The appeal is dismissed.

Background and Main Issue

2. The appellant is seeking a minor material amendment to the 2017 permission to vary the disputed condition to amend the approved plan numbers to those submitted with the appeal. A new dwelling has been constructed on site with a metal flue rather than the brick chimney approved. There are however several minor differences between the dwelling as built and the plans submitted for this appeal, including the design of the flue, the position of rooflights and inclusion of another flue. Therefore, I have considered the appeal on the basis of the submitted plans, not the development as built.
3. The main issue is therefore the effect of the proposal on the character and appearance of the area and the Blandford, Blandford St Mary and Bryanston Conservation Area (CA).

Reasons

4. The appeal site sits within an extensive CA which includes Bryanston and parts of neighbouring settlements, along with Bryanston Woods, a large tract of woodland along the River Stour, Bryanston School and its grounds, and

pastures between the village and Blandford Forum. The CA therefore includes buildings and spaces of very varied character and appearance. It derives significance from the linear pattern of development and traditional vernacular architecture of Bryanston, its relationship with the river and its rural setting. Chimneys are a distinctive feature of most dwellings in the Bryanston part of the CA, which create a rhythm in the street scene and are a unifying feature across the variety of dwelling designs. As such, chimneys contribute positively to the character and appearance of the area and the significance of the CA.

5. The evidence before me indicates that the previous dwelling on the appeal site was one of three single storey dwellings built in the early 20th century, reportedly associated with allotment gardens on the other side of the road, now farmland. Although the dwellings were not considered worthy of listing, Historic England and a previous Inspector¹ identified that although subject to various alterations, factors including their similar design, modest, utilitarian character and architectural interest contributed to their value as a group. While they were set back and up from the road behind a hedge, the roofs and chimneys of the three dwellings were visible and their alignment and similarity of form, seen in line when approaching along New Road, were a distinctive feature of this group. The three dwellings were therefore identified as making a positive contribution to local character and this part of the CA.
6. At this point of transition between the rural and urban areas, there is little development visible, and as such this group of dwellings is important in views from New Road, a main route into and out of the village which therefore sets the context of the wider CA. The chimneys of the two remaining older dwellings are large in relation to the otherwise modest, low key structures, which makes them a distinctive feature of the character of the buildings and of this part of New Road. Moreover, the form of those chimneys is similar to others in the area, including the two pairs of red brick dwellings nearby along New Road, and other dwellings in the main part of the village. Therefore, they create a strong visual link between the group and the rest of the Bryanston part of the CA.
7. The National Planning Policy Framework (the Framework) sets out that great weight should be given to the conservation of a designated heritage asset, irrespective of whether any potential harm amounts to substantial harm, total loss or less than substantial harm to its significance, and that any harm to, or loss of significance should require clear and convincing justification. This is also reflected in Policy 5 of the North Dorset Local Plan Part 1 (2011- 2031) (LP).
8. The proposed replacement dwelling would generally follow the siting, scale, materials and roof form of the previous dwelling, but with a contemporary interpretation of the design. In these respects, it would be similar to the scheme approved in 2017. However, the flue now proposed would be considerably shorter and less bulky than the chimneys of the other two dwellings. Its size and colour would mean it would largely blend into the roof, and as such it would have very little presence in the street scene. As such, due to its size and form, the proposed flue would reduce the prominence of the three dwellings from New Road and significantly diminish the sense of unity between them, eroding their group value and contribution to the CA.
9. The appellant proposes that the dwelling would achieve near Passivhaus standards of resource efficiency and contends that a chimney would be an

¹ APP/N1215/W/16/3162897

outdated and inappropriate solution on a contemporary replacement dwelling. Although a pastiche or replica approach may not be appropriate or authentic on a modern dwelling, it has not been demonstrated that the appeal scheme would be the only way to achieve the desired level of resource efficiency. Indeed, the approved design successfully integrated a brick chimney of traditional appearance into the contemporary design. While the appellant suggests they would actually have used a GRP chimney with dummy chimney pots, this does not appear have been approved by the Council, who advise that a traditional brick construction was submitted and agreed pursuant to the relevant condition on the 2017 permission.

10. I have found that it is the form and scale of the proposed flue that would result in harm, and there is no compelling evidence before me that an alternative design could not be achieved that would maintain the integrity of the group and conserve or enhance the character and appearance of the CA, while respecting the contemporary design approach of the replacement dwelling.
11. The appellant has provided numerous images of properties in local Conservation Areas with modern flues of various forms and sizes. While some were apparently permitted development, others may have required permission from the Council, and it is unclear whether such consents were granted. Only some are in the same CA as the appeal site, of which most are in the town of Blandford Forum, where they are seen in an urban setting very different to the rural context of the appeal site. Therefore, they have not directly affected the character and appearance of this area or this part of the CA, and consequently do not justify the harm that I have identified from this flue in this location.
12. Accordingly, the proposal would have a modest, but nevertheless harmful impact on the character and appearance of the area and the CA. It would therefore conflict with LP Policies 24 and 28 which, amongst other things, require development to be well designed and respect and improve the character and appearance of the area, including through its appearance, details and materials.
13. As the appeal site is only a small part of the CA, the proposal would result in less than substantial harm to the significance of the CA as a whole. Framework paragraph 196 requires that less than substantial harm be weighed against the public benefits of the proposal.
14. The contribution of the proposed dwelling to addressing the impacts of climate change through sustainable construction and resource efficiency would be a public benefit. However, it has not been demonstrated that the same benefits could not have been achieved by the approved scheme. Furthermore, the contribution of one sustainable dwelling would be very limited, and consequently I give this public benefit limited weight. Given the harm that I have identified, the proposal would not result in benefits to the local environment, as the appellant contends.
15. The appellant acknowledges that the flue now proposed requires planning permission, but contends that if the appeal were dismissed, there is a strong likelihood that permitted development rights would be implemented to re-route the flue through the rear roof slope. Permitted development rights were not removed through the 2017 permission, nor is there any evidence before me of an Article 4 Direction for this area preventing such development. However, as set out above the dwelling has not been built in accordance with the existing

permission. In any event, even if permitted development rights could be exercised, the drawings provided show that a flue of the same height, sited just behind, rather than in front of the ridge, would have the same visual impact as the flue currently proposed. Therefore, that potential fallback option would not result in any greater harm than the scheme before me, and as such there would be no public benefit from allowing the appeal scheme in order to avoid that option being exercised.

16. Due to the small scale of the proposed flue, the proposed scheme would not harm the wider landscape character and as such would not adversely impact on the landscape or scenic beauty of the Dorset Area of Outstanding Natural Beauty. Nor would it harm the living conditions of neighbouring occupiers. This lack of harm is a neutral impact however, and not a public benefit.
17. Having regard to the provisions of the Framework, I give great weight to the harm to the significance of the CA, which would not be outweighed by the very limited public benefits of delivering a resource efficient and sustainable dwelling. Consequently, the proposal would conflict with LP Policy 5 and the Framework in respect of designated heritage assets.
18. The appellant has referred me to the emerging Blandford + Neighbourhood Plan, which has reached an advanced stage of preparation. While the Plan has been examined, I have not been provided with the Examiner's Final Report and have no details of any objections to the relevant policies, so can give little weight to them. However, Policy B13, which relates to the Bryanston part of the CA, requires that proposals sustain and enhance the character and appearance of the CA, which this proposal would not achieve.

Conclusion

19. For the reasons set out above, the appeal is dismissed.

L McKay

INSPECTOR