



Appeal Decision

Site visit made on 14 December 2020

by M Bale BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 29 December 2020

Appeal Ref: APP/D1265/D/20/3257780

Angel Cottage, 38 The Ridgeway, Upwey, Weymouth, Dorset DT3 5QQ

- 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 N Hall against the decision of Dorset Council.
 - The application Ref WP/19/00716/FUL, dated 30 August 2019, was refused by notice dated 21 July 2020.
 - The development proposed is raised platform and banister to garage roof.
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Decision

1. The appeal is dismissed.

Procedural matter

2. The development subject to this appeal has already been constructed. It appears to accord with the submitted details. I have, therefore, determined the appeal on the basis of the submitted documentation.

Main Issues

3. The main issues are (i) the effect on heritage assets, namely the character and appearance of the Upwey Conservation Area and Nos.28 and 30 The Ridgeway; and (iii) the effect on the living conditions of neighbouring residents with regard to noise and privacy.

Reasons

Heritage

4. The part of the conservation area around the appeal site is characterised by a collection of historic dwellings primarily arranged along the highway on steeply rising ground. Thus, the topography strongly influences the siting of the buildings and their relationship to one another. No.38, along with its adjoining neighbours is located behind the street frontage, but the garage subject to this appeal is visible in a gap alongside No.30.
5. There are a number of outbuildings amongst the dwellings that, like the garage, are of a small-scale and stature, such that the dwellings take primacy in the street scene. There have also been a number of additions and alterations to other buildings in the locality, but these have generally retained their historic character and appearance, and that of the conservation area.
6. Although the garage is set back from the street frontage, the addition of the safety barrier around its flat roof, irrespective of its colour, has increased its

scale. Its height is greater than the closest part of the eaves of No.30 and it, therefore, appears prominent compared to this closest dwelling. Its fence-like appearance, more akin to a boundary structure than a building, may be generally appropriate detailing for a country cottage garden environment, but at roof level, has an awkward juxtaposition with the garage and surrounding built form. The garage's appearance as a modern structure amongst the historic buildings is emphasised which weakens the significance of the area as an historic settlement and harms the setting of the pair of adjoining listed buildings.

7. Given the scale and localised effect, the harm to heritage assets would be less than substantial and, as set out in the National Planning Policy Framework, this should be weighed against the public benefits of the proposal. However, while there are significant benefits to the appellant and visitors to his garden, particularly in terms of the usability of the area and the safety of children and pets, these are private benefits and so do not outweigh the harm that I have identified.
8. I, therefore, find that the proposal is contrary to Policy ENV4 of the West Dorset, Weymouth & Portland Local Plan 2015 (LP) which requires development to conserve and, where appropriate, enhance the significance of heritage assets, weighing any harm against public benefits of the proposal.

Living conditions

9. There is an area of raised garden between the garage and boundary with Prospect House. From here it is possible to stand and see over a boundary wall to the garden of Prospect House, which is at a higher level. However, when seated, such views are not available.
10. The topography is such that few of the surrounding dwellings are particularly private. Prospect House is already overlooked to some degree from the internal spaces of No.34, and to a lesser extent, No.38. There are also views back from the garden of Prospect House to No.38 and the raised garden area. Nevertheless, while the wall is low on the Prospect House side, one would have to be standing close to the wall to obtain clear views down toward users of that adjoining garden space.
11. By contrast, when sat on the garage roof there are clear views over surrounding boundaries. The exposed nature of open seating, compared to internal windows, and the raised position relative to neighbouring garden boundaries leads to a particularly harmful reduction in privacy. Without the shielding of the boundary wall, any noise emanating from the area is also likely to be more intrusive. It may be possible to erect higher boundary fencing without planning permission, but its relative height compared to the garage roof and neighbouring gardens and, therefore, its efficacy in maintaining privacy, is uncertain.
12. I understand that the garage roof is not new and that access to it has been easy in the past. However, as this arrangement has been described as unsafe by the appellant, its usability and, therefore, likely frequency of use has been increased by the development. While the absence of the deck and balustrading may not prevent continued use by responsible adults, I, therefore, give this matter limited weight. There is no substantive evidence that the only way to make the garden safe for children and dogs is to enclose the garage roof.

13. With regard to the above, I find that the proposal results in harm to the living conditions of neighbouring residents. It, therefore, conflicts with LP Policy ENV16 that, amongst other things, only allows development proposals that do not adversely effect the living conditions of occupiers of neighbouring residential properties through privacy or quiet enjoyment.

Other matters

14. I understand that delays during the Council's consideration of the application have adversely affected the appellant, who is open to discussions with the Council and neighbours to find a mutually acceptable solution. Nevertheless, whether or not the Council's officers stood on the garage roof, or could have afforded the opportunity for negotiation between the various parties, I must determine this appeal on the basis of the proposal before me and all the submitted evidence. These matters do not, therefore, influence my overall conclusions.
15. While permission may have been previously granted for a first floor extension to the garage, this would have resulted in a different structure. There is no substantive evidence that the effects would have been comparable or that it could still be implemented and, therefore, I attribute it limited weight.

Conclusion

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

M Bale

INSPECTOR