



Appeal Decision

Site visit made on 30 November 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/W/20/3257683

Land off Roman Road and Spa Road, Weymouth DT3 5JH

- 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 Raymond McIntyre, Devon & Dorset Properties Ltd. against the decision of Dorset Council.
 - The application Ref WP/19/00516/FUL, dated 4 June 2019, was refused by notice dated 3 June 2020.
 - The development proposed is the erection of 13 No. houses and 6 No. flats.
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Decision

1. The appeal is allowed and planning permission is granted for the erection of 13 houses and 6 flats at Land off Roman Road and Spa Road, Weymouth DT3 5JH in accordance with the terms of the application, Ref WP/19/00516/FUL, dated 4 June 2019, subject to the conditions listed in the attached schedule.

Application for costs

2. An application for costs was made by Mr Raymond McIntyre, Devon & Dorset Properties Ltd. against Dorset Council. This application is the subject of a separate Decision.

Procedural matters

3. There were a number of amendments made to the application, including a reduction in the number of dwellings proposed. My description of development and plans condition therefore reflects the application as considered by the Council's planning committee. There were some other minor revisions to the layout plans to those listed in the officer report, but the changes added bird boxes, water butts and permeable paving. They were, therefore, small and no injustice would be caused by my consideration of those, most recent, drawings.
4. A planning obligation has been provided that makes contributions to the enhancement of the Weymouth Way Ecological Corridor, affordable housing, and secures delivery of a footpath through the site together with its future maintenance. This addresses the Council's second reason for refusal.

Main Issues

5. The main issues are the effect on the character and appearance of the Conservation Area; and whether the site is in an appropriate location for the development with regard to accessibility and development plan policy.

Reasons

Character and appearance

6. Radipole Conservation area has a rural character. It encompasses large areas of fields and undeveloped land surrounding a small historic settlement with an informal pattern of development. The wide drawing of the conservation area provides a large amount of space around and strong rural setting to the buildings, making the settlement distinct from the adjoining intensively developed parts of Weymouth.
7. The appeal site is wholly inside the conservation area. It adjoins the defined development boundary and formal residential area that is outside the conservation area. It is at a high point and Spa Road begins to descend steeply past the site frontage, offering wide views over the conservation area. There is dense tree cover in a small copse on the Spa Road frontage which gives a strong buffer between the built-up area and the open conservation area.
8. There is built development on one side of the site and the opposite boundary is defined by the A354 Weymouth Way. This road is in a deep cutting such that it is not readily visible from the higher parts of Spa Road and only begins to have visual influence along the site frontage. In these close range views, it is apparent that the site has been severed from the open parts of the conservation area and so makes little contribution to the green space surrounding the buildings that are part of its character and appearance.
9. From higher ground, the undeveloped nature of the site does mean that the site is seen as part of the rural conservation area. The removal of most of the copse to accommodate the frontage development proposed, would instead result in it becoming part of the adjoining built-up-area. There would be a significant change to the character and appearance of the appeal site in a way that would not reflect the conservation areas' character and appearance.
10. However, heading into the conservation area and having reached the edge of the built form, the wide views of the sparsely developed land below would be retained. A strong tree boundary along the Weymouth Way embankment would still produce a landscaped edge and buffer to the built form, aiding the transition to the open parts of the conservation area and filtering views back towards the urban form.
11. A footpath traverses the site from which the public are able to appreciate its undeveloped nature. However, the planting along Weymouth Way prevents significant outward views to the wider conservation area, and it is difficult to appreciate the relationship that it has with the surrounding rural landscape from this location. Looking back, the green buffer would be reduced but any development would be seen alongside existing housing.
12. Given the physical severance of this site from the surrounding undeveloped landscape there would be only localised harm to the character and appearance of a very small part of the conservation area. It would result in the loss of only a small sliver of land on the opposite side of Weymouth Way to buildings within the conservation area, which would still retain a distinctly rural setting. As such, there would be very low level, less than substantial harm to the significance of the heritage asset as a lightly developed historic settlement within a rural landscape.

13. There were a number of iterations of the detailed design throughout the Council's consideration of the application. The dwellings, whilst repeated throughout the development, would reflect some of the architectural styles and pattern of the surrounding varied streets, preserving their character and appearance of individual detached and semi-detached houses. Additional details and embellishments have been incorporated to ensure the architecture better reflects the qualities of the surrounding built form. Final details of materials can be secured with the use of planning conditions.
14. A rear part of the site would be accessed from Roman Road which has a straight alignment up to the site frontage. The proposed road layout, which would turn to broadly follow the alignment of the Weymouth Way site boundary would be at odds with the surrounding regimented pattern of streets. Particularly jarring would be plot 13 which, relative to Roman Road would stand far closer to the new highway edge than the existing dwellings that are set back a broadly uniform distance.
15. The effect of the alignment of plot 13 would be partly mitigated by the falling levels into the site and retention of the views to the landscape site boundary opposite, but would nevertheless cause some harm to the character and appearance of Roman Road. Such would conflict with Policy ENV10 of the West Dorset, Weymouth & Portland Local Plan 2015 (LP) that seeks to ensure that development is informed by the character of the site and its surroundings.
16. Due to presence of Weymouth Way the proposal's strong relationship to the existing built form on Roman Road and Spa Road, the shortcomings in detailed design would not harm the significance of the conservation area nor the setting of listed buildings within it. The limited harm to the character and appearance of the conservation area and less than substantial harm to its significance arises solely from the placing of buildings on the hitherto undeveloped land. Following Paragraph 196 of the National Planning Policy Framework (the Framework), the harm that I have identified must be weighed against the public benefits of the proposal.
17. The Council is unable to demonstrate a 5 year supply of deliverable housing land. While the shortfall is not large, a development of this scale, including a contribution to affordable housing, albeit not for rent, would be of substantial benefit in this regard. As advised by Framework paragraph 193, irrespective of the level of the harm, I must give great weight to the assets' conservation. However, in light of the land supply situation and with regard to the very low level of harm, I find that the substantial benefits outweigh the harm to the heritage asset in this case.
18. Although there is no particular evidence of attempts to sustain the existing use of this site, and the proposal would not contribute to the heritage asset's conservation, I therefore, find that the proposal would not conflict with LP Policy ENV4 read as a whole that requires harm to the significance of a heritage asset to be justified and weighed against the public benefits of the proposal.

Location

19. The site is well related to existing built form within the defined development boundary. Whether or not the journey times cited by the appellant are accurate, a number of local services on Dorchester Road are within walking distance. Supermarket provision is not much further. Therefore, the site is in

an accessible location and future residents would not be dependent on private motor vehicles to meet their day to day needs.

20. Nevertheless, the site is outside the defined development boundary and within the countryside for the purposes of planning policy. In such locations, LP Policy SUS2 indicates that development will be strictly controlled having regard to the need for the protection of the countryside and environmental constraints, being restricted to certain defined types of development that do not include the market housing proposed here. Notwithstanding the accessible location, the proposal is, therefore, contrary to Policy SUS2.

Other matters

21. The site is clearly valued by local residents who have used it for recreation and social activities. I understand that many people have found access to open spaces of particular importance during the Covid-19 pandemic. However, while other recreational areas are further away from nearby residents, and the Council may have previously considered the site to be a pocket park, there is no particular local plan policy in the current development plan that seeks to retain it for open space or other community focussed uses. A footpath route through the site would be retained and, although it would be surfaced in a material that may not be suitable for less mobile users, including wheelchairs and pushchairs, this would not be significantly different to the existing non-surfaced path.
22. The site has some biodiversity interest and much of the existing habitat on the site would be lost. However, the Council's Natural Environment Team has approved a Biodiversity Mitigation and Enhancement Plan (BMEP) for the development providing suitable mitigation for impacts on protected species and other biodiversity interests. On this basis, subject to planning conditions securing appropriate mitigation, there would be no conflict with the aims of LP Policy ENV2 that seeks to ensure that biodiversity interests would not be harmed.
23. The proposed block of flats would be a large building, visible from the rear of dwellings on Mount Pleasant Avenue South. The distance of all of the accommodation from these and other nearby residents would be sufficient to avoid harm to their outlook and privacy. Parking for the flats would be provided close to the boundary with neighbouring residents, but there is no substantive evidence that associated activity in this location would be particularly disturbing.
24. The dwellings fronting Spa Road would have individual accesses to the highway. There is anecdotal evidence of speeding traffic on Spa Road. However, the accesses would be opposite other similar private accesses for existing houses in a clearly urban environment and so, to some extent drivers would be alive to the potential of emerging vehicles. Traffic accelerating up the hill on Spa Road would have good visibility of any emerging vehicles. The position of the Spa Road accesses on a steep hill limits visibility towards a blind summit, but although the Highway Authority's detailed comments were limited to the layout of the site, they have ultimately raised no objection to the proposal.
25. There is pressure for on-street parking on Roman Road but the proposal would provide adequate parking for residents and visitors to the site. On street

parking also interferes to some extent with traffic flow. However, while inconvenient, there is no particular evidence that this is unsafe or that the extra traffic, even in combination with other development on Mount Pleasant Road South would make it so. The development would include vehicle turning provision within the site and so would not lead to an increase in turning activity in the junction of Roman Road and Mount Pleasant Road South.

26. There is some concern about disruption arising from construction activity. However, this would be short term and, therefore, it is of limited weight in my decision. There is also concern amongst local residents about the way in which the Council chose to dispose of the site, but this has little to do with the planning merits of the case.

Planning balance

27. As the Council cannot demonstrate a 5 year supply of deliverable housing land, Framework Paragraph 11(d) must be considered. I have found that the benefits of providing housing at the site would outweigh the harm to the conservation area, so there are no policies in the Framework that protect areas or assets of particular importance and provide a clear reason for refusing the development proposed. Nevertheless, the protection of heritage assets is of considerable importance, the harm to the conservation area still receives great weight and added to it is the limited harm to the character and appearance of Roman Road.
28. The Framework seeks to boost significantly the supply of housing. The proposal is in an accessible location, well related to a large urban area. In this context, although the shortfall in housing supply is not large, I attribute very substantial weight to the benefits associated with the provision of housing at the site. I find that the adverse impacts of granting permission would not significantly and demonstrably outweigh the benefits when assessed against the policies in the Framework taken as a whole. Therefore, the proposal benefits from the presumption in favour of sustainable development outlined at Framework Paragraph 11.
29. The Council has declared a climate emergency. I understand that some of the response will include the creation of high value ecological areas and planting trees to capture carbon. The loss of trees at the site conflicts with these aims and biodiversity impacts would be mitigated rather than existing habitats fully preserved in situ. However, this must be balanced against the need to provide housing and the environmental and social benefits of doing so in a location where residents would not be wholly reliant on private motor transport. The Council's declaration is, therefore, a neutral consideration in my decision.
30. The proposal conflicts with the development plan as it is outside the defined development boundary. I understand that the site was previously considered unsuitable for development, was excluded from the housing trajectory and defined development boundary. However, as the Council cannot currently deliver sufficient housing within the defined development boundaries, I give limited weight to this conflict. Given the extent of harm I have identified to the character and appearance of the conservation area and Roman Road I also give limited weight to the conflict of those policies relating to these interests.
31. Against this I attribute very substantial weight to the benefits arising from the delivery of housing and the presumption in favour of sustainable development.

As such, I find that material considerations in this case indicate a decision otherwise than in accordance with the development plan.

Conditions

32. A plans condition is required in the interests of certainty. In the interests of the character and appearance of the area, conditions are required to secure details landscaping and protection of trees, boundary treatments, facing and roofing materials, and windows as well as securing the high quality finishes and detailing to the dwellings as advanced in the proposal.
33. There is evidence of archaeology in the area, so a condition is required to secure compliance with a written scheme of investigation. To ensure that there is no increase in off-site flood risk, including in Roman Road where I understand there have been some historic problems, a condition is required to secure and detailed drainage strategy.
34. To protect biodiversity, a condition is necessary to secure compliance with the BMEP. With this and the landscaping conditions in place, there is no substantive evidence as to why the Council's other suggested condition relating to the submission of a Landscape and Ecological Management Plan is required. To promote the use of low-emission vehicles, a condition is necessary to requiring the provision of charging facilities.
35. A condition is needed to ensure that the footpath link through the site is provided to facilitate movement be non-car means. To ensure that adequate facilities are available for the traffic likely to be attracted to the site the highway and turning facilities must be laid out.
36. The Council has recommended a condition to secure details of finished floor levels, but as this is already shown on the drawings it is not necessary. I have amalgamated and made revisions to some of the conditions suggested by the Council in the interests of clarity and to ensure compliance with the Framework.

Conclusion

37. For the reasons given, I conclude that the appeal should be allowed.

M Bale

INSPECTOR

Schedule

- 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans: 5108 2.ZE; 5108 4.L; 5108 5.J; 5108 6.D; 5108 7.E; 5108 8.F; 5108 9.G; 5108 13.F; 5108 14.F; 5108 15.F; 5108 16; 5108 18.E (1 of 2); 5108 18.G (2 of 2); 5108 19.E; 5108 20.B; 5108 21.C.
- 3) Prior to the commencement of any development a detailed surface water sustainable drainage scheme for the site, based on an assessment of the hydrological and hydrogeological context of the development, and a timetable for implementation shall be submitted to and approved in writing by the Local Planning Authority. The submitted scheme shall include details of the maintenance and management of the surface water sustainable drainage scheme, shall be designed to include a plan for the lifetime of the development for its maintenance and management, the arrangements for adoption by any public body or statutory undertaker, or any other arrangements to secure the operation of the surface water drainage scheme throughout its lifetime. Thereafter the scheme shall be implemented in accordance with the approved details and timetable for implementation. The scheme shall be managed and maintained thereafter in accordance with the approved details.
- 4) No development shall take place until all existing trees, shrubs and other natural features not scheduled for removal have been fully safeguarded and fenced in accordance with a scheme to be first submitted to and approved in writing by the Local Planning Authority (this shall include details of works within the crown spread of the protected cypress tree). Such fencing shall be maintained during the course of the works on site. No unauthorised access or placement of goods, fuels and chemicals, soil or other materials shall take place inside this fenced area. The soil levels within the fenced area shall not be raised or lowered and no trenching or excavation shall take place. In the event that protected trees (or their roots) become damaged, are lost or become otherwise defective in any way during such period, the Local Planning Authority shall be notified immediately and a programme of remedial action as directed by the Local Planning Authority shall be carried out within a timescale to be specified by the Local Planning Authority.
- 5) No development shall take place within the site area until the developer has secured and implemented a programme of archaeological work in accordance with a written scheme of investigation which shall have been submitted to, and been approved in writing by the Planning Authority. This scheme shall cover archaeological fieldwork together with post-excavation work and publication of the results.
- 6) No development above damp proof course level shall take place until samples of all facing and roofing materials to be used have been submitted to and approved in writing by the Local Planning Authority and the development shall be completed and thereafter maintained in accordance with these details. Natural slate shall be used on those dwellings where slate is to be used. Flemish bond brick-work will be used on all front elevations (where brick is specified).

- 7) No development above damp proof course level shall take place until full details of the windows and doors have been submitted to and approved in writing by the Local Planning Authority. No dwelling shall be first occupied until the windows and doors have been installed in accordance with the approved details and those details shall thereafter be maintained as such.
The details shall include a schedule and detailed sections (scale 1:10) of all new windows and doors in the development. All windows (including frames) on the front elevations of the dwellings shall be of white painted timber and shall be retained as such thereafter. All other windows shall be externally finished and retained white thereafter. The schedule shall include additional information relating to (i) the method of opening, (ii) the depth of the reveal from the face of the wall and (iii) the product number where the window is supplied from a manufacturers standard range (copy of catalogue to be included). Thereafter, unless otherwise agreed in writing by the Local Planning Authority, the development shall proceed in strict accordance with such details as have been agreed.
- 8) No development above damp proof course level shall take place until details (1:10 scale drawings) of the exposed timber joinery (exposed rafters, porches, dormers, bargeboards, etc.), together details of the chimney designs, rainwater goods, and the Spa Road frontage brick wall detailing (with copings and piers) have been submitted to and approved in writing by the Local Planning Authority. The approved details shall be constructed prior to the occupation of the dwelling to which they relate and shall thereafter be maintained as such.
- 9) No development above damp proof course level shall be carried out until a hard and soft landscaping scheme has been submitted to and approved in writing by the Local Planning Authority. Such scheme shall be implemented and completed during the planting season November - March inclusive, immediately following commencement of the development, or as may be agreed otherwise in writing by the Local Planning Authority. The scheme shall include provision for the maintenance and replacement as necessary of the trees and shrubs for a period of not less than 5 years from completion of the development and the soft landscaping shall be maintained and replaced as necessary in accordance with the approved scheme.
- 10) The development shall be carried out in accordance with the measures contained in the agreed Biodiversity Mitigation and Enhancement Plan (BMEP) dated 16/3/2020. All works within the BMEP shall be carried out in accordance with the agreed timescale unless otherwise agreed in writing by the Local Planning Authority. The completed works and management requirements in the approved BMEP scheme shall thereafter be retained and continue thereafter.
- 11) No development above damp proof course level shall be carried out until a detailed scheme to enable the charging of plug-in and other ultralow emission vehicles in safe, accessible and convenient locations within the development has been submitted to and approved in writing by the Local Planning Authority. The submitted details shall include a timetable for the implementation of the scheme. Thereafter the development shall be carried out in accordance with such details and timetable as have been

approved by the Local Planning Authority and shall thereafter be maintained as such.

- 12) No dwelling shall be first occupied until the gravelled footpath shown on the approved plan has been provided, completed and made available for use in accordance with details which shall first have been submitted to and approved in writing by the Local Planning Authority. These details shall include a safety barrier at the entry/exit point with Spa Road.
- 13) No dwelling shall be first occupied until details of the means of enclosure to the boundaries of each individual dwelling, including materials and height, shall have been submitted to and approved in writing by the Local Planning Authority. The means of enclosure as agreed shall be erected prior to first occupation of the dwelling and permanently retained thereafter.
- 14) Before the development is occupied or utilised the access, the geometric highway layout, turning and parking areas shown on Drawing Number 5108.02.ZE must be constructed, unless otherwise agreed in writing by the Planning Authority. Thereafter, these must be maintained, kept free from obstruction and available for the purposes specified.