



Appeal Decision

Site visit made on 24 November 2020 by Christian Ford BA (Hons) BTP MRTPI

Decision by Andrew Owen BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 10 February 2021

Appeal Ref: APP/D1265/W/20/3258313

1A Battlemead, Swanage, Dorset BH19 1PH

- 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 J Streams against the decision of Dorset Council.
 - The application Ref 6/2020/0161, dated 25 March 2020, was refused by notice dated 30 July 2020.
 - The development proposed is 'replace existing dwelling with detached house and erect additional dwelling adjacent. Form new access and parking'.
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Decision

1. The appeal is allowed and planning permission is granted to 'replace existing dwelling with detached house and erect additional dwelling adjacent. Form new access and parking', at 1A Battlemead, Swanage, Dorset BH19 1PH in accordance with the terms of the application Ref: 6/2020/0161, dated 25 March 2020 and subject to the attached schedule of conditions.

Application for Costs

2. An application for costs was made by Mr J Streams against Dorset Council. This application is the subject of a separate Decision.

Appeal Procedure

3. The site visit was undertaken by a Planning Decision Officer whose recommendation is set out below and to which the Inspector has had regard before deciding the appeal.

Main Issues

4. The main issues are;
 - i) the effect of the proposed development on the character and appearance of the area and,
 - ii) whether the proposed dwellings would provide acceptable living conditions for their future occupiers with respect to the internal layout and their outlook.

Reasons for the Recommendation

- i) *Character and appearance*
5. 1A Battlemead originally occupied a larger corner plot at the eastern end of Battlemead, at the junction with De Moulham Road. It was an anomaly to the typical development of corner plots in the locality because the dwelling was set
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- far back from the building line on the western side of De Moulham Road. The implementation of planning permission Ref: 6/2019/0492 has seen the erection of a detached house at the eastern end of the plot, in a position where a house would ordinarily be expected having regard to the characteristic layout of the area.
6. The properties on Battlemead and the nearby western side of De Moulham Road predominantly comprise detached houses with fairly deep rear gardens. They form part of an 'Area of Distinctive Local Character' (ADLC), as defined by Policy STCD of the Swanage Local Plan 2017. While the new house at No 37 and that at 1A reflect the local character in being detached houses, neither have the characteristic deep rear gardens.
 7. The proposal is to demolish 1A Battlemead and to erect two, two storey detached houses. The plots would not be as wide as those of the surrounding properties but that would not be markedly so. Furthermore, as there is a greater variation in the width of the plots further to the west along Battlemead, they would not appear unusually narrow within the wider street scene.
 8. Each house would have a driveway to one side and they would also be set back from their common boundary. Consequently, the bulk of the dwellings would sit comfortably on their plots and in contrast to 1 and 3 Battlemead, which have a very narrow intervening gap, they would appear spacious in the street scene.
 9. The two houses would have a slightly staggered front building line. Although they would stand well forward of the building line of the properties to the west along Battlemead, it is typical for the dwellings of the corner plots adjacent to De Moulham Road to occupy such a position, including Nos 37 and 39. 1A also currently adopts a similar forward position. The proposed staggered building line would therefore be a logical design response which provides a suitable transition between the siting of No 37 and 1 Battlemead.
 10. The two dwellings would not have the deep rear gardens which are a distinctive part of the character of the area and the density of the development would be higher than in the wider area. However, as 1A and No 37 do not presently have deep rear gardens, the development would be consistent with the existing character of the site and the adjacent plot. The effect on the surrounding area would therefore be neutral and the increase in density would not be harmful. Moreover, as the street facing front elevations and height of the two dwellings would be more consistent with the Battlemead street scene than the existing side-on appearance and height of 1A, they would represent an enhancement in this regard.
 11. In light of the above, it is concluded the proposed development would not have an unacceptably harmful effect on the character and appearance of the area. It would therefore not conflict with Policy STCD which seeks to ensure development protects and enhances ADLC's spacious and suburban character, nor Policy D: Design of the 2012 Purbeck Local Plan Part 1 (PLP) which expects development to positively integrate with its surroundings and to reflect appropriate densities.
 12. It would also not conflict with paragraphs 117, 122 or 127 of the National Planning Policy Framework ('the Framework') which promotes an effective use of land whilst also taking account of and being sympathetic to local character, nor the 2014 Purbeck District Design Guide Supplementary Planning Document

(SPD) which expects development to reflect and reinforce locally distinctive characteristics.

13. Similarly, it would not conflict with the 2012 Swanage Townscape Character Appraisal Supplementary Planning Document as the development would not be harmful to the suburban character of the 'mixed pre-and post war housing' character type.

ii) Living conditions

14. The first floor rear bedroom of Unit B would have a rear facing window but the submitted plans indicate it would be obscurely glazed and non-opening below 1.7m. As a consequence, there would only be skyline views by way of the two fanlights. There would be a small secondary window in the west elevation but the outlook would be constrained due to the position and close proximity of the flank of 1 Battlemead. The outlook to that particular room would therefore be of a poor standard.
15. However, in the committee report, the Council officers stated that the obscure glazing/non-opening would be unnecessary because the window would primarily offer views over the end of the rear garden areas of 35 De Moulham Road and 1 Battlemead, where some degree of overlooking by neighbouring properties can reasonably be expected. I likewise consider the obscure glazing/non-opening of the window to be unnecessary, for the same reason.
16. Furthermore, the existing situation is that a large first floor rear dormer at 1A Battlemead overlooks the rear elevation of No 35 and a first floor window on the western flank provides an oblique view towards the end of the rear garden of No 1. Consequently, even with clear glazing of the relevant window, the development would represent a substantive improvement in terms of No 35's privacy and only a nominal difference in respect of No 1.
17. Accordingly, I consider it unnecessary for this window to be fixed and obscurely glazed and a suitably worded planning condition could facilitate this. On this basis, the outlook from the bedroom would be satisfactory.
18. The first floor rear bedroom of Unit A would be unconventional in not having a rear facing window but it is to ensure the rear elevation of No 35 would not be excessively and unacceptably overlooked. However, the bedroom would have a suitable outlook as there would be a front facing wrap around corner window instead.
19. Overall, the scheme would provide acceptable living conditions for its future occupiers in respect of the internal layout and their outlook. In light of the above, the scheme would not conflict with Policy D: Design of the PLP which sets out that development should avoid adverse impacts on amenity, nor paragraphs 117, 122 or 127 of the Framework which promotes an effective use of land whilst also ensuring safe and healthy living conditions, where future users would have a high standard of amenity. It would similarly not conflict with the SPD which expects the functional needs of the users of a development to be served.

Other Matters

20. The position, design and height of the dwellings relative to the surrounding residential properties is such that there would be no unacceptable harm to the

living conditions of neighbouring occupiers, particularly Nos 35 and 39 De Moulham Road, and Nos 1 and 2 Battlemead, with regard to privacy, outlook, overshadowing or noise and disturbance.

21. Some objectors have raised concerns the proposed gardens would be too small. Although they would not be the deep rear gardens which are a distinctive part of the character of the area, they would nevertheless provide sufficient useable private garden space for future occupiers, as sought by the SPD.
22. There are also local concerns that it could set a precedent, particularly in relation to the development of other corner plots, such as No 39 De Moulham Road, the rear garden of which is opposite the appeal site. However, each proposal must be assessed on its own merits and in this case substantial weight is given to the fact the existing occupation of the site by 1A Battlemead is inconsistent with the characteristic layout of the locality.
23. As the development would be located within the settlement boundary and surrounded by residential development and associated street lighting, there would be no harm to the Dorset Area of Outstanding Natural Beauty in terms of landscape considerations or light pollution.
24. While the Council's reason for refusal referred to the proposal failing to achieve affordable housing, there is no policy evidence before me which indicates the development is required to make affordable housing provision. Neither does any other information supplied explain the reference to affordable housing. In the absence of any cogent argument in this regard, this matter is given no weight.
25. Local residents have expressed concerns the proposal should be subject to restrictions in relation to use as a second home, with Policy H14 of the emerging Purbeck Local Plan being relevant in this regard. However, it is not clear at this stage to what extent the policy will be modified and how it might apply to replacement dwellings, and indeed the Council suggest that no weight is given to this policy. It is therefore considered the policy carries insufficient weight at this time for any such restrictions to be applied to the proposal.
26. The Council Highway Authority raise no objection to the proposed access and parking arrangements. Having regard to the standards set out in the Council's 2011 'Residential Car Parking Provision, Local Guidance for Dorset', as well as the amount of parking proposed and the on-road parking bays available for visitor parking, there is no justified reason to take a different view. I also consider the increase in traffic resulting from the dwellings would be relatively small.
27. As nearly all vegetation has been cleared from the site, it is of little wildlife value. However, new landscaping can be secured by condition. Suitable mitigation can also be secured via the Community Infrastructure Levy to ensure the development would not result in adverse effects on the integrity of the Dorset Heathlands.
28. Any restrictive covenants on the site are not a planning matter to be considered in the determination of the appeal.

Conclusion

29. As the proposed development would be in accordance with the development plan and there are no material considerations which indicate the development should otherwise be resisted, it is concluded the appeal should be allowed.

Conditions

30. The conditions suggested by the main parties have been considered having regard to the tests set out in the Framework and the advice of the Planning Practice Guidance. They have been amended where appropriate for clarity and precision.
31. The standard time limit condition is imposed, as is a condition specifying the approved plans to ensure certainty, with the caveat that the rear facing bedroom window in Plot B does not need to be fitted with obscure glass and fixed shut. Conditions in respect of external materials and landscaping are imposed to ensure the development harmonises with the character of the locality. A condition requiring surface water to be appropriately drained is imposed to alleviate possible flood risk and to ensure it does not flow onto the highway. Conditions in relation to access point works and off-street parking provision are imposed to ensure the appropriate development of the site having regard to local highway standards.
32. Conditions requiring specific windows to be obscurely glazed and maintained in that condition are imposed to protect the living conditions of existing neighbouring residential occupiers and future occupiers of the site. A condition removing permitted development rights in relation to extensions (excluding porches), outbuildings, roof alterations and additional windows is imposed in order to protect the acknowledged spacious character of the area and the living conditions of neighbouring occupiers. However, the inclusion of minor operations (set out in Schedule 2, Part 2 of the Town and Country Planning (General Permitted Development)(England) Order 2015) within such a condition, as suggested by the Council, is not considered to be necessary in order to protect those interests.

Overall Conclusion and Recommendation

33. For the reasons given above and having had regard to all other matters raised, I recommend that the appeal should be allowed.

Christian Ford

PLANNING DECISION OFFICER

Inspector's Decision

34. I have considered all the submitted evidence and the Planning Decision Officer's report, and on that basis the appeal is allowed.

Andrew Owen

INSPECTOR

Schedule of Conditions

1. The development hereby permitted shall begin not later than three years from the date of this decision.
2. The development hereby permitted shall be carried out in accordance with the following approved plans: 1., 2.(A)(B), 3.(A), 4.(A)(B0, and 5. except in respect of the stipulation that the rear first floor bedroom window of Plot B is 'obscure glazed non opening within 1700mm of floor' as shown on plans 2.(A)(B) and 4.(A)B0.
3. No development above damp proof course shall take place until the manufacturer's name, product name and colour of all external facing and roofing materials of the development hereby approved have been submitted to and approved in writing by the Local Planning Authority. The development shall be implemented using the approved materials.
4. No development above damp proof course shall take place until the Local Planning Authority has approved in writing a scheme of landscaping. This must include a landscape proposals plan showing proposed details of hard landscaping (surfacing/paving, walls, fences and other structures) and soft landscaping (trees, shrubs, herbaceous plants and grassed areas). The approved landscaping scheme for each dwelling shall be implemented in accordance with the approved details.
5. The soft landscaping works detailed in the landscape proposals agreed by the Local Planning Authority pursuant to condition 4 must be carried out in full during the first planting season (November to March) following commencement of the development or within a timescale to be agreed in writing with the Local Planning Authority. The soft landscaping shall be maintained in accordance with the agreed details and any trees or plants which, within a period of 5 years from the completion of the development, die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species, unless the Local Planning Authority gives written consent to any variation.
6. A suitable method of dealing with surface water drainage from the development must be installed before the first occupation of the houses and which ensures that no surface water drains directly from the site onto the adjacent public highway. Before any surface water drainage works start, the scheme must be submitted to and approved in writing by the Local Planning Authority. This must include details of the on-going management and maintenance of the scheme. The appropriate design standard for the drainage system must be the 1 in 100 year event plus an allowance for the predicted increase in rainfall due to climate change. This requirement is above and completely separate to any building regulations standards. Prior to the submission of those details, an assessment must be carried out into the potential for disposing of surface water by means of a sustainable drainage system (SUDs). The results of the assessment must be provided to the Local Planning Authority. The approved drainage scheme must be implemented, maintained and managed in accordance with the agreed details.
7. Before the development is first occupied the existing access point shall be permanently closed by extending the adjoining highway boundary

- hedge/fence/wall and removing any gates. The existing highway vehicular crossing shall be expunged and reinstated to a specification which shall be submitted to and approved in writing by the Local Planning Authority.
8. Before the development hereby approved is first occupied the parking areas shown on the submitted plans must have been constructed. Thereafter, these areas must be permanently maintained, kept free from obstruction and available for the purposes specified.
 9. Before Unit A is first occupied, the first floor rear facing (south elevation) bathroom window for that unit must be glazed with obscure glass to a minimum Pilkington privacy 3, or equivalent as agreed in writing with the Local Planning Authority and shall thereafter be maintained in that condition.
 10. Before Unit B is first occupied, the first floor rear facing (south elevation) bathroom window and the first floor side facing (east elevation) windows serving the en-suite and bedroom 1 for that unit must be glazed with obscure glass to a minimum Pilkington privacy 3, or equivalent as agreed in writing with the Local Planning Authority and shall thereafter be maintained in that condition.
 11. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development)(England) Order 2015 (or any order revoking and re-enacting that Order with or without modification) no development in Classes A, B, C and E of Schedule 2, Part 1, shall be constructed.

End of Schedule