



Appeal Decision

Site Visit made on 27 April 2021

by M Bale BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 18 May 2021

Appeal Ref: APP/D1265/W/20/3262553

Land adjacent to, Breach Lane, Shaftesbury SP7 8LD

- 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 & Mrs Nick & Danielle Clunies-Ross against the decision of Dorset Council.
 - The application Ref 2/2020/0899/FUL, dated 3 July 2020, was refused by notice dated 23 September 2020.
 - The development proposed is to erect dwelling and detached garage, form new vehicular access thereto.
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Decision

1. The appeal is allowed and planning permission is granted to erect dwelling and detached garage, form new vehicular access thereto at land adjacent to, Breach Lane, Shaftesbury SP7 8LD in accordance with the terms of the application, Ref 2/2020/0899/FUL, dated 3 July 2020, subject to the conditions in the attached schedule.

Procedural matter

2. Amended plans were submitted to the Council while the application was under consideration, omitting the proposed garage. The Council's officer report acknowledges the plans and comments that they do not sufficiently overcome alleged adverse impacts. There is no clear evidence that the Council determined the application on the basis of the amended plans and the proposal is described in the officer report and Decision Notice as being for a dwelling and detached garage.
3. The appellant's appeal statement describes the proposal as including the garage, merely commenting that the revised scheme was 'tabled'. I have, therefore, determined the appeal on the basis of the proposal originally submitted to the Council.

Main Issue

4. The main issue is the effect on the character and appearance of the area.

Reasons

5. The site is just outside the defined settlement boundary of Shaftesbury, where development plan policies do not generally permit new residential development. Breach Lane, at this point, has a clear edge of town character, where a wide break in built form affords expansive views across the surrounding countryside as the land falls away from the settlement. This contributes strongly to the character and appearance of the immediate area.

6. The proposal would introduce new built form, along with a new access through the hedge and associated hard surfacing. The presence of the dwelling would encroach into an area that has a clear connection with the surrounding countryside, although its proposed siting and overall height would prevent it being overly intrusive on the lane. There would be some interference with outward views that would slightly undermine the connection of the lane to the surrounding landscape, causing some limited harm to the character and appearance of the area.
7. However, the connection to the landscape would not be lost altogether as views would be available around the dwelling, and would be largely unaffected from the higher ground towards the junction with Umbers Hill, where the outward views are more expansive than alongside the site. There would also be limited effect on views from lower ground looking back towards Shaftesbury, where the site would be seen against a backdrop of development at Umbers Hill and in the context of the more imposing No.41 Breach Lane. From here, the proposal would not impose on the shape of the hillside or diminish the dramatic topography and landscape setting of Shaftesbury.
8. There are a number of dwellings along the site side of Breach Lane. They are generally positioned informally and, around the appeal site, are too scattered to create a clear street scene. The proposal would introduce another single dwelling which would largely echo that pattern, being close enough to No.41 to not appear wholly isolated in the landscape but sufficiently distanced to maintain the general loose pattern of development. The siting is, therefore, characteristic of the surrounding built form.
9. There would be some removal of hedgerow required to form the access but, with a suitable landscaping scheme, the overall effect on the appearance of the lane would be small. The extent of the site is large and domestic paraphernalia could spread widely across it. However, it is adjacent to No.41, the curtilage of which also extends to the lane on the opposite side of the site and an area used for allotments. In this context, and with the removal of permitted development rights for any further buildings, any general paraphernalia would not have a significant effect on the character and appearance of the area.
10. The design of the dwelling would be distinctly different to anything else nearby. However, there are a variety of architectural styles here and the site is detached from the historic core of Shaftesbury and designated heritage assets. Some architectural freedom can, therefore, be accommodated without harm. Although there would be alterations to the interesting shape of the land at the site in order to accommodate the dwelling, it would use the topography to its advantage, reducing the visual impact, generally respecting the contours of Shaftesbury and lie of the land.
11. In conclusion, there would be some, limited harm to the character and appearance of the area from the development of this site, outside the identified settlement boundary. There would, therefore, be a conflict with those aims of Policies 2, 7, 20 and 24 of the North Dorset Local Plan Part 1 2016 (LP), which seek to control development outside identified settlement boundaries, supporting only development appropriate in the countryside that respects the character and distinctiveness of the locality. However, it would not mask the dramatic effect of the topography of Shaftesbury or adversely affect views from higher or lower ground, as required by Policy SB4.

Other Matters

12. There would be some benefit from the provision of housing, adjacent to the boundaries of one of the plan area's 4 'Main Towns'. In this regard, although it would be outside the settlement limit, there would be no harmful conflict with the general spatial strategy outlined in LP Policies 2 and 6 that identify Shaftesbury as amongst the main focus for the vast majority of housing and other development.
13. The site is accessed via a narrow lane that has no footways or street lighting. During my site visit, which coincided with the end of the school day, I witnessed an appreciable amount of foot and vehicular traffic around the site, including numerous children walking and cycling. I understand that at other times the route is well used by elderly people and walkers generally. The width of the lane and limited passing places are not generally regarded as conducive to safe walking conditions.
14. However, although it is subject to the national speed limit, the lane is equally unconducive to fast vehicular movements. Traffic speeds are necessarily low and, as such, I witnessed numerous vehicles passing pedestrians without particular issue. Whilst the walking conditions may be unattractive to some, there is no substantive evidence of a particular highway safety problem in this area, and the Highway Authority has not objected to the proposal. Therefore, I find that there would be appropriate walking routes to the town centre facilities and services, and future residents would not be reliant upon private cars to access them.
15. A biodiversity plan has been prepared for the development. It has identified the presence of Great Crested Newts (GCN) within a nearby pond that could be affected by the development. A license would be required from Natural England and the biodiversity plan sets out mitigation measures to safeguard GCN populations on and around the site. I, therefore, conclude that, with appropriate conditions in place, the development, which would contribute to meeting housing needs in Dorset, would ensure that the favourable conservation status of GCN would be maintained and I have no reason to suspect that a license might not be granted.
16. There is some concern amongst local residents about ground instability in the area. However, there is no substantive evidence that engineering solutions could not be found to enable development to proceed safely. There is also no substantive evidence that the operation of air source heat pumps would adversely affect vegetation growth. I, therefore, attribute very limited weight to these matters.

Planning balance

17. The Council has confirmed that it cannot currently demonstrate a 5 year supply of deliverable housing land. Therefore, paragraph 11(d) of the National Planning Policy Framework (the Framework) falls to be considered. This indicates that permission should be granted unless the adverse impacts of doing so would significantly and demonstrably outweigh the benefits when assessed against the policies of the Framework taken as a whole.
18. One additional dwelling would result in only limited benefits, but the harm that I have identified is similarly small. There are policies of the Framework that

support the protection of the character and appearance of the area, but also to boost significantly the supply of homes. Shaftesbury is a location where additional housing is, generally, to be encouraged. As such, the adverse impacts cannot be said to significantly and demonstrably outweigh the benefits considered against the policies of the Framework, taken as a whole. The proposal, therefore, benefits from the presumption in favour of sustainable development outlined at Framework paragraph 11.

19. There is a conflict with the development plan read as a whole as the site is located outside the defined settlement boundary. However, the weight that I attribute to strict adherence to the settlement boundary in this location at the edge of one of the Main Towns, is tempered by the housing land supply situation. There is also a conflict with those policies seeking to protect the character and appearance of the area, but the harm in that regard would be limited.
20. The Framework, being Government policy, is a weighty material consideration. For the reasons given above, I find in this case that the presumption in favour of sustainable development therein indicates that a decision should be taken otherwise than in accordance with the development plan and that permission should be granted.

Conditions

21. 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 of external wall finishes, roof planting and maintenance, hard and soft landscaping, including hedgerow protection and a realignment method statement for the access works. It is not clear why the Council have suggested such a large sample panel of facing materials, so I have reduced the size requirement.
22. In the interests of highway safety, a suitable surface must be provided at the access and parking and turning facilities for the development and visibility splays must be provided. Gates should be set back to allow vehicles to leave the highway when shut. Cycle parking is required to promote travel by non-car means and, to secure biodiversity protection and enhancement, measures set out in the approved biodiversity plan must be carried out.
23. Given the size of the application site and the rural-edge landscape setting, I have removed permitted development rights for outbuildings to protect the character and appearance of the area. However, there is no clear reason to prevent extensions to the dwelling so, mindful of advice in Planning Practice Guidance regarding the removal of permitted development rights, my condition does not restrict that.

Conclusion

24. For the reasons given above, 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: 181019; 4975/D01; 4975/D02; 4975/D04; 4975/D05; 4975/D06; 4975/D07; 4975/D08; 4975/D09; 4975/D10; 4975/S05.
- 3) Prior to the commencement of any construction above damp course level, a sample panel measuring at least 1 metre by 1 metre, of the external facing materials, demonstrating colour and texture of the proposed stonework, and render, shall be constructed on site and approved in writing by the Local Planning Authority. The walls shall be constructed and finished in the approved materials and thereafter maintained as such. The panel shall remain on site until the external walls of the dwelling have been constructed to eaves height.
- 4) Prior to the commencement of any development above damp course level, full details of both hard and soft landscape proposals shall be submitted to and approved in writing by the Local Planning Authority.
The details shall include the following:
 - Car parking layouts & hard surfacing materials;
 - means of enclosure including proposed boundary walls, fences, gates;
 - planting plans with written specifications to include a schedule of plants, species, size, proposed numbers and densities;
 - maintenance schedule and implementation timetables.

The development shall thereafter be carried out in accordance with the approved details. Planting shall be carried out before the end of the first available planting season following substantial completion or occupation of the development, whichever is the sooner.

In the five year period following the implementation of the scheme, any trees that are removed without the written consent of the Local Planning Authority or which die or become seriously diseased or damaged, shall be replaced as soon as reasonably practical and not later than the end of the first available planting season, with specimens of such size and species and in such positions as may be agreed with the Local Planning Authority.
- 5) Prior to the first use or occupation of the dwelling hereby permitted, details of the proposed green roof including written specifications to include schedule of plants, species, size, proposed numbers and densities, maintenance schedule and implementation timetables, shall be submitted to and approved in writing by the Local Planning Authority. The agreed details shall be implemented prior to the occupation of the dwelling and shall thereafter be maintained as such.
- 6) Prior to works to facilitate the provision of the new access and associated visibility splays, a detailed method statement, hedgerow protection plan, and planting plan shall be submitted to and approved in writing by the Local Planning Authority. The statement should describe how the hedgerow to be retained shall be protected throughout the duration of

the development, a methodology of the proposed hedge relocation/realignment works, and a precise scheme of hedgerow replanting. Thereafter the development shall be carried out in accordance with the agreed details.

- 7) Prior to the first use or occupation of the dwelling hereby permitted, the first 5.00 metres of the vehicle access, measured from the rear edge of the highway must be laid out and constructed to a specification that shall previously have been submitted to and approved in writing by the Local Planning Authority. The access shall thereafter be maintained as such.
- 8) Prior to the first use or occupation of the dwelling hereby permitted, turning and parking shown on the submitted plans shall be constructed and thereafter these areas shall be permanently maintained, kept free from obstruction and available for the purposes specified.
- 9) Any entrance gates shall be set back a minimum distance of 5.00 metres from the edge of the carriageway and hung so that the gates can only open inwards.
- 10) Prior to the first use or occupation of the dwelling hereby permitted, the visibility splay areas as shown on Drawing Number D07 shall be cleared/excavated to a level not exceeding 0.60 metres above the relative level of the adjacent carriageway. The splay areas shall thereafter be maintained and kept free from all obstructions.
- 11) Prior to the first use or occupation of the dwelling hereby permitted, the cycle parking facilities indicated on Drawing Number D04 shall be provided and thereafter maintained as such.
- 12) The Biodiversity mitigation measures set out in the approved & certified Biodiversity Plan dated 14.07.20 shall be implemented in full in accordance with the timetable set out in the Plan, or in the absence of a specific timetable, prior to the development hereby approved being first brought into use and the site shall thereafter be maintained in accordance with the approved mitigation proposals.
- 13) 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 garages, sheds or other outbuildings shall be erected or enlarged, nor shall any means of enclosure be constructed.