

Appeal Decision

Site visit made on 20 December 2021

by Matthew Jones BA(Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 01 February 2022

Appeal Ref: APP/D1265/W/21/3280358

The Creek, Fishers Place, Ringstead Bay, Dorchester, Dorset DT2 8NG

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (the Act) against a refusal to grant planning permission.
 - The appeal is made by Mr Alastair Fisher against the decision of Dorset Council.
 - The application Ref WD/D/20/001874, dated 7 August 2020, was refused by notice dated 23 April 2021.
 - The development proposed is described as '*demolition of existing house and construction of similar new house.*'
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Decision

1. The appeal is dismissed.

Procedural Matter

2. There is ambiguity in the evidence about the status of The Creek as either a dwellinghouse or two flats. Within the context of an appeal made under section 78 of the Act, it is not within my remit to formally reach a view on this issue. However, I must consider the matter insofar as it is material to my assessment. Given the descriptions of development on the application form and the decision notice, I have assessed the appeal on the basis that The Creek is a single dwellinghouse. I must stress that I have reached this conclusion for the purposes of the current appeal only and this does not prejudice any future application for a lawful development certificate pursuant to section 191 of the Act and/or, if it were to become relevant, any enforcement proceedings.

Main Issues

3. I therefore consider the main issues to be:
 - the effect of the proposal on the character and appearance of the area, with reference to the Dorset Area of Outstanding Natural Beauty (the AONB) and the Purbeck Heritage Coast (the HC); and,
 - the effect of the proposal upon the living conditions of the residents of East Creek, with reference to noise and privacy.

Reasons

Character and appearance

4. The Creek is a two-storey building in the village of Ringstead, which falls within the AONB and the HC. It is located on the east side of the settlement and has an attached neighbour to the east, East Creek. Access is off Fishers Place from the north, with the rear grounds of The Creek separating it from the coastal slope to the south.

5. Paragraph 176 of the National Planning Policy Framework (the Framework) states, amongst other things, that great weight should be given to conserving and enhancing landscape and scenic beauty in Areas of Outstanding Natural Beauty, which have the highest status of protection in relation to these issues. The scale and extent of development within such areas should be limited.
6. Policy HOUS6 of the West Dorset, Weymouth and Portland Local Plan 2011-2031 (adopted 2015) (the Local Plan) supports the replacement of dwellings in places such as Ringstead provided that the new building would not be significantly larger than the original and would not detract from the character and appearance of the locality or its landscape setting.
7. The most relevant supporting text to Policy HOUS6 warns that the scale and design of replacement dwellings, individually and cumulatively, can have an adverse impact on the character of individual properties and the surrounding countryside. It goes on to set an expectation that the new dwelling will be of a similar size to the original (within 10% by volume) unless a larger scheme would benefit the character or appearance of the area.
8. Ringstead is eclectic and diverse, and a place with the scope for eccentric or innovative design. Yet, despite their individuality, its buildings share a typical domestic scale, with curving, pitched and/or hipped roofs reducing the upper proportions of the larger houses. This combines with the loose, open pattern of the buildings to create an atmosphere of deference to the surrounding coastal landscape. This includes The Shambles, a house referenced by interested parties. The Creek is set aside Ringstead's more modest, traditional cottages. Whilst its alterations lack coherence, the symmetrical profile of its hipped roof, punctuated by slim stacks, allows it to adhere to the character of the village.
9. Floorspace is not the same as volume and the comparative volume of the new dwelling is not set out in the evidence. Nonetheless, its mansard roof would introduce substantial massing at second floor level, bringing a new horizontal emphasis at height. The front of the building would be dominated by a tall and deep projecting circulation core feature which would assert its full three storey stature to Fischer Place. These elements would create a significantly larger mass which would fail to harmonise with the more restrained vertical scale of the village, particularly the adjacent cottages. This would not be overcome by the symmetry of the new dwelling, nor would it be justified by the corresponding height of East Creek, which has a roof that pitches down steeply from its ridge.
10. I appreciate that The Creek is well concealed in long views by a bank of trees to the north and by the coastal topography. It is also almost obscured from closer views from the coastal slope by greenery at its south boundary. However, I find it likely that the additional vertical massing of the scheme would be perceptible from out on the water. It would also be visible from Fisher Place above any suitable, future boundary enclosure. Views from Fisher Place are important because coastal erosion elsewhere has heightened its status to form part of a de facto route through the village for those walking the HC and AONB coastline.
11. Accordingly, I conclude on this issue that the proposal would have an unacceptable effect on the character and appearance of the area, with reference to the AONB and the HC. It would conflict with the landscape and design aims of Policies ENV1, ENV12 and HOUS6 of the Local Plan and the Framework. Given that the Local Plan supports the principle of replacement dwellings in places such as Ringstead, I find no conflict with Policy SUS2.

Living conditions

12. East Creek has a pool area aside its rear elevation. One can already overlook this area from within The Creek, particularly from the rear dormer and the first-floor bay nearest the shared boundary. Even so, the scheme would introduce a dwelling with several more openings, including three Juliette balconies and an external balcony at second floor level. A large first floor terrace would also allow direct, obtrusive overlooking into the pool area. Furthermore, large groups could potentially congregate on the terrace, with likely noise effects that would significantly disturb the level of tranquillity within the pool area.
13. The appellant has suggested a condition could resolve these issues by changing the Juliette balconies to windows and removing the second-floor balcony. However, this would not address the first-floor terrace. Moreover, such changes would result in material alterations to the design of the proposal, and I am mindful that the Planning Practice Guidance¹ states that conditions should not be used where it would modify the development in a way that makes it substantially different from that set out in the application.
14. Consequently, I conclude on this issue that the proposal would have an unacceptable effect on the living conditions of the residents of East Creek, with reference to noise and privacy. The scheme would conflict with the residential amenity aims of Policy ENV16 of the Local Plan and the Framework.

Other Matters

15. The site is within influence of the Isle of Portland to Studland Cliffs Special Area of Conservation (the SAC), which abuts the site's south boundary. Given the distance of the replacement dwelling from the SAC, in a position consistent with the existing property, likely significant effects on the integrity of the SAC can be ruled out in the first instance.

Planning Balance and Conclusion

16. The appellant has referred to the presumption in favour of sustainable development set out within Paragraph 11 d) of the Framework. However, the Framework is clear that Paragraph 11 d) ii) does not apply where the application of policies in the Framework that protect areas of particular importance provides a clear reason for refusing the development. Given my findings in relation to the HC and the AONB, that is the case here.
17. The harm to the character and appearance of the area and the living conditions of neighbouring residents draws the scheme into conflict with the development plan when read as a whole. The provision of an energy efficient replacement dwelling built to modern standards of accommodation and accessibility, with associated economic benefits to the construction industry, would not outweigh this harm. Consequently, there are no other considerations, including the Framework, that outweigh the conflict with the development plan in this case.
18. For the reasons outlined above, and taking all other matters raised into account, I conclude that the appeal should be dismissed.

Matthew Jones
INSPECTOR

¹ Paragraph: 012 Reference ID: 21a-012-20140306