
Appeal Decision

Site visit made on 19 July 2022

by J J Evans BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 23rd September 2022

Appeal Ref: APP/D1265/D/22/3293570

15 Main Road, West Lulworth BH20 5RN

- 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 Ms Blu-Amari Sinclair against the decision of Dorset Council.
 - The application Ref 6/2021/0294, dated 21 May 2021, was refused by notice dated 23 November 2021.
 - The development is described as "The retrospective planning permission for a close boarded fence along the entire perimeter of the garden with the exception of the north end."
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Decision

1. The appeal is dismissed.

Procedural Matters

2. 14, 15 and 16 Main Road are grade II listed buildings, within the West Lulworth Conservation Area. As required by the Planning (Listed Buildings and Conservation Areas) Act 1990 (the Act) I have paid special regard to the desirability of preserving a listed building or its setting or any features of special architectural or historic interest which it possesses, and of preserving or enhancing the character or appearance of a conservation area.
3. Notwithstanding the description of the development set out above, which is taken from the original application form, it is clear from the plans and accompanying details that the development comprises the erection of fencing to the eastern and western side boundaries of the rear garden of 15 Main Road, along with the erection of a shed. This is also the description of works provided by the appellant for the appeal. The Council have dealt with the proposal on this basis, and so shall I.
4. It was apparent from my visit that the fences and shed had been erected. The appellant also explained during my visit that some of the fencing on the eastern boundary had failed and been replaced with panels. Notwithstanding this, I have determined the appeal on the basis of the submitted drawings, rather than what has occurred on site.

Main Issue

5. The main issue is the effect of the fences and shed upon the setting of nearby listed buildings, and linked to that whether they would preserve or enhance the character or appearance of the West Lulworth Conservation Area.

Reasons

6. 15 Main Road (No 15) is part of a pair of semi-detached cottages within the historic core of the village. Main Road follows the valley bottom with the steep valley sides creating a topographical enclosure to this principal route down to the sea. Although there are some modern infill properties along Main Road, the distinctive appearance of the conservation area derives from the repeated presence of numerous historic vernacular houses constructed from local materials. Many of these houses front the highway, and several have deep rear gardens that rise sharply uphill. The functional focus and importance of Main Road, the presence of so many high quality historic buildings, and the striking topography that has determined the street layout and the positioning of the houses, are all part of the significance of the conservation area.
7. Although there are a few parking areas and driveways along Main Road, a distinctive element of its appearance is the enclosed nature of the street scene. The historic pattern of the landform defining the position of the road and buildings enhances the focal prominence of the street. Where there are gaps between the historic buildings, the presence of boundary walls, gates, and hedges maintains the clear demarcation of the public and private realm. As many of the historic houses have rectangular forms with the broad edge to the street, the presence of the gaps between buildings provides views of the mostly generously sized, steeply rising rear gardens of these houses. Near to the appeal property, the rear gardens create a green separation between the historic buildings along Main Road and the modern development above that is higher up the hillside. This distinction, along with the gaps and views between the properties, is another aspect of the significance of the conservation area.
8. The appeal property and those to either side (16 and 14 Main Road) make a positive contribution towards the character and appearance of the conservation area. These three listed buildings are part of the cluster of historic houses close to the war memorial, and they have a distinctive vernacular form, being constructed from the repeated palette of local materials. Their historic forms are essentially rectangular, with their broad edges fronting the road. These features are all part of the special architectural and historic interest of these listed buildings, as is the presence of their generous rear gardens, which in part are bounded by low stone walls. The high quality, cohesive harmony of these listed buildings, their positioning in relation to each other and to the road, along with their generous rear gardens, are important elements that

contribute to the setting of each building. In addition, these are also features that serve to enhance the character and appearance of the conservation area.

9. The fences and shed are clearly visible from Main Street, from surrounding properties, and from some distance away from nearby public rights of way. The fences have a bright, new appearance, and I accept that if left unpainted, over time the colour of the timber will become more recessive. Notwithstanding this, the combination of the height of these fences, their substantial lengths, and their elevated position above Main Road, makes them harmfully incongruous additions within the area. The presence of such long, continuous lengths of tall timber fencing to both sides of the garden creates an intimidating demarcation of the property that is stridently different to the walls, hedges and short lengths of fences that define nearby gardens. Moreover, the monotonous appearance of the timber fences has a stark and contemporary contrast with the historic, vernacular character and appearance of the conservation area and the prevalence of the use of local materials.
10. The fences draw the eye, and the harmful impact of their incongruity erodes the historic appearance of the conservation area and also conspicuously intrudes into the setting of No 15 and that of its listed neighbours. The appellant intends to re-design the garden, with the suggestion that the fences could be covered by planting. However, soft landscaping cannot be relied upon to screen the fences whilst they remain in situ, nor would the appellant be able to control planting within the neighbouring gardens. Such measures would do little to ameliorate the harm.
11. Matters of privacy and security could be achieved through other boundary treatments, including those that respect and harmonise with historic context. Reference has been made by the parties to alternative boundary treatments, but any such alternatives would be matters for the parties to resolve, as I am obliged to consider the appeal on the basis of the evidence before me.
12. My attention has been directed to other timber fences within the village. There are a variety of styles and forms of timber fences at the Limestone Hotel, but from the evidence of the appellant and from what I saw at my site visit, none of those visible from Main Road have either a similar height and length to those present at the appeal property. This is also the case with the timber fences at Forge and Little Forge Cottages, and those at the Castle Inn Public House. Those fences at Coastguard Cottages are in a different part of the village whereby the context is more open and spacious than is present at No 15. The loose-knit scatter of properties within generous gardens along Britwell Drive is also very different to the context of the appeal property. Given these differences, none of the comparisons provided form a binding precedent for approving the appeal scheme.

13. Although the timber shed has been set back from Main Road, given its height and positioning close to the rear elevation of No 15, it erodes the gap that exists between the appeal property and the neighbouring listed house. Views of the rear garden of No 15 are obscured by the presence of the shed, and this impact is at harmful odds with the public to private realm views from Main Road that are such a distinctive feature of the conservation area. Furthermore, the positioning of the shed very close to two listed buildings has an awkward and cumbersome proximity that unacceptably intrudes between the houses. Given that the shed has a contemporary, domestic style and appearance, and is constructed of mostly timber, the presence of the shed makes an incongruous contrast to the historic vernacular style of the houses and their construction from local materials.
14. The appellant has referred to a previous outbuilding in the rear garden of No 15. However, very little detail has been provided regarding the nature of this building, and from that which is available it appears that it was in a different position to the shed. There are other examples of timber sheds within nearby properties, including those at the Castle Inn Public House and that within the garden of 16 Main Road. The commercial / service setting of those within the public house is very different to the domestic setting evident at No 15. The shed within the neighbouring garden is close to the rear end of the property, and this separation is such that the shed has a clear subservience of form, position and thereby relationship to the listed house.
15. The National Planning Policy Framework (the Framework) advises that when considering the impact of development on the significance of designated heritage assets, great weight should be given to their conservation. This is irrespective of whether any harm amounts to substantial harm, total loss or less than substantial harm to its significance. Given my findings, the fences and shed would fail to preserve the settings of the listed houses and also the significance of the conservation area. The harms would be less than substantial as the fences and sheds would affect part of the conservation area and the settings of the listed buildings. Although less than substantial, nevertheless they are still of considerable importance and weight.
16. Under such circumstances, the Framework advises that where development would lead to less than substantial harm to the significance of a designated heritage asset that this harm should be weighed against the public benefits of the proposal. The appellant requires the shed and fencing for family needs, including privacy and security reasons. Whilst I appreciate the benefits for the appellant and her family, these would be personal not public benefits, and would not outweigh the harm I have found.
17. Given the above and in the absence of any defined public benefit, on balance the works would fail to preserve the settings of listed buildings, nor preserve or enhance the character or appearance of the

conservation area. This would fail to satisfy the requirements of the Act and objectives of the Framework. Furthermore, the works would conflict with Policies LHH and D of the Purbeck Local Plan (2012), and the supporting Purbeck Design Guide Supplementary Planning Document (2014). These seek, amongst other things to ensure that development positively integrates with its surroundings, and also that which conserves, enhances and improves heritage assets.

Other Matters

18. The appeal site lies within the Dorset AONB where there is a statutory duty to protect the landscape and its scenic beauty. Although the fences and shed would harm the character and appearance of the conservation area and settings of nearby listed buildings, they would not significantly harm the landscape and scenic beauty of the AONB. The fences and shed are within the village, with the property being surrounded by other residential properties, and are seen as part of the ancillary paraphernalia associated within the built up area as a whole. As such the proposal would not significantly detract from the landscape and scenic beauty of the AONB.
19. Representations have been made to the effect that the appellant's human rights with regard to privacy and discrimination, as set out in the Human Rights Act 1998, would be violated if the appeal is dismissed. Dismissing the appeal would interfere with the appellant and her family's rights to peaceful enjoyment of their possessions, and to a private and family life and home, under Article 1 of the First Protocol and Article 8. However, interference with these rights in this instance would be in accordance with the pursuance of the well-established and legitimate aims of protecting the historic environment, and given this, it is proportionate and necessary to dismiss the appeal.
20. Finally, the appellant's concerns regarding the behaviour of local residents and the Council's handling of the application, relate to matters that have no bearing on my consideration of the planning merits of the case.

Conclusion

21. Thus, the works fail to preserve the settings of listed buildings, nor do they preserve or enhance the character or appearance of the conservation area. The development would conflict with the development plan taken as a whole, and there are no material considerations that indicate the decision should be made other than in accordance with the development plan. For the reasons given above and having considered all other matters raised, the appeal is dismissed.

J J Evans

INSPECTOR