



Appeal Decision

Site visit made on 8 November 2022

by Alison Fish BA (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 07 December 2022

Appeal Ref: APP/D1265/W/22/3291174

41 Great Western Road, Dorchester DT1 1UF

- 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 Iszatt against the decision of Dorset Council.
 - The application Ref P/FUL/2021/00726, dated 8 March 2021, was refused by notice dated 2 November 2021.
 - The development proposed is described as 'replace a derelict former dwelling with a new self-contained dwelling'.
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues in this appeal are:
 - The effect on heritage, including whether the proposed development would preserve or enhance the character or appearance of the Dorchester Conservation Area (CA) and whether the proposed development would preserve the setting of the nearby Grade II listed building known as the Junction Hotel; and
 - the effect of the proposed development on biodiversity with particular regard to protected species.

Reasons

The effect on heritage

Whether the proposal would preserve or enhance the CA

3. I have not been provided with a Conservation Area Appraisal detailing the significance of the CA. However, I nonetheless observed that the CA includes the tightly knit historic core of Dorchester contained within 'walks' – tree lined routes replacing the towns roman walls. Spreading outwards from the core are more spacious and leafy Victorian and Edwardian era developments of villas and terraces.
4. The larger properties tend to be two storey and constructed largely of light coloured brickwork with red brick detailing under slate pitched roofs. Render is also used but less widely. The buildings incorporate original features and detailing such as bay windows and chimney stacks. Where accommodation is provided at second floor level, this tends to be within gable projections and dormer windows. The terraced dwellings tend to be more simple in terms of

design and detailing. Grander, landmark buildings tend to occupy prominent locations such as road junctions.

5. Several properties in the CA have been replaced over time, particularly along the northern side of Great Western Road. The design and use of materials reflected the style of architecture prevalent at their time of construction. This has resulted in an eclectic mix of building styles and ages within parts of the CA. However, the more modern buildings add little to the significance of the CA as a whole. Instead, the CA gains historic value and significance from the townscape, pattern of development and concentration of fine period buildings displaying traditional details and features which together with a plethora of street trees, results in a pleasant street scene with aesthetic value.
6. In the main, properties in the vicinity of the appeal site front onto Great Western Road. However, the appeal property and the adjacent dwelling front onto Bowling Alley Walk, which runs parallel to and at the rear of Great Western Road. Bowling Alley Walk is lined with mature trees, framing and enclosing the view along the line of the historic roman walls. As such, the appeal site and the neighbouring dwelling appear recessive, along with the blank rear wall of the outbuildings to the neighbouring hotel.
7. Given that there is an existing, albeit derelict building on the appeal site, its replacement with another dwelling would not be out of character per se. However, the proposed dwelling would be a three storey building with a flat roof. The appellant points to examples of other buildings in Great Western Road having a flat roof, and whilst this may be the case, they are not on buildings of a domestic scale and proportion. Each of the three levels of accommodation step back from the elevation below with a flat roofed terraced area on each floor. This results in a building which has a box like appearance and one which is top heavy. The proposed dwelling also incorporates the use of cedar cladding, a high proportion of glazing and the provision of open terraces to the front (north) elevation. These are materials and features which are not commonplace in the CA.
8. In addition, the proposed dwelling would be positioned further forward in the plot. Taken together, this would result in the building appearing highly prominent from Bowling Alley Walk and I am not persuaded that the weathering of the cladding over time would reduce its impact. As a result, the proposed dwelling would detract from the key views along Bowling Alley Walk.
9. Whilst the site is largely screened from Great Western Road by existing development, the flat roof would be visible above the roofscape of adjacent development. Its box-like appearance would jar with the traditional pitch roofs of the surrounding development, eroding the historic and aesthetic value provided by the period architecture of the CA.
10. Taken together, the proposed dwelling would be an incongruous addition within the CA which would result in moderate harm to the character and appearance of the CA. Section 72 (1) of the Planning (Listed Building and Conservation Areas) Act 1990 (the Act) requires that I pay special attention to the desirability of preserving or enhancing the character or appearance of the CA and I have found that the appeal proposal would not do so.

The effect on the setting of the Listed Building

11. Adjacent to the appeal site and fronting Great Western Road is the Grade II listed Junction Hotel. Evidence from both the Council and the appellant with regards to the significance of this listed building is sparse. The hotel is two storeys in height, rendered and displays a Georgian era facade with a pitched roof behind a parapet with a later addition to the side in similar material and design.
12. Attached to the side and arranged around a courtyard is a range of attractive single storey, subservient and functional buildings finished in locally distinctive materials that affords them a pleasant charm. The buildings are used in connection with the hotel use and accentuate its grandeur. The Council submits that the range is curtilage listed and I can see why given the age and functional relationship. I have nothing before me regarding the origins of these humble buildings but together with the prominent positioning of the hotel, its age and fine period detailing, the coherent grouping has a high degree of aesthetic value and significance in the street scene.
13. The setting of a listed building is the surroundings in which the asset is experienced and understood. The Junction Hotel is clearly in a townscape setting and its position at the junction of a number of roads and immediately adjacent to Bowling Alley Walk means that it is visible from a number of directions and this could explain why its was positioned here. . As such, I find that the appeal site, immediately adjacent to the range of outbuildings is located within the setting of the Grade II listed building as it forms part of the surrounding townscape.
14. The top floor of the proposed dwelling would be visible from Great Western Road above the roof of the single storey outbuilding to the Junction Hotel. The proposed roof would be prominent and appear above the surrounding roofscape as a looming presence. In particular it would appear incongruous when viewed above the simple and modest form of the range of outbuildings to the Junction Hotel and would detract from the way in which the hotel and its associated outbuildings are appreciated. From Bowling Alley Walk, the complexity of the form and materials of the proposed dwelling would compete with and detract from the relative simplicity of the elegant and polite architectural appearance of the Junction Hotel and the deliberately restrained but pleasant appearance of the outbuildings when viewed from the rear.
15. As a result, the appeal proposal would result in moderate harm to the setting of the Grade II listed building. Section 66(1) of the Act requires that I have special regard to the desirability of preserving the setting of the listed building and I have found that the appeal proposal would not do so.

Heritage Balance

16. The moderate harm that would occur to both the character and appearance of the CA and the setting of the listed building would be 'less than substantial' within the meaning of the Framework. Paragraph 202 of the Framework requires such harm to be weighed against the public benefits of the proposal. However, less than substantial harm should not necessarily be equated with less than substantial planning objection when the statutory tests in the Act that seeks to preserve heritage assets and their setting have not been met.

17. There would be some moderate benefit arising from the removal of the existing structure and the associated hoarding and tarpaulin which currently detracts from the appearance of the CA, particularly when viewed from Bowling Alley Walk. The benefit is tempered by the relatively recessive appearance of the site. Economic benefits would arise from the construction and occupation of the new dwelling particularly given its central location within an easy walking distance of the railway station and the town centre but given that the proposal is for a single dwelling, those benefits would be no more than modest. The appellant advises that it will provide them with a family home close to their existing business premises which will assist with security concerns and I note that the new dwelling would be designed to exceed the minimum requirements of the Building Regulations. I attribute modest weight to these matters.
18. Paragraph 199 of the Framework requires that I give great weight to the conservation of heritage assets. In this context, I find that the cumulative public benefits of the scheme carry no more than moderate weight and do not outweigh the less than substantial harm that would arise from the proposal. Accordingly, the appeal proposal would conflict with Policies ENV4, ENV5 and ENV12 of the West Dorset, Weymouth and Portland Local Plan 2011 – 2031 adopted October 2015 (LP) which amongst other things seek high quality design which contribute towards maintaining local identity and distinctiveness and conserving the significance of designated heritage assets. There would also be conflict with Paragraph 200 of the Framework as the harm to the designated heritage asset would not have clear and convincing justification.

Biodiversity

19. The appeal site consists of a derelict building. The building does not have a roof and I understand the first floor structure was removed pursuant to a planning permission granted in 1996. There is no dispute between the parties that this state of dilapidation has been ongoing for some time.
20. The appellant advises that the dilapidated condition of the structure is such that it would be unsafe for an ecologist to enter the appeal site to undertake an ecological assessment and that the extent of decay is such that it would not provide the necessary habitat for protected species. In particular, they say, the absence of a roof structure makes it an unfavourable location for bats. The appellant refers to a trigger list produced by the Association of Local Government Ecologists and the Dorset Council Biodiversity Appraisal Protocol and considers that the appeal building does not meet any of the stated criteria for requiring a bat or bird surveys.
21. The Council have not indicated that the appellants interpretation of these documents is incorrect. Equally I am not persuaded that the Council have demonstrated that there is a reasonable likelihood of legally protected species being present and being adversely affected by the appeal proposal. The Council refer only to the building being a long-standing derelict structure. They do not, for example, indicate why the building or site would provide favourable conditions or habitat for protected species, which species may be affected or refer to any published standing advice or biodiversity records.
22. Government Circular 06/2005 (Biodiversity and Geological Conservation) states that developers should not be required to undertake surveys for protected species unless there is a reasonable likelihood of the species being present and affected by the development.

23. I am mindful that the Natural Environment and Rural Communities Act 2006 requires that public authorities must, in exercising its functions, have regard, so far as is consistent with the proper exercise of those functions, to the purpose of conserving biodiversity. However, in this instance, on the balance of the evidence before me, I am not satisfied that it has been demonstrated that there is a reasonable likelihood of protected species being present on the site.
24. For the above reasons, I find no conflict with Policy ENV2 of the LP insofar as it seeks to prevent harm to protected species. I also find no conflict with the provisions in the National Planning Policy Framework relating to conserving the natural environment.

Other Matters

25. The appellant refers to a number of planning permissions granted by the Council in the vicinity of the appeal site between 1975 and 2013. I have been provided with very limited information on them but in any event they do not appear to relate to proposals for single dwelling houses and are therefore not comparable to the appeal proposal. The Council also confirm that a different local plan prevailed at that time and that permissions were granted before the Framework was first published.
26. There is reference in the appeal documents to the adjacent Roman Walls Scheduled Ancient Monument (SAM). I have not been provided with specific details nor does the Council conclude that the SAM would be harmfully affected by the proposal. Paragraph 199 of the Framework requires that when considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation. However, as the appeal has failed on the main issues there is no need for me to consider this matter further.
27. The Council is currently unable to demonstrate a five year housing land supply. Notwithstanding this, I have concluded that the impact of the appeal proposal on the character and appearance of the CA and the setting of the listed building is a matter of overriding concern in this instance and provides a clear reason for refusing the development proposed. Consequently, it is unnecessary to consider whether the adverse impacts of the proposal would significantly and demonstrably outweigh the benefits when applying Paragraph 11 of the Framework.

Conclusion

28. I have not identified harm insofar as the impact that the proposal would have on protected species. However, I have identified harm in respect of the effect on heritage and therefore a conflict with the development plan as a whole would occur. There are no other considerations or public benefits that would outweigh this harm. It would therefore fail to satisfy the requirements of the Act, the Framework and the development plan. Accordingly, for the reasons given, the appeal has failed.

Alison Fish

INSPECTOR