



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: 05 January 2023

Appeal Ref: APP/D1265/W/21/3289639

15 High Street, Sydling St. Nicholas, Dorchester, Dorset DT2 9PB

- 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 Timothy Charles Ashdown against the decision of Dorset Council.
 - The application Ref WD/D/20/003088, dated 27 November 2020, was refused by notice dated 2 July 2021.
 - The development proposed is described as 'Erection of 2 traditionally styled dwellings and garage/workshop/office'.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. I have been provided with earlier versions of the application plans, but I have assessed the proposal using the plans listed on the Council's Decision Notice.

Main Issues

3. The main issues in this appeal are:
 - Whether the appeal site is a suitable location for the appeal scheme having regard to the spatial strategy for housing in the development plan;
 - Whether the appeal site is a suitable location for the appeal scheme having regard to the accessibility of services and facilities;
 - Whether the proposed development would preserve or enhance the character or appearance of the Sydling St Nicholas Conservation Area and the setting of 13 High Street, a Grade II listed building;
 - Whether the proposed development would conserve or enhance the landscape and scenic beauty of the Dorset Area of Outstanding Natural Beauty; and,
 - Whether the appeal site is a suitable location for the proposal having regard to policies relating to development in areas at risk of flooding.

Reasons

Spatial Strategy

4. Policy SUS2 of the West Dorset, Weymouth and Portland Local Plan 2011-2031 adopted October 2015 (LP) sets out the development strategy in the plan area and steers development towards larger settlements and those smaller settlements with defined development boundaries which can support development to meet the needs of the local area.
5. Sydling St Nicholas is not included in the list of settlements with defined development boundaries. This confirms that the more restrained approach to new development in Policy SUS2(iii) is applicable to the appeal site where development outside defined development boundaries is strictly controlled due to environmental constraints and the need to protect the countryside. Policy SUS2 iii) permits some development but the exceptions listed in the policy do not apply to the appeal proposal.
6. The proposal would introduce new housing into the countryside in a way which would not adhere to the distribution of development policies of the development plan including Policy SUS2 which is a carefully drafted and considered statement of policy. Instead, the proposal would undermine the objectives of the strategy. This would be harmful given the public interest in having a genuinely plan led system that provides consistency and direction.

The accessibility of services and facilities

7. Sydling St Nicholas has a public house, village hall, post office, church and a children's playground. There are shops and a health centre in nearby Cerne Abbas with nearby Maiden Newton having shops and a railway station. The larger town of Dorchester is a 10-15 minute drive away. From the evidence before me, it appears that the only bus services operating from the village are those to local schools. I am advised that there is a cycle path nearby but the evidence before me does not demonstrate that occupiers of the proposed dwellings would be likely to use it in preference to the private car. For example, there is nothing which indicates how it relates to the appeal site, its condition and gradient or how long the journey to Dorchester would take.
8. The limited range of services on offer in Sydling St Nicholas and the lack of public transport options means that occupiers of the proposed dwellings would be reliant on the private car to reach essential services and facilities in nearby settlements. The trips by car could be short but would cumulatively add up over the life of the development with the associated carbon emissions. I have considered that opportunities to maximise sustainable transport options will vary between urban and rural areas but have found that the opportunities here would be very limited. The proposal would therefore be at odds with Policy SUS2 of the LP which seeks to concentrate development in locations where jobs and facilities are easily accessible and there is a choice of transport modes.

Heritage Assets

9. The appeal site is located within the Sydling St Nicholas Conservation Area (CA) and adjacent to 13 High Street which is a Grade II listed building. 13 High Street is an early nineteenth century detached house, listed mainly for its group value. It gains significance from its age, period detailing and its relationship in the street scene with other historic properties.
10. 13 High Street is one of a number of listed buildings in High Street, the main road running north to south through the village. The CA encompasses much of the built form of the settlement centred on the junction of High Street, East Street and the lane up to the Grade I listed church. Terraced houses and cottages tend to be positioned parallel to the road, at the back of the highway or set behind small front spaces. Key larger properties are set in larger plots with front and rear gardens, mainly towards the southern end of High Street where it meets East Street. Later development in the village tends to have taken place towards the east of High Street, whereas little development has taken place behind the western side of High Street where plots tend to be more extensive and gardens meet the countryside beyond. The CA gains significance from the concentration of attractive period buildings, their positioning in the street and use of local building materials including a predominance of thatched roofs. This, together with views out towards the hills and trees which surround the village, creates a pleasing rural scene.
11. The proposed dwellings would be located in the garden area at the rear of 15 High Street, the end property in a relatively modest terrace highlighted as having group value in the Conservation Area Appraisal. The footprint of the proposed dwellings would be significantly greater than that of 15 High Street and those in the terrace. In addition, the siting of the proposed dwellings on land behind the existing properties on High Street would result in a development would be at odds with the prevailing pattern of development on the western side of High Street, which largely retains undeveloped gardens behind street frontage development. The appeal site is also elevated above the level of High Street which would increase the strident presence of the buildings.
12. The appeal proposal would necessitate the removal of the cherry tree and part of the existing front wall to the garden to provide vehicular access to the dwellings. The appeal site is located on the outside of a slight curvature in the road. The result is that the cherry tree is visually prominent in the street scene from both directions along High Street and as such, it contributes positively to the street scene. This impact cannot be 'readily mitigated' by new planting because a replacement would take years to mature.
13. I have no information before me relating to the age of the wall but given the presence of the historic water standpipe to the front, it is reasonable to assume that it has historic origins. In any event, its prominent location on the site frontage and use of vernacular materials means that it contributes to the character and appearance of the CA. As such, its removal and that of the cherry tree would not preserve the character and appearance of the CA.
14. Taken together, the proposed dwellings would be an incongruous addition within the CA, at odds with the prevailing and historic pattern of development which, together with the associated work to create a new access, would result in moderate harm to the character and appearance of the CA. It would therefore fail to preserve the character or appearance of the CA, contrary to

Section 72 (1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 (the Act) which requires that special attention is paid to the desirability of preserving or enhancing the character or appearance of the CA.

15. Turning to the setting of 13 High Street, the Grade II listed building located to the south of the appeal site. The setting is the surroundings in which the listed building is experienced and understood which in this case, is its visual and spatial relationship with the surrounding built development. The detached dwelling is set at road level and positioned behind a small green area leading to the front door. To the southern side, it retains its own vehicular access which provides glimpses through to the rear and the backdrop of trees which reinforces its rural setting.
16. The proposed 'South House' would be located directly to the rear of 13 High Street. It would be some distance away from the property but I observed on my site visit that the appeal site is also somewhat higher than the ground floor of the listed building. From the submitted drawings it would appear that part of the proposed dwelling would be visible from the driveway to the side of 13 High Street. The submitted plans lack any detail relating to existing site levels and finished floor levels and therefore I cannot be certain on the extent to which it would be visible but it would appear to me that the roof of the proposed dwelling would appear in combination with that of the listed building. This would visually conflict with the listed building, reduce the visual separation between 13 High Street and the listed building to the south (11 High Street) and dilute its rural setting. As a result, the appeal proposal would result in moderate harm to the setting of the Grade II Listed building, 13 High Street. It would therefore fail to preserve the setting of the listed building contrary to the expectations of Section 66 (1) of the Act.

Heritage Balance

17. I have identified harm to the character and appearance of the CA and the setting of the Grade II listed building and have assessed that harm as moderate. The moderate harm to designated heritage assets would be 'less than substantial' within the meaning of the Framework. Policy ENV4 of the LP and 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 seek to preserve the character and appearance of the CA and the setting of the LB, have not been met.
18. Turning to the benefits, the appellant has aspirations for the proposed buildings to be zero carbon, whereby the energy used by the building annually is equal to the amount of renewable energy generated on site. Paragraph 134 of the Framework requires that significant weight be given to outstanding or innovative designs which promote high levels of sustainability or help raise the standard of design in an area. However, this is on the basis that they fit in with the overall form and layout of their surroundings and I have found that they would not. In any event, the Design and Access Statement refers to the level of insulation proposed in the build but there is nothing before me which indicates how renewable energy would be generated on site. As such, the zero carbon benefits have not been fully demonstrated and carry limited weight in the overall balance.

19. The proposed dwellings have been designed so that there is flexibility in how the space is used, allowing the properties to function well for wheelchair users or relatives requiring care. However, this does not mean to say that they would be used in this way and as such, I attribute limited weight to this as a benefit.
20. The proposed development of two houses could help maintain the vitality of the settlement, its facilities and those of the settlements nearby and thereby gains support from Paragraph 79. However, that support is tempered as the practical effect of this has not been demonstrated. For example, evidence has not been provided to suggest local services and facilities are suffering for lack of patronage. This carries limited weight in the balance.
21. The proposal would involve landscaping, nesting and roosting sites providing modest gains to biodiversity. There would also be benefits from boosting the supply of homes and the economic benefits from the construction and occupation of the dwellings including their ability to accommodate homeworking and small-scale business proposals. However, with the Council's five year housing land supply standing at 5.85 years, the benefits from two dwellings carry limited weight as the Council is currently in the process of significantly boosting the supply of housing.
22. The appellant points to examples which they say are poor planning decisions made by the Council. However, rather than weighing in favour of the development, they are neutral in the planning balance.
23. Taken together, I find that the cumulative public benefits would be no more than modest. Thus, when giving considerable importance and weight to the special regard I must pay to preserving the setting of the Grade II listed building and the special attention I must pay to the desirability of preserving or enhancing the character or appearance of the CA, I find that the harm that would occur from the proposal would not be outweighed by its cumulative public benefits.
24. Accordingly, there would be a conflict with Paragraph 200 of the Framework as harm to designated heritage assets would not have clear and convincing justification. In addition, the proposal would be contrary to Policy ENV4 of the LP which seeks to conserve and where appropriate, enhance the significance of heritage assets. The development would therefore fail to satisfy the requirements of the Act, the Framework and the development plan.

Area of Outstanding Natural Beauty (AONB)

25. The appeal site is located within the Dorset AONB. The steeply sloping sides of the surrounding chalk hills and a rolling agricultural landscape provide the backdrop for Sydling St Nicholas, its linear form nestled in the bottom of a valley enclosed by dense hedgerows and trees. The settlement itself has a rich built heritage which reinforces the unspoilt rural character of the landscape. The appellant points to the visibility of these hills above the roofs tops from Sydling St Nicholas as contributing to its natural beauty and I concur. This is consistent with the key characteristics and special qualities of the Cerne and Sydling Valley Landscape Character Area.
26. The proposed development would be most visible from the public footpath to the west of the appeal site. From here the existing built extent of the village is largely enclosed by trees and hedges. Whilst these are sparse in places, they

clearly define the change in character between built form and the open agricultural fields which surround the settlement. The proposed dwellings would be contained within the existing established boundary planting. As such, they would be read as part of the settlement and would not encroach into the surrounding agricultural land. As a result, they would have a neutral effect on the landscape character of the AONB.

27. The Landscape and Visual Impact Appraisal (LVIA)¹ indicates that both dwellings would be highly visible from the public footpath. They would be located on land which is higher than existing development on High Street and as a result would be prominent when looking towards Sydling St Nicholas from the footpath. In addition, the ridge of the 'South House' would appear to dissect the distant ridge of the chalk hills opposite, with its chimney stack appearing to rise above it. This would interrupt and obscure the views of the surrounding rising landscape and its ridges for walkers using the footpath, with built development appearing dominant in the foreground. This would harm the way in which the AONB is experienced.
28. Section 85 of The Countryside and Rights of Way Act 2000 requires that I have regard to the purpose of conserving and enhancing the natural beauty of the AONB. Paragraph 176 of the Framework requires that I give great weight to conserving and enhancing landscape and scenic beauty in Areas of Outstanding Natural Beauty, which along with National Parks and The Broads, have the highest status of protection in relation to these issues.
29. With this in mind and in light of my findings above, I am not satisfied that the appeal proposal would conserve the natural and scenic beauty of the AONB. The proposal is therefore contrary to Policy ENV1 of the LP which seeks to protect the landscape and prevent harm to the character, special qualities and natural beauty of the AONB.

Flooding

30. The appellants Design and Access Statement² confirms that a Flood Risk Assessment (FRA) was carried out and that it concluded that the site is not at significant risk of flooding. I have not been provided with a copy of that document. I have been provided with an Environment Agency map which indicates that for the most part, the appeal site is located within Flood Zone 1, an area with a low probability of flooding.
31. However, the map also indicates that parts of the site included within the red application site boundary are located in Flood Zones 2 and 3. The part of the site required to provide a new access would be located within Flood Zone 2. Footnote 55 of the Framework states that a site-specific FRA should be provided for all development in Flood Zone 2.
32. The Planning Practice Guidance sets out what should be considered within the scope of a site-specific FRA and in particular that this should include evidence to enable the Council to apply the Sequential Test (ST) to steer new development to areas with the lowest risk of flooding.

¹ Design and Access Statement Appendix 2 dated 25 November 2020

² Paragraph 4.1 of the Design and Access Statement dated 4 December 2020

33. I have been provided with a Flood Investigation Report³ following a flood event in Sydling St Nicholas on 31 October 2021. In summary it indicates that approximately nine properties in total were affected by internal flooding from surface water and the main river. Whilst there is no suggestion within that document that the appeal site flooded or that it contributed to the flooding, there is clearly an existing problem relating to surface water runoff and the flow capacity of the watercourse in the settlement.
34. The Framework seeks to ensure that not only is new development in areas at risk of flooding to be avoided but in paragraph 167 it also seeks to ensure that flood risk is not increased elsewhere. It is also clear that flood risk must be considered on the basis of risks now and in the future, taking account of predictions for changes to river flows and peak rainfall intensity, for example.
35. On the limited information before me and particularly in the absence of a site-specific FRA and an ST, I am not satisfied that the appeal site is in an acceptable location for the development proposed with regards to its vulnerability to flooding nor that it will not exacerbate flooding elsewhere. As such, I find the proposal is contrary to Policy ENV5 of the LP which seeks to avoid or minimise the risk of flooding, together with the Framework which seeks to protect people and property from all sources of flooding.

Other Matters

36. The appellant has drawn my attention to the recent development of fifteen houses on a site located to the north of the appeal site. I have not been provided with full details of the proposal or a copy of the associated appeal decision. However, I understand that the matter may have turned on the provision of affordable housing, which does not form part of the proposal before me for open market housing.
37. The appellant refers to other planning applications and how policy was interpreted in those instances. I do not have the full details of those cases before me but my findings in respect of Policy SUS2 are consistent with those of the Inspector in the Halstock appeal⁴.
38. I note the other concerns raised by interested parties but given my findings on the main issues and the appeal overall, it is unnecessary for me to consider these points further as they would not alter the outcome of the appeal.

Planning Balance and Conclusion

39. Whilst the Council could only demonstrate a five-year housing land supply of 4.93 years at the time the planning application was determined, they have now demonstrated a current supply of 5.85 years and therefore Paragraph 11 of the Framework is not engaged on this account. In any event, I have found clear reasons for refusing the development in respect of Framework Paragraphs 199, 200 and 202 relating to designated heritage assets and paragraph 176 with regards to the AONB.
40. Given the above, I conclude that the proposal would result in harm to the CA, the setting of the Grade II listed building and to the natural and scenic beauty of the AONB. In addition, I am not satisfied that proposal seeks to avoid or

³ Carried out by Dorset Council as Lead Local Flood Authority

⁴ APP/D1265/W/20/3250576 Land adjoining Applewood, Halstock, Yeovil BA22 9SN

minimise the risk of flooding. There are no other considerations or public benefits that would outweigh this harm and the conflict with the development plan that flows from this. The proposal would therefore fail to satisfy the requirements of the Act, the development plan and the Framework. Accordingly, for the reasons given, the appeal has failed.

Alison Fish

INSPECTOR