



Appeal Decision

Site visit made on 24 January 2023

by Lynne Evans BA MA MRTPI MRICS

an Inspector appointed by the Secretary of State

Decision date: 7TH March 2023

Appeal Ref: APP/D1265/W/22/3299374 2 Springfield Road, Swanage BH19 1HD

- 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 Sunset Development against the decision of Dorset Council.
 - The application Ref: 6/2020/0474 dated 9 October 2020, was refused by notice dated 10 March 2022.
 - The development proposed is demolish building and erect a block of four flats with associated parking and landscaping.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The government guidance on Flood Risk and Coastal Change under the Planning Policy Guidance (PPG) was updated on 25 August 2022 in response to the changes to the National Planning Policy Framework (Framework) of 2021. This update was after the submission of the appeal but before the Council submitted its statement of appeal. The Council has referenced the updated guidance in its statement. There is the opportunity for the Appellant to respond to the Council's statement, but no response has been received from the Appellant. I am required to consider the appeal on the basis of the current development plan policies and national guidance. I must therefore consider the guidance in the PPG as it now stands. As the Appellant had the opportunity to respond to the Council's statement, I do not consider it necessary for me to invite further representations on this matter.
3. I understand that the Council's emerging Purbeck Local Plan is proceeding through its examination stage. I have very limited information about the Plan's progress and issues which remain outstanding, although the Appellant has indicated that Policies E4: Assessing Flood Risk and E12: Design, relevant to this appeal, are not the subject of significant unresolved objections. I have therefore taken these policies into account but agree that full weight cannot be given to these policies at this stage.

Main Issues

4. The main issues raised in this appeal are:
 - a) Whether the proposed site would be an appropriate location for the proposed development, with specific regard to whether it would meet the

requirements of the sequential test in order to avoid increased risks of flooding; and

- b) The effect of the proposal on the local townscape.

Reasons

Issue a) Flood Risk and Sequential Test

5. The appeal site lies on the corner of Springfield Road and Kings Road West and currently accommodates single storey buildings and an open forecourt on the very edge of the town centre. There are residential uses directly adjacent the appeal site with a wider range of uses, including guest houses and retail in the surrounding area.
6. There is no dispute between the Appellant and the Council that the site lies within a flood risk area (Flood Zone 3 and the current fluvial flood alleviation scheme offers no allowance for climate change) where both a Flood Risk Assessment and a Sequential Test are required. Both a Flood Risk Assessment and Sequential Test were submitted with the application.
7. Paragraph 162 of the Framework is clear that the aim of the sequential test is to steer new development to areas with the lowest risk of flooding from any source. It specifically states that development should not be allocated or permitted if there are reasonably available sites appropriate for the proposed development in areas with a lower risk of flooding.
8. At the application stage there was a dispute over the availability of one site at 48 Victoria Avenue, but at the appeal stage, the Council has accepted that as a result of progress on site, it would not now be available and should be discounted. I have no reason to take a different view.
9. I understand the Appellant's difficulties in identifying sites because the Council's SHLAA evidence does not record sites with the potential to deliver less than 5 dwellings, and by their very nature and definition, windfall sites are unlikely to be identifiable before they come forward as applications for development. I do not agree that the Council can rely on its assertion that windfall sites come forward on a regular basis to enable it to conclude that less vulnerable locations can be considered to be available. The Council has provided no further justification to rely on this unsubstantiated claim.
10. The third area of disagreement between the Council and the Appellant related to whether disaggregation should be considered. As indicated above and since the Appellant's Sequential Test was undertaken and appeal statement submitted, the PPG has been updated and further advice provided on sites to be considered. It would appear that the Appellant's FRA only considered potential sites that could accommodate the same number of units or more. However, the PPG guidance is clear that a reasonably alternative site could include a series of smaller sites and / or part of a larger site if these would be reasonably capable of accommodating the proposed development.
11. In the light of the Guidance, the Council in its appeal statement has referenced a considerable number of potential sites that might be available, and in the absence of any contrary information from the Appellant, there is no reason for me to question the Council's evidence. As the Framework is clear that that development should not be permitted if there are reasonably available sites

appropriate for the proposed development in areas with a lower risk of flooding, and given the further information presented by the Council at the appeal stage, it is my view that the sequential test has not been passed.

12. I must therefore necessarily conclude, on the basis of the evidence before me, that the sequential test fails to demonstrate that there are no other reasonably available sites with a lower risk of flooding within the study area. It therefore follows that I cannot conclude that the proposed development would not lead to unacceptable increased risks of flooding. This would conflict with Policy FR of the Purbeck Local Plan Part 1, guidance within the Purbeck Strategic Flood Risk Assessment 2019, Policy E4 of the draft Purbeck Local Plan and the Framework and PPG in this regard.
13. Government guidance seeks to ensure that the location of development is appropriate before considering site specific matters such as flood resilience and flood mitigation measures. As a result of my conclusion in respect of the failure to pass the sequential test on the basis of available evidence, it is not necessary for me to proceed to the next required stage which would be to address the Exception Test.

Issue b) Townscape

14. I agree with the Appellant and the Council that the current single storey buildings, as a result of their scale and form, particularly in comparison with the surrounding buildings, are a visually jarring element and detract from the local townscape.
15. The proposed replacement building would be significantly larger than the existing in its footprint and in terms of bulk and massing. In terms of height and taken in isolation, although higher than the immediately adjacent buildings on the west side of this short section of Springfield Road, I do not consider that the building would look out of place with the surrounding buildings including the buildings on the opposite side of Springfield Road.
16. However, the larger footprint of the proposed building with limited margins to the boundaries and particularly to the side adjoining the river would result in a building that would appear overly large in relation to the plot size. I have taken into account that the raised floor levels would be for flood risk safeguarding purposes but as a result there would be a solid and heavy base to the whole building. The street scene views included with the application make it clear that this solid and unrelieved element at ground floor level would be higher than the average person. Given that the building would encroach almost to its northern edge, there would be very limited opportunity to soften this elevation with landscaping. Notwithstanding the design details on this elevation, I consider that the proposal would present a very heavy and bulky appearance onto Kings Road West and at the corner with Springfield Road.
17. I therefore conclude that the proposal would harm the local townscape. This would conflict with Policies STCD of the Swanage Local Plan, Policy D of the Purbeck Local Plan Part 1, Policy E12 of the draft Purbeck Local Plan and the Framework and in particular Sections 12 all of which, amongst other matters, seek a high quality of design which respects the local context.

Other Considerations and Planning Balance

18. The appeal site lies within the Swanage Conservation Area. This is a large Conservation Area covering most of central Swanage, with its significance being the concentration of late Victorian and Edwardian buildings which reflect the town's development as a resort. Section 72 (1) of The Planning (Listed Buildings and Conservation Areas) Act 1990 sets out in respect of development within Conservation Areas, special attention shall be paid to the desirability of preserving or enhancing the character or appearance of that area.
19. I agree with the Appellant and the Council that the current single storey buildings, as a result of their scale and form, particularly in comparison with the surrounding buildings do not make a positive contribution to the street scene and the character and appearance of the Conservation Area. Their removal would be of benefit to the character and appearance of the Conservation Area. Although I have concluded that the proposal would have a harmful effect on the local townscape as a result of the bulk of development across the site and solid ground floor with very limited margins for planting, this effect would be localised in extent. Given the extensive area of the Swanage Conservation Area and the townscape benefit of the removal of the existing buildings, I do not consider that the proposed development would harm the significance of the Conservation Area as a whole. I am therefore satisfied that the proposal would preserve the character and appearance of the Swanage Conservation Area.
20. I have noted that the Council cannot currently demonstrate a five year housing land supply. Whilst the site would provide 4 additional homes in a generally sustainable location, Footnote 7 to paragraph 11 d) i) is clear that policies in the Framework that relate, amongst other matters, to areas at risk of flooding or coastal change are not to be regarded as out of date where they provide a clear reason for refusing the development proposed. This is the case in the circumstances of the proposal before me, and whilst I have had regard to the lack of five year housing land supply, the 'tilted balance' would not be engaged and the presumption in favour of sustainable development does not apply in this case.
21. The site is located with 5 km of the internationally protected Dorset Heathlands and Poole Harbour. Natural England has raised no objection subject to appropriate mitigation being secured and the Council confirms that such mitigation can be secured in accordance with Dorset Heathlands Planning Framework SPD and Poole Harbour Recreation SPD. I am advised that the mitigation is collected through the Community Infrastructure Levy, in the event of permission being granted and the development undertaken. On the basis of the submitted information I am satisfied that there would be appropriate mitigation in place were planning permission to be granted. It also does not form a reason for refusal by the Council.

Conclusion

22. For the reasons given above, I conclude that the scheme fails to accord with the development plan taken as a whole and there are no material considerations, including the Framework, that indicate a decision other than in accordance with the development plan. Therefore, the appeal should be dismissed.

L J Evans

INSPECTOR