



Appeal Decision

Site visit made on 4 May 2023

by J Evans BA(Hons) AssocRTPI

an Inspector appointed by the Secretary of State

Decision date: 22 May 2023

Appeal Ref: APP/D1265/D/22/3312276

108 Wyke Road, Weymouth DT4 9QP

- 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 Jones against the decision of Dorset Council.
 - The application Ref: P/HOU/2022/04705, dated 22 July 2022, was refused by notice dated 30 September 2022.
 - The development proposed is described as the erection of two storey side and rear extensions with alterations to loft.
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues in this case are the effects of the development on:
 - the character and appearance of the appeal property and the wider area;
 - the living conditions of existing and future occupiers;
 - biodiversity; and
 - the efficiency of the existing solar panels at No. 106 Wyke Road.

Procedural Matter

3. In their reason for refusal 3, the Council refer to the effects of the appeal proposal on a property they refer to as being in close proximity to the appeal site which they list as No. 114 Wyke Road. However, No. 114 is situated a number of properties away to the west, with other buildings located in between. Having regard to the areas of concern raised by the Council in reason for refusal 3, it was evident to me from my site visit that No. 114 was listed incorrectly, and that it was the effects upon the neighbouring dwelling to the east of the appeal site that was relevant to the Council's concerns, that being No. 106. I have determined the appeal on this basis.

Reasons

Character and appearance

4. No. 108 Wyke Road is a detached two storey dwelling positioned on the northern side of Wyke Road, at a point where the topography of the street

- begins to rise up more steeply, as a result, the properties tend to stagger upwards with their building form reflecting the rising ground levels.
5. Wyke Road is characterised by a range of predominately detached building styles, which has been accentuated by more recent replacement dwellings, infill developments and domestic alterations and extensions. No. 108 is relatively unusual in this context, as the existing building would appear to reflect the general characteristics as originally constructed.
 6. The neighbouring dwelling No. 110 to the west would appear to have been built at a similar time to No 108 as a pair of detached properties, as it follows a broadly similar appearance and style. Unlike No. 108, as referred to me by the appellants, No. 110 has extended to its side and rear.
 7. However, the proposed extension to No.108 would not reflect the subservience of the extension to No. 110 in that the appeal proposal would not step back, and the roof line would not step down from the host dwelling.
 8. That said, there are several other examples of dwellings in the immediate area to the appeal property that are comparable to the appeal proposal in terms of form, massing and general appearance. To my mind, these properties establish the general characteristics of the street scene.
 9. In this context I do not consider that the proposal would appear incongruous and out of place, it seems to me that the proposal would be broadly consistent with the overall style of properties nearby, for which the appeal property is perceived amongst.
 10. For these reasons, due to the surrounding context, the proposal would not appear out of place with the prevailing characteristics of the appeal property and that of the wider street scene.
 11. As a result, the appeal proposal would accord with Policies ENV10 and ENV12 of the West Dorset, Weymouth & Portland Local Plan (2015) (the LP) which require development proposals to be informed by the character of the site and its surroundings; and that any alterations to or extensions of buildings should be well related to and not overpower the original building. The proposal would also align with paragraph 130 of the National Planning Policy Framework (2021) (The Framework), which amongst other matters requires development to be sympathetic to local character and history, including the surrounding built environment.

Living conditions

12. The appeal proposal would bring a two-storey form within close proximity to the side elevation and rear garden of the neighbouring property to the east, No.106 Wyke Road.
13. There are a number of windows on the side of No. 106 facing towards the appeal site, these are either located at ground level under an existing car port roof, or are upper floor windows which appear to serve a bathroom and a staircase. There are also a number of single storey outbuildings situated in the garden of No. 106 positioned towards or against the site boundary with the appeal property.

14. Despite the intervening outbuildings and car port, and the nature of the windows facing towards the appeal site, to my mind the proposal would nonetheless represent and be perceived as a substantial building mass in close proximity to the boundary with No. 106.
15. Whilst I acknowledge the other examples of rear and side extensions in the area, including that at No. 110 on the opposite side of the appeal site, due to the overall scale and almost immediate proximity of the proposal to No. 106, I consider it would result in an oppressive and overbearing physical presence as perceived from this neighbouring property within its rear garden and from the side windows.
16. As a consequence, I find that the living conditions of existing and future occupiers of No. 106 would not be safeguarded to an acceptable standard due to the siting and scale of the proposal. Therefore, on this issue, I find conflict with Policy ENV16 of the LP, which amongst other matters only permits development proposals where they do not have a significant adverse effect on the amenity of occupiers of properties through an overbearing impact. The proposal would also conflict with paragraph 130 of the Framework, which amongst other matters requires development to provide a high standard of amenity for existing and future users.

Biodiversity

17. Paragraph 99 of Circular 06:2005: Biodiversity and Geological Conservation – Statutory Obligations and their Impacts within the Planning System explains that it “... *is essential that the presence or otherwise of protected species, and the extent that they may be affected by the proposed development, is established before the planning permission is granted, otherwise all relevant material considerations may not have been addressed in making the decision.*”
18. To my mind, due to the age of the property, its external materials, the surrounding context and the alterations that would be undertaken to the existing roof as a result of the appeal proposals, I agree with the Council and the consultee response from the Council’s Natural Environment Team, that a suitable bat survey in accordance with the above would be necessary in this case.
19. Whilst I acknowledge the points made by the appellants that a survey was not requested at the validation stage, and that they would undertake a survey in advance of commencing the appeal development, bats are a protected species, and it would not be reasonable to attach a survey requirement as part of a condition in any approval, in accordance with Circular 06:2005 as set out above.
20. Therefore, in the absence of an appropriate survey I have uncertainty about the presence or otherwise of a protected species associated with the appeal site, and the extent that they may be affected by the proposed development. As a consequence, I find conflict with Policy ENV2 of the LP, which amongst other matters, explains that development that is likely to have an adverse effect on internationally protected species will not be permitted unless there are reasons of overriding public interest.

Efficiency of the existing solar panels at No. 106

21. The appeal proposals are positioned almost immediately to the western boundary of No. 106, which contains solar panels on the roofline of the main building orientating towards the appeal property.
22. The Council have referred me to the judgement *William Ellis McLennan v Medway Council & Anor [2019] EWHC 1738 (Admin)* which outlines that the contribution of domestic solar panels to the reduction in reliance on non-renewable energy is in the public interest and is therefore a material consideration.
23. As the appeal proposals would involve a two storey form at a higher ground level to No. 106, with a higher eaves level and would be positioned in close proximity to the roofline on No. 106 upon which the solar panels are located, it appears to me that the proposal could potentially have an effect upon the efficiency of these panels. Without further information to examine the effects of the proposals upon the efficiency of the solar panels, which I understand was sought by the Council during their considerations, I can not be certain about the effects or not of the appeal proposals in this regard.
24. As a result, without this further information, the proposal would conflict with paragraph 152 of the Framework, which sets out that the planning system should support the transition to a low carbon future in a changing climate.

Conclusions

25. While I have found that the appeal proposal would have an acceptable effect on the characteristics of the appeal property and that of the wider area, it would have a detrimental effect on the living conditions of existing and future occupiers of the neighbouring property No. 106 Wyke Road. I also have uncertainty about the effects of the development on biodiversity and on the efficiency of the existing solar panels at No. 106.
26. As a result of these negative effects, the proposal is in my view unacceptable, and contrary to the development plan, when read as a whole. There are no material considerations that would justify a decision contrary to the provisions of the development plan, in this case.
27. For all the above reasons, having regard to all matters raised, I conclude that the appeal should be dismissed.

J Evans

INSPECTOR