



Appeal Decision

Site visit made on 19 June 2023

by Rachael Pipkin BA (Hons) MPhil MRTPI

an Inspector appointed by the Secretary of State

Decision date: 28 June 2023

Appeal Ref: APP/D1265/W/22/3298943

113 Wareham Road, Lytchett Matravers BH16 6DZ

- 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 Nicholas Rubenstein of Norton Developments (Southern) Ltd against the decision of Dorset Council.
 - The application Ref P/FUL/2021/03207, dated 31 August 2021, was refused by notice dated 15 February 2022.
 - The development proposed is to sever curtilage and erection of detached 3 bedroom bungalow with associated access, parking and amenity space.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. On 1 April 2019, Purbeck District Council ceased to exist and became part of a new Unitary Authority known as Dorset Council. The development plans for the merged Local Planning Authorities will remain in place for the area within the new Unitary Authority they relate to until such time as they are revoked or replaced. I shall therefore determine the appeal having regard to the policies of the Purbeck Local Plan Part 1 2012 (the PLLP1).

Main Issues

3. The main issues are the effect of the proposed development on:
 - the setting of 113 Wareham Road, a Grade II listed building; and
 - the character and appearance of the area.

Reasons

Listed building

4. The National Planning Policy Framework (the Framework) defines the setting of a heritage asset as the surroundings in which it is experienced, recognising that this is not fixed and may change as the asset and its surroundings evolve. Elements of a setting may make a positive or negative contribution to the significance of an asset, may affect the ability to appreciate that significance or may be neutral.
5. Number 113 Wareham Road (No 113) is a Grade II listed building. The appeal site forms part of its rear garden. It therefore lies within its setting. The listed building is a two-storey detached cottage, with plastered walls and a hipped thatched roof. It is an attractive and rustic building, retaining many of its

- original features. Positioned at the corner of Wareham Road and Eldons Drove, its rear garden runs along the northern side of Eldons Drove and is enclosed by a mature hedge set behind a ditch in the highway verge.
6. Historic mapping indicates that originally the cottage would have been located within a rural area. The boundary of the rear garden aligns with the historic curtilage of the house following the ancient boundary parallel to Eldons Drove. However, there is evidence that over time that the curtilage has been reduced through more modern development which surrounds the cottage and its rear garden.
 7. The rear garden is nevertheless a reasonably proportioned garden which, despite the encroachment of more recent development, is reasonably open and makes a positive contribution to the setting of the listed building, conserves its historic boundary with Eldons Drove and better reveals the historic significance of the listed building.
 8. The reduction in size of the rear garden and construction of a modern bungalow within the setting of this listed building, would fail to preserve or enhance the setting of the listed building. The proposed dwelling, which has followed design principles of the surrounding modern development, would not be sympathetic to the rustic and picturesque character of the heritage asset. The proposal would diminish the size and open character of the rear garden, it would not therefore preserve its setting. It would also interrupt views of the cottage travelling south along Eldons Drove towards Wareham Road.
 9. It has been suggested that areas of hardstanding and gravel around the cottage in combination with sheds and close-board fencing around the garden boundaries have cumulatively caused some incremental erosion of the setting of the listed building. Nevertheless, I observed on site that their impact on the garden is limited and the openness of the garden is largely retained. Whilst enclosed, the cottage is visible from the surrounding roads from which its historic significance can be appreciated.
 10. A new fence would be erected between the proposed dwelling and the retained garden to No 113. Whilst similar to that which exists between No 113 and Purbeck Villa at the far end of the garden, it would be closer to the listed building. Whilst its appearance could be enhanced through additional planting which could be secured through a planning condition, this would not overcome the harm arising from the reduction in garden size.
 11. Consequently, I find that the proposal would fail to preserve the setting of the listed building. I have attached considerable importance and weight to the desirability of avoiding any such harmful effect on the listed building in accordance with Section 66 (1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 (the Act) which requires that special regard must be given to the desirability of preserving a listed building or its setting.
 12. The harm the proposal would cause to the significance of the listed building would be significant though less than substantial. Paragraph 202 of the Framework states that where a proposal would lead to less than substantial harm to the significance of the heritage asset, this harm should be weighed against the public benefits of the proposal.

13. The proposal would provide an additional market dwelling within an existing settlement and in an accessible location where future occupants would not be reliant on private transport to meet their day-to-day needs. It would make a small contribution to housing supply. There would be some economic and social benefits associated with this both during the construction and subsequent occupation of the dwelling.
14. It has been suggested that an additional benefit would arise from the efficient use of land, on the basis that the appeal site is an anomaly within the context of surrounding plot sizes. However, the garden is not unduly large and is of an appropriate size for the dwelling it serves. The listed building is also unique within its surroundings and there is no reason for the garden size to conform with those of surrounding modern development. Furthermore, the garden contributes to the setting of the listed building as I have set out above. I therefore give this suggested benefit no weight.
15. For the reasons set out above, I find that the public benefits arising from a single dwelling would be limited. They would not outweigh the harm to the heritage asset I have identified.
16. I have been referred to recent appeals at Land at 2 Wilderton House, Wilderton Road¹ and at The Sloop, 5 Commercial Lane². Both schemes involved the demolition of non-designated heritage assets and their replacement with a significant amount of housing development, 25 and 74 dwellings respectively. Neither of these cases related to the setting of a listed building. Furthermore, the historic significance of these buildings were considered to have been eroded and the replacement development was for a significant quantum of housing. These appeals are not therefore comparable to the scheme before me.
17. I conclude that the proposed development would harm the setting of the listed building. As such, it would conflict with Policies LHH and D of the PLPP1, Policy 2 of the Lytchett Matravers Neighbourhood Plan 2017 (LMNP) and the design and heritage objectives of the Framework which together require an appropriate design and development to conserve and enhance the setting of heritage assets.

Character and appearance

18. The Lytchett Matravers Townscape Character Appraisal (the TCA) identifies Eldons Drove as exhibiting quiet and tranquil characteristics, retaining attributes associated with a country lane, such as hedges, ditches, grass verges and mature trees. The absence of pavements and significant highway engineering features contributes to its rural character. From my own observations, I noted these features and also that there is development along this lane which is visible, set back behind boundary vegetation and front driveways. Together, these features, contribute to the semi-rural character of Eldons Drove.
19. The appeal site contributes to this character as its boundary hedge encloses the lane. The host property is visible beyond this, adding to the rural character of the area. The removal of a relatively short section of the boundary hedge to form a driveway access for the proposed dwelling would erode some of that rural character. However, a driveway in itself would not be out of character

¹ APP/Q1255/W/19/3230105

² APP/V1260/W/20/3264947

with other developments along the lane which are similarly served by accesses onto the lane. A moderate degree of harm would arise from this.

20. I appreciate that such development may be permitted under Class F, Part 1, Schedule 2 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended). However, the appeal proposal is for a new access through which a new dwelling would be visible. It would therefore go beyond that which could be carried out as permitted development and it would adversely affect the character along the lane as I have set out above.
21. The pattern of development in the surrounding area is diverse, with some houses occupying sizeable plots and others more modest. There is also variation in the scale and design of properties. The design of the proposed dwelling would not be out of character with other development along the lane. However, it would have a relatively small plot, with limited space to the front and the rear. Despite the diversity of surrounding development, it would represent a more cramped form of development.
22. The appellant has offered the removal of permitted development rights in respect of the exterior of the proposed dwelling and its boundary treatment through which any further reduction in the hedge could be prevented. Whilst this would effectively control any further loss of the hedgerow, this would not overcome the harm that would arise from the proposal in the first place.
23. I conclude the proposal would cause harm to the character and appearance of the area. It would therefore conflict with Policies LHH and D of the PLPP1, Policy 2 of the LMNP, the Framework, the Council's Design Guide Supplementary Planning Document and the TCA. Together these policies and guidance require well designed development, sympathetic to local character, that integrates with the village and conserves the appearance, setting and character of the area.

Other Matters

24. The appeal site lies within the catchment for the Poole Harbour Special Protection Area (SPA) and Ramsar site. The site also lies within the 400m to 5km buffer for the Dorset Heathlands SPA. These are European sites of nature conservation importance and statutorily protected under the Conservation of Habitats and Species Regulations 2017 (Habitats Regulations). Regulation 63 prevents the competent authority from granting permission unless the proposal would not adversely affect the integrity of the SPA. I am the competent authority for the purposes of this appeal.
25. Natural England has advised that all new residential development that connects to wastewater treatment plants within the Poole Harbour catchment will have a significant effect upon the protected sites due to increased foul water discharge and hydrological changes arising from an increase in phosphorus. Additional residential development will give rise to likely significant effects on the Dorset Heathlands SPA through increased recreational disturbance. Mitigation would be required to avoid such harmful impacts.
26. Mitigation against recreation impacts on the Dorset Heathlands SPA would be provided through Community Infrastructure Levy payments in accordance with the Dorset Heathland Planning Framework 2020-2025 Supplementary Planning

Document. It is proposed to address nutrient impacts through a pre-commencement condition preventing development beginning until the necessary wastewater treatment works upgrade is required through legislation.

27. During the course of the appeal, following advice from Natural England in respect of phosphorus in Poole Harbour, the Council advised that it is no longer in a position to agree planning consents through the use of pre-commencement conditions as proposed here.
28. Whilst noting the Council's position in respect of this, as the competent authority, I am required to carry out an appropriate assessment of the effect of the proposed development. However, as I have found that the scheme is unacceptable for other reasons, I do not need to pursue this matter further.
29. The Council cannot demonstrate a 5 year supply of deliverable housing sites. However, given my conclusions on the harm to the setting of a designated heritage asset, in accordance with footnote 7 to paragraph 11 of the Framework, the tilted balance does not apply.

Conclusion

30. The proposed development would be contrary to the development plan and there are no material considerations that outweigh this conflict. Consequently, with reference to Section 38(6) of the Planning and Compulsory Purchase Act 2004, the appeal should be dismissed.

Rachael Pipkin

INSPECTOR