



Appeal Decision

Site visit made on 18 July 2023

by David Wyborn BSc(Hons) MPhil MRTPI

an Inspector appointed by the Secretary of State

Decision date: 01 August 2023

Appeal Ref: APP/D1265/W/22/3313686

Land between 12 and 13, Puncknowle Road, Swyre, Dorchester DT2 9DN

- 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 Hephaestus R.E.D Ltd against the decision of Dorset Council.
 - The application Ref P/FUL/2022/00240, dated 12 January 2022, was refused by notice dated 23 June 2022.
 - The development proposed is the erection of 3 dwellings with associated access and parking.
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are:
 - whether or not the development plan would support the proposal in this location,
 - the effect of the proposal on highway safety,
 - the effect of the proposal on the character and appearance of the area, having regard to whether or not the scheme would preserve or enhance the character or appearance of the Swyre Conservation Area,
 - the effect of the proposal on the Dorset Area of Outstanding Natural Beauty (AONB), in particular with regard to any after-dark light impacts from the glazing associated with the rear elevation, and
 - the effect of the proposal on biodiversity.

Reasons

Location

3. The development plan for the area includes the West Dorset, Weymouth and Portland Local Plan 2011-2031 (the Local Plan). The Local Plan sets out the settlement hierarchy for the provision of new development. Policy SUS2 of the Local Plan directs the greater proportion of development to the larger and more sustainable settlements. Outside these main centres the Policy explains that development in rural areas will be directed to the settlements with defined development boundaries. Within the defined development boundaries residential, employment and other development to meet the needs of the local area will normally be permitted.

4. Policy SUS2 of the Local Plan also explains that, outside the defined development boundaries, development will be strictly controlled and restricted to a specified list of types of development, including affordable housing and rural workers' housing.
5. The appeal site falls within an area known as Swyre and is an undeveloped gap within a run of dwellings. However, this area is not identified within the Local Plan as being a settlement with a defined development boundary.
6. The provision of three open market dwellings would not meet with any of the categories of development identified under Policy SUS2 of the Local Plan as being acceptable development in an area outside defined development boundaries.
7. The site would be located in a countryside area for planning purposes. There are some limited local facilities within this part of Swyre, but there does not appear to be many local services and facilities within easy walking distance to assist with occupants' day to day needs, such as with convenience shopping. There is the Public House in Puncknowle, but this is accessed a little way along an unlit road with no footway and may not be an attractive proposition to walk after dark. There appears to be some availability of local bus services serving the general area, but given the rural situation and the location of main employment sites, schools, shops and medical facilities, the private vehicle is likely to be the predominant means of travel.
8. Even taking into account that sustainable transport solutions will vary between urban and rural areas, the location of the proposed dwellings would not meet with the National Planning Policy Framework (the Framework) policy requirements that the planning system should actively manage patterns of growth in support of sustainable transport objectives including promoting opportunities for walking, cycling and public transport.
9. I appreciate that there are other dwellings in the locality and these occupants would have the same accessibility to services and facilities as occupants of the new dwellings. However, that is not a justification to allow further dwellings with the likely dependence on the private vehicle to access services and facilities and which would be contrary to the approach for the distribution of development across the plan area.
10. Accordingly, I conclude that the location of the proposed residential development would not be supported by the development plan and, in particular, would not accord with Policies SUS2 and HOUS6 of the Local Plan, which amongst other things sets the settlement hierarchy and the approach to the distribution of development.

Highway safety

11. The appeal site is fronted by a stone wall which is continuous across the frontage. Each of the three dwellings would have a parking space within its frontage area and parts of the wall would need to be removed to provide access to the spaces. Sections of the front wall would remain. To occupy the parking spaces, it would be necessary for a car either to reverse in or out of the spaces using the road as the manoeuvring area.
12. I have had regard to all the appellant's highway evidence, including that from the consultants, the speed survey data and the visibility distances that are

achievable. I note that it may be possible to extend the footway across the site and that this would assist with visibility for emerging vehicles from the parking spaces.

13. There is a slight curve in the road to the broadly south and this restricts some of the ability to see approaching vehicles from that direction. I also appreciate that existing properties do not all have on-site parking, and this means that vehicles may often be parked in front of dwellings so that passing vehicles may need to be driven further away from the carriageway edge. I also note the information on the vehicle count along the road in the submissions. The road provides one link for Puncknowle with the B3157 and with the number of dwellings in the general area there is a reasonable number of vehicles passing to and fro along the road.
14. For a vehicle emerging from the parking spaces, assuming in a forward direction, it would be necessary to see approaching vehicles at an appropriate distance before being able to move safely into the carriageway.
15. For the southern most plot, the visibility splay from the parking area in the generally southerly direction is drawn to the far side of the road and this is contrary to the advice in Manual for Streets. It appears when measured from either the nearside kerb, or the likely nearside edge of the vehicle track, the evidence does not satisfactorily demonstrate a visibility splay could meet with the required standard for the 85th percentile vehicle speed along this road.
16. For the central parking area, the drawings show the visibility splay would terminate in the centre line of the road to the south. Vehicles approaching from the south may not be centrally positioned, especially if there was a vehicle approaching from the other direction. The visibility splay to the south from this central parking space does not, therefore, demonstrate the required distance could be achieved.
17. In these circumstances, I am not satisfied that the evidence demonstrates that appropriate visibility splays would be provided to meet the requirements of the 85th percentile speed of traffic along this road for the southern and central parking spaces. This would result in drivers emerging from the spaces having inadequate visibility of approaching vehicles leading to an unacceptable highway hazard. The visibility splays for the northern most parking area would be better but this does not outweigh the concerns with the other spaces.
18. While I have taken into account all the information from the appellant's highway consultant, and that there is no recorded accidents in this stretch of road, I give greatest weight to the evidence from the Highway Department who recommended refusal on highway grounds. I am also conscious of the comments from some local residents and the Parish Council who have raised highway concerns with the proposal and this local knowledge reinforces my view that it is necessary to take a precautionary approach with highway safety in this instance.
19. I conclude that the substandard visibility from the identified two parking spaces would result in an unacceptable impact on highway safety and, thereby, the development would in these respects be contrary to the policy requirements of the Framework and Policy COM7 of the Local Plan.

Character and appearance

20. Much of the Swyre Conservation Area is linear in form and includes the runs of terrace properties fronting the road and other dwellings some set back behind stone walls. A particular feature of the Conservation Area, and which contributes to its significance, are the sections of local stone frontage walls and stone clad building elevations, together with the age and appearance of the built form.
21. The appeal site is a gap between buildings within the Conservation Area and this gap makes a modest contribution to the character of the area. The gap is not especially typical of the linear run of buildings on this side of the road within the Conservation Area. However, the stone wall that bounds the frontage of the site is a characteristic element of the street scene and a positive feature of the site, even if overgrown in places by vegetation.
22. The scheme would involve the removal of three sections of the frontage wall to create reasonably wide openings for parking spaces. There are existing openings in the frontage walls elsewhere within the Conservation Area, usually because access has been provided. However, in the case of the appeal site, the removal of the sections of the wall would be reasonably significant and leave only fairly modest sections of the wall within the central part of the site. I consider that the removal of the sections of wall, with the remaining modest central sections, would materially and adversely undermine this characteristic frontage feature within this part of the Conservation Area.
23. The Council also raise concern with the loss of the walnut tree to make way for the housing. The Arboricultural Impact Assessment and Method Statement (14/12/22) explains that the tree is categorised in fair/poor condition and is covered in ivy and historically damaged at 1m, thereby creating a low canopy bowl. It is indicated to have a life of less than 20 years. It is a fairly modestly sized tree and, because it is set back in the site, it is largely screened in more angled street scene views by the adjoining properties. The walnut tree is of limited value to the significance and character of the Conservation Area. I am satisfied that its removal, with the replacement planting intended along the frontage of the site, would preserve the character and appearance of the Conservation Area, as well as the street scene.
24. The front elevational design of the properties is acceptable and would make suitable reference to local building materials, bulk and design. Nevertheless, I consider that the provision of the dwellings themselves, replacing the open space, would be neutral in terms of the impact on the character and appearance of the Conservation Area. This neutral finding, and my findings in terms of the walnut tree, would not outweigh the harm that would result from the loss of the sections of the front wall.
25. I am mindful of the duty to pay special attention to the desirability of preserving or enhancing the character or appearance of any land or buildings in a Conservation Area¹.
26. Drawing these matters together, the wall is a prominent and characteristic feature of this part of the Conservation Area. As some sections of the wall would remain, the overall effect of the scheme would be to result in moderate

¹ Section 72(1) of The Planning (Listed Buildings and Conservation Areas) Act 1990.

harm to the character and appearance of this part of the Conservation Area. Nevertheless, as a consequence of this harm, the scheme would detract from the significance of this designated heritage asset. The harm to the Conservation Area as a whole would be less than substantial within the meaning of paragraph 202 of the Framework. In accordance with the Framework, this harm should be weighed against the public benefits of the proposal.

27. In terms of the public benefits, the proposal would provide a small boost to housing supply on a windfall site, making effective use of the land. There would be economic and social benefits to the area during construction and in subsequent occupation. The scheme could be designed to provide sustainable and energy efficient dwellings, and the site could provide a net gain to biodiversity. Furthermore, the scheme would provide accommodation with a high standard of amenity. However, as only three additional dwellings would be provided, and in a Council area that can demonstrate a Framework compliant supply of housing land, I attribute the cumulative benefits of the proposal limited weight.
28. The Framework advises that any harm to the significance of a designated heritage asset should require clear and convincing justification and that great weight should be given to the asset's conservation, irrespective of the potential harm to the significance. I have found that the public benefits of the proposal afford limited weight and, therefore, would not outweigh the harm to the Conservation Area and its significance, which although moderate, in accordance with the Framework, is required to be attributed great weight.
29. In the light of the above analysis, I conclude that the proposal would harm the character and appearance of the area and would not preserve or enhance the character or appearance of the Conservation Area. The development would, therefore, conflict with Policy ENV4 of the Local Plan and the Framework which seek, amongst other things, to protect heritage assets.

AONB

30. The site lies within a generally rural area within the Dorset AONB. The Dorset AONB Management Plan 2019-2024 sets out the special qualities of this designated area. This includes, that in addition to its outstanding scenic qualities, the AONB retains a sense of tranquillity and remoteness that is an integral part of these landscapes. Reference is made that the AONB retains dark night skies and an undeveloped rural character.
31. The Framework requires that great weight should be given to conserving and enhancing landscape and scenic beauty in AONBs, which have the highest status of protection in relation to these issues.
32. There are dwellings at Swyre which already have an impact on the AONB and, in particular, the rural character of the area from light emitted from their windows after dark. The adjoining run of properties back onto open land to the generally west and views from this wider countryside are already susceptible to a glow of light from the various dwellings along this part of the road. However, as far as I can tell, most of the existing dwellings are generally modest in size and their fenestration is generally reflective of this design and appearance. The light emitted from the windows would, therefore, be reasonably contained.

33. My attention has been drawn to the sizeable dwelling to the broadly north, Paddock Lodge, which has larger areas of glazing than the other typical properties locally. The building is reasonably exposed in views from the countryside across a wide area. It would seem to me that the property would have a greater impact on the darker night skies than others locally because of the extent of fenestration. I have taken its presence and the likely impact of lighting on the area into account in my assessment of the appeal proposal.
34. In terms of the appeal proposal, the rear elevations of the three dwellings have large areas of full height glazing accommodated over three floors. There appears to have been little attempt with the design to minimise the light that would be emitted from the glazing. With the internal lights on after dark it would be likely that a noticeable extent of light would be emitted from the windows and a glow formed around the rear of the property. This lighting effect would be experienced from some areas of the countryside to the general west, notwithstanding the trees towards the bottom of the site and that there are few public vantage points.
35. If it was agreed that the three dwellings were acceptable, then it would follow that there would be some domestic presence and associated lighting impact. However, in the interests of helping to retain the sense of tranquillity and remoteness of the AONB, which a dark night sky forms part, each property should be designed to make its contribution to maintain these special qualities. The excessive rear glazing of the appeal dwellings, and the impact that I have identified that would likely result from the internal lighting after dark, would not achieve this. The scheme, in this respect, would unacceptably harm these special qualities of this part of the AONB and to a greater and disproportionate extent than many other properties in this road. I am not satisfied that conditions attached to any approval could address this matter because of the extent of glazing that is proposed.
36. The likely effect from the lighting at Paddock Lodge, and that this dwelling has been fairly recently permitted by the Council, does not satisfy me that the appeal scheme should be permitted which would materially add to the potential light pollution in this part of the AONB.
37. Accordingly, I conclude that the extent of rear glazing, and the likely effect that this would have on the dark night skies, would harm the character, tranquillity and remoteness of the AONB. This landscape harm is a matter which the Framework requires to be attributed great weight. This aspect of the scheme would conflict with Policy ENV1 of the Local Plan and the Framework which requires, notably, that development that would harm the character, special qualities or natural beauty of the Dorset AONB will not be permitted.

Biodiversity

38. The application was refused because the Council considered that, in the absence of the requisite ecology surveys, it was not possible to establish whether the proposal would result in unacceptable harm to biodiversity. At the appeal stage, an Ecological Assessment Report (dated 19/12/22 - ABR Ecology) has been submitted. This includes survey work and was undertaken by a suitably qualified ecologist and examined the potential effects of the development on a wide range of flora and fauna. It sets out a series of mitigation, compensation and enhancement strategies and I have found no substantive reasons to consider that biodiversity issues could not be suitably

addressed, and indeed enhanced, on the site if the recommendations were undertaken.

39. At the appeal stage, the Council has commented that whilst the fee for the District Level Licensing for Great Crested Newts has been submitted, a biodiversity plan has not been received and, therefore, the applicants have not complied with the Dorset Biodiversity Protocol. It seems from this response, and from my analysis of the information, that the substantive reason for refusal has been addressed.
40. At the final comments stage, the appellant has set out in detail the efforts they have made to work through the procedural issues to ensure that the Council, and its Natural Environment Team, has the payments and information that it requires. It appears that this work, despite the efforts of the appellant, has not yet been able to be concluded.
41. From the evidence before me, I have no clear reason to believe that the outstanding issues could not be resolved. The Ecological Assessment Report explains that no important biodiversity issues or harm should result from the scheme. In any approval it would be appropriate to attach a planning condition to ensure that the necessary processes were completed, and a scheme of biodiversity mitigation, compensation and enhancement formed part of any works on site.
42. In conclusion, and subject to an appropriately worded condition in any approval, the scheme should not adversely affect biodiversity on the site and, therefore, there would not be a conflict with Policy ENV2 of the Local Plan or the Framework in this respect.

Planning Balance and Conclusion

43. The Council confirm that, for this development plan area, it is able to demonstrate a Framework compliant supply and delivery of housing land. Consequently, this decision should be made in accordance with a normal planning balance, namely that the proposal be determined in accordance with the development plan, unless material considerations indicate otherwise².
44. I have concluded above that the proposed three dwellings would be sited so as to conflict with the development plan strategy for the location and distribution of housing, the occupants of the proposed housing would be largely dependent on the private motor vehicle to access services and facilities, the scheme would result in an unacceptable highway safety hazard, there would be harm to the character and appearance of the Conservation Area and the proposal would harm the character, tranquillity and remoteness of the AONB. Cumulatively, this harm and the related policy conflicts should be afforded very substantial weight against the scheme and the proposal would conflict with the development plan when considered as a whole.
45. I have examined the benefits of the scheme in the considerations above and concluded that these benefits, including with the provision of three dwellings, would merit limited weight in favour of approval.

² Section 38(6) of the Planning and Compulsory Purchase Act 2004 and section 70(2) of the Town and Country Planning Act 1990.

46. Drawing these matters together, the identified harm and policy conflicts should be afforded very substantial weight against the scheme, and this would not be outweighed by the benefits which should merit limited weight. Accordingly, material considerations do not indicate that the application should be determined other than in accordance with the development plan.
47. For the reasons given above, I therefore conclude that the appeal should be dismissed.

David Wyborn

INSPECTOR