



Appeal Decision

Site visit made on 17 October 2023

by M Aqbal BA (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 08 December 2023

Appeal Ref: APP/D1265/W/22/3313478

Little Orchard, Horseshoes to Gaunts Common – Lane, Gaunts Common, Dorset BH21 4JR

- 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 Mrs Julie McCreath against the decision of Dorset Council.
- The application Ref P/FUL/2022/00922, dated 10 February 2022, was refused by notice dated 5 September 2022.
- The development proposed is demolition of existing double garage and erection of a single dwelling adjacent to Little Orchard, Gaunts Common.

Decision

1. The appeal is allowed and planning permission is granted for demolition of existing double garage and erection of a single dwelling adjacent to Little Orchard, Gaunts Common, in accordance with the terms of the application, Ref P/FUL/2022/00922, dated 10 February 2022 at Little Orchard, Horseshoes to Gaunts Common – Lane, Gaunts Common, Dorset BH21 4JR, subject to the schedule of conditions attached to this Decision.

Applications for costs

2. An application for costs was made by Mrs Julie McCreath against Dorset Council. This application is the subject of a separate Decision.

Preliminary Matters

3. Following the determination of the appellant's planning application, the Council has published its five-year housing land supply figures for the East Dorset Local Plan area. These show that for the period 2022 to 2027 the East Dorset area can only demonstrate a supply of deliverable housing sites equivalent to 4.15 years. As such, the Council cannot demonstrate a five-year housing land supply.
4. Submitted drawings: 2022-02/4 and 2022-02/1B include the footprint of a detached garage between Little Orchard and the proposed dwelling. However, the elevations for this garage have not been provided. Furthermore, the description of the proposal only refers to the demolition of the existing garage and the erection of a dwelling. Therefore, my determination of the appeal does not include the erection of a detached garage.

Background and Main Issues

5. A Flood Risk Assessment (December 2022) ('FRA') was submitted with the appeal. This concludes that the appeal site is not at risk of flooding from any sources, and that the conceptual drainage scheme demonstrates that the proposed

development can be drained effectively for all storm return periods including climate change and does not affect flood risk outside of the development.

6. In light of the FRA, the Council is satisfied that conditions can be imposed to avoid an increased flood risk and therefore no longer seek to defend the third reason for refusal, which relates to drainage and flood risk. I have also considered the FRA and in the absence of any technical evidence to the contrary, I have no reason to take a different view.
7. Accordingly, the main issues are: i) the effect of the proposal on the character and appearance of the area, and ii) the effect of the proposal on a protected tree.

Character and appearance

8. The appeal site is occupied by a detached dwelling known as 'Little Orchard' which is sited within the north-west corner of its plot. This plot is located within the village of Gaunts Common.
9. Gaunts Common lies within the South East Dorset Green Belt. Saved policy GB7 of the East Dorset District Local Plan 2002. This Policy says that: 'Infill development will be allowed under Policy GB2 (d) (para 6.97). Such development should be contained wholly within the Village Infill Envelopes, and should be of a scale and character that respects the existing village form.' The main parties are in agreement that the appeal site is wholly within the Village Infill Envelope.
10. The appeal site also forms part of a smaller area within Gaunts Common, identified for its Special Character Area ('the SCA') which comprises the nucleus of the old part of the village.
11. The Council's Special Character Areas Supplementary Planning Guidance No.27 ('SPG 27') describes the character of each SCA, including Gaunts Common and provides criteria against which applications for new development should be assessed. SPG 27 does not set out a presumption against redevelopment, so long as it respects those features and characteristics which are important for the quality of the area.
12. The most notable feature of the SCA is a generally linear settlement pattern. This is derived from a fairly regular succession of dwellings interspersed by the spacing created by their individual plots. Some dwellings are sited close to the Lane and others are set further back, the informality created by this irregular siting and the varying sizes of garden plots, is also an important characteristic of the area.
13. Since the SCA was designated a number of the properties within it have been substantially extended and altered and there has been some new development, for example, the erection of Twin Beeches, the detached dwelling to the south of the appeal site and another on an infill plot opposite Cutlers Farm. The SCA and wider village comprises a mix of dwelling styles and sizes. This includes large traditionally designed thatched cottages to modern smaller dwellings located within the southern part of this SCA. Based on my observations, the footprints and plot sizes associated with dwellings in the SCA are also varied.
14. Overall, the individually designed properties and their varied scales and mainly linear arrangement within a wider agricultural setting, defines the distinctiveness of the character and appearance of the SCA and the wider village.

15. The proposed dwelling would be sited to the east and broadly in line with Little Orchard within its garden. As such, this makes use of the relatively generous depth of the appeal site and ensures that the development does not encroach beyond the existing garden.
16. Whilst the proposed dwelling would bring built development closer to the agricultural field to the east of the appeal site, in views from this field, the proposed dwelling would be seen in the context of existing dwellings and their established gardens and therefore would not undermine the wider agricultural setting of the area.
17. As a consequence of the proposal, the existing plot for Little Orchard would be subdivided. Even so, the resulting plots would be of a comparable size to others within the SCA. This, combined with the proposed tandem arrangement of dwellings, which is not common in the area, would reinforce the informal pattern of development within the SCA. To facilitate the sub division of the appeal site, a new boundary between the existing and proposed dwelling has been identified. The design and details for this are unclear but could be sensitively addressed by a condition if the appeal were to succeed.
18. In views from the Lane, the SCA appears enclosed and sheltered relative to the remainder of the village. In particular, a group of large protected trees in the garden of Little Orchard and a mature hedgerow along part of its frontage, limit views into the appeal site. Therefore, the broader sense of immediacy between the village and its agricultural setting is not apparent here and the siting of the proposed dwelling, towards the rear of the appeal site would not unacceptably alter this.
19. Whilst a gap between Finch Lea Cottage and Little Orchard does provide a glimpsed view towards the countryside beyond these dwellings, this view is largely dominated by the mature landscaping associated with Finch Lea Cottage. Therefore, and because of its siting away from the Lane and near to and near a tall boundary hedge, the proposed dwelling would not be particularly apparent in views from along the Lane or unacceptably effect any rural view from along here.
20. The existing vehicular access to Little Orchard from the Lane would be retained but extended deeper into the appeal site to serve as a shared driveway for both the existing and proposed dwelling. To facilitate the driveway, the detached garage for Little Orchard would need to be demolished and some ornamental planting is to be removed. Based on the submitted Ecological Assessment Report, this planting is of limited ecological value. Although this has some localised amenity value and whilst the loss of this is regrettable, there is nothing to suggest that this planting is protected and could not be otherwise removed.
21. Nonetheless, the appellant has shown a willingness to retain some of this landscaping and incorporate new tree and hedge planting. Also, the removal of the detached garage and an area of hardstanding associated with this would provide opportunities for new planting. These could be agreed by a condition, subject to the appeal succeeding.
22. The extent of the new driveway because of the established trees and hedgerow along the frontage of the appeal site, would only be apparent to a limited extent from the Lane. Therefore, and subject to an acceptable finish, the proposed driveway would not be inappropriate.

23. Drawing on the above reasons, although the proposal introduces a form of back-land development, because of the depth of the appeal site, the extent of the enclosure associated with it and the specific arrangement of the proposed dwelling, this would not unacceptably compromise the linear pattern of development within the SCA and wider village.
24. The proposed sizeable family dwelling, in part, would be two-storey. The second-floor accommodation utilises the roof space and the two storey sections are separated by a subservient glazed section. These design interventions limit the overall height and massing of the proposed dwelling.
25. Because of its integral garage, the proposed dwelling would feature a single and broadly linear footprint with a traditional design. This includes traditional forms, fenestration and detailing such as chimneys. This dwelling would also be constructed in a palette of materials which relate to the local area. Although its front elevation incorporates a number of sections, each with a different form, this adds individuality to the design.
26. Overall, the scale and design of the proposed dwelling would be acceptable given the range of dwellings found in the SCA. Furthermore, based on its location, separation and intervening boundary treatments, the proposed dwelling would relate comfortably with other nearby dwellings.
27. For the above reasons, the proposal would not harm the character and appearance of the area and accords with Policy HE2 of the East Dorset Local Plan Part 1 (Core Strategy) ('CS') which states that development in SCAs must respect the identified features, characteristics and criteria contained in SPG 27 for Gaunts Common, specifically criteria 4, 5 and 7. Accordingly, I find no conflict with similar design aims of Countryside Design Summary- Supplementary Guidance 21.

Protected tree.

28. Because of its siting, the proposed dwelling would be close to an offsite tree which along with others is subject of a recently made Tree Protection Order ('TPO').
29. SPG 27 recognises that trees provide a protective edge to the settlement and form a backdrop to many cottages. Criteria 10 of the SCA for Gaunts Common says that new development should not result in any loss of trees or hedges, especially those that are important in the landscape or which provide the village with its enclosure or special identity. The protected trees are important and positively contribute to the character of the settlement and the overall verdant and rural appearance of the area.
30. The submitted Tree Report¹ states that the siting of the new dwelling would nominally intrude within the Root Protection Area ('RPA') of a mature oak tree ('T010') which is covered by the TPO and is to be retained. However, the RPA has been estimated and it is also unclear whether factors such as the twin-stemmed nature of this tree and its location within a ditch have been accounted for in calculating its RPA. Nonetheless, the Tree Report acknowledges that dependent on the soil type, species and topography, trees may have an influence on the soil beyond their calculated RPA and recommends consulting specialists to assess the implications of the tree retention on the required foundation design.

¹ Arboriculture Impact Assessment and Preliminary Method Statement and Tree Protection Plan

31. There are well-known methodologies for tree root protection which can be employed in these circumstances, including, the use of specialist foundations, no-dig drainage installation and ground protection systems. These arrangements, along with the provision of protective fencing can be secured and subject to expert supervision by way of agreed method statement. To this end, I see no reason why the use of similar pre-commencement conditions to those suggested by the Council cannot be used to ensure that T010 and other retained trees are safeguarded. In particular, the appellant would only be able to commence the development once they had satisfied the Council that T010 could be protected.
32. Therefore, and subject to conditions, the proposal would not harm a protected tree and accords with Policies HE3 and HE2 of the CS, which together seek to enhance the landscape character of the area and safeguard trees.

Other Matters

33. The nearest dwellings to the appeal site are Finch Lea Cottage to the north and Twin Beeches to the south. Although the new dwelling incorporates first floor windows, to the north these would overlook a field to the rear of Finch Lea Cottage, and to the south the garden for the proposed dwelling. As such, the proposed arrangement would not result in any unacceptable overlooking. Furthermore, because of its acceptable scale, separation and intervening boundary treatments, the proposed dwelling would not be unduly dominant so as to harm outlook or unacceptably overshadow or reduce daylight to neighbouring properties.
34. Any additional activity, including vehicles using the extended shared driveway, in relation to a single dwelling would be modest. As such, any additional disturbance arising from this in the context of an established residential area would not be significant.
35. For the above reasons, the proposal would not unacceptably harm the living conditions of neighbours.
36. Based on the submitted Transport Note, the use of the existing access for Little Orchard and the proposed dwelling would not result in any significant increase in trip generation to the detriment of highway safety.
37. The appellant is proposing the installation of a sprinkler system which addresses concerns about fire safety, raised by a third party and a consultee.
38. Subject to compliance with the requirements of the mitigation, compensation and enhancement/net gain measures detailed in the submitted Ecological Assessment Report, the proposal would have no adverse impact on biodiversity.
39. Although I have been referred to examples of developments refused in the area and at the appeal site, I have insufficient information in respect of these to draw any comparisons. Irrespective of this, I have determined the scheme before me having regard to its site-specific circumstances and have found this to be acceptable for the reasons set out above. Any other application would be determined on its merits and therefore my Decision does not set a precedent.
40. Consequently, and on the evidence before me and subject to conditions, I see no reason why the above factors, whether alone or in combination would justify resisting the scheme.

Conditions

41. I have considered the conditions put forward by the Council in light of the requirements of the Planning Practice Guidance and the National Planning Policy Framework. In addition to the standard timescale condition for the implementation of the planning permission, I have imposed a condition specifying the approved plans and document in the interests of certainty. However, because a further Arboricultural Method Statement and a Construction Method Statement are necessary, I have not included drawing 9138 D- AIA.
42. In the interests of safeguarding trees, I have specified conditions requiring a revised Arboricultural Method Statement and a Construction Method Statement.
43. For the reason given under the Preliminary Matters, I have imposed a condition specifying that the permission arising from my Decision does not include the proposed detached garage. Nevertheless, to ensure the satisfactory functioning of the development, conditions requiring that the access, driveway and parking spaces for the existing and proposed dwelling are provided are necessary.
44. A condition requiring details of surface water drainage is necessary in the interests of securing satisfactory drainage of the site and managing flood risk.
45. Given the location of the proposed development in a SCA and to ensure the satisfactory appearance of the development, it is necessary to require details of external facing materials and finishes. For the same reasons, I have specified a condition requiring a soft landscaping scheme.
46. To protect and enhance biodiversity, I have imposed a condition requiring that the development is undertaken in accordance with the Ecological Assessment Report.
47. For the reasons stated above, a condition requiring details and the implementation of a sprinkler system for the proposed dwelling is necessary.
48. Conditions 3 and 4 which prevent any development approved from commencing until they have been complied with, are considered fundamental to the development hereby approved. It is necessary for them to take the form of 'pre-commencement' conditions in order to have their intended effect. Where necessary and in the interests of flexibility, clarity and precision, I have altered the conditions to better reflect the relevant guidance.

Conclusion

49. For the above reasons, I conclude that the appeal should be allowed.

M Aqbal

INSPECTOR

Schedule of Conditions

- 1) The development to which this permission relates must be begun not later than the expiration of three years beginning with the date of this permission.
- 2) Unless modified under any of the conditions below, the development hereby permitted shall be undertaken in accordance with the following approved drawing numbers: 2022-02/4B, 2022-02/1B, 2022/02/2B and Ecological Assessment Report (22 December 2021) by ABR Ecology Limited.
- 3) Before the development hereby approved commences (including site clearance and any other preparatory works) a revised Arboricultural Method Statement ('AMS') including a Tree Protection Plan, Arboricultural Supervision and Monitoring Statement, and a plan showing the location of all soakaways and services on the site and finished floor levels, together with a timetable for the implementation of any works/measures including tree protection shall be submitted to and approved in writing by the local planning authority. Thereafter, the development shall be carried out in accordance with the approved AMS and timetable.
- 4) Before the development hereby approved commences (including site clearance and any other preparatory works) a Construction Method Statement ('CMS') for the excavation and installation of specialist foundations shall be submitted to and approved in writing by the local planning authority. The CMS shall include:
a) a cross section plan of the foundation and void detail, b) provisions to secure hand digging for the installation of foundations, c) provisions to secure the repositioning of piles should roots in excess of 30mm in diameter be encountered and d) location of site compound and mixing areas. Thereafter, the development shall be undertaken in accordance with the approved CMS.
- 5) Notwithstanding the details shown on approved drawings: 2022-02/4 and 2022-02/1B, this permission does not permit the detached garage shown between Little Orchard and the dwelling hereby approved.
- 6) Prior to any ground works commencing, details of a surface water drainage scheme for dealing with surface water drainage from the development shall be submitted to and approved in writing by local planning authority. Thereafter, the approved drainage scheme shall be implemented before the first occupation of the dwelling hereby permitted and thereafter maintained and permanently retained.
- 7) Prior to any ground works commencing, including the extension to the existing access, a landscaping scheme shall be submitted to and approved in writing by the local planning authority. The details shall include existing landscaping to be retained; planting plans; written specifications (including cultivation and establishment); details of the quantity, density, size, species, position and proposed planting programme together with a timetable for implementation and details for the maintenance of the proposed soft landscaping. Thereafter, the soft landscaping shall be carried out in accordance with the approved details and timetable.

- 8) Prior to any works above ground floor slab-level commencing, details and samples of all external facing materials and finishes, including boundary treatments and the finish for the access and driveway shall be submitted to and approved in writing by the local planning authority. Thereafter, the development shall be completed in accordance with the approved details.
- 9) Prior to the first occupation of the dwelling hereby permitted: i) the mitigation, compensation and enhancement/net gain measures detailed in section 5 and appendix 4 of the Ecological Assessment Report shall be fully implemented, unless any modifications as a result of the requirements of a European Protected Species Licence are required, which shall need to be submitted to and agreed in writing by the local planning authority, and ii) evidence of compliance shall be provided to the local planning authority. Thereafter, the approved mitigation and enhancement/net gain measures shall be maintained and permanently retained in accordance with the approved details.
- 10) Prior to the first occupation of the dwelling hereby permitted, the access, driveway and turning area shall be provided in accordance with the approved plans. Thereafter, these shall be retained and kept available for the specified purposes.
- 11) Prior to the demolition of the detached garage hereby permitted, a scheme for vehicle parking for the existing dwelling (Little Orchard) along with a timetable for its implementation shall be submitted to and improved in writing by the local planning authority. Thereafter, the vehicle parking for Little Orchard shall be implemented in accordance with the approved details and timetable.
- 12) Prior to the first occupation of the dwelling hereby permitted, details for a fire sprinkler system for this dwelling shall be submitted to and agreed in writing by the local planning authority. Thereafter, the approved fire sprinkler system shall be installed prior to the first occupation of the dwelling hereby permitted and maintained and retained for the life of the development.