



Appeal Decision

Site visit made on 20 December 2023

by **O Marigold BSc DipTP MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 12 January 2024

Appeal Ref: APP/D1265/W/23/3319544

76 Blackmore Road, Shaftesbury SP7 8RL

- 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 Miss Bethany Colburn against the decision of Dorset Council.
 - The application Ref P/FUL/2022/03432, dated 31 May 2022, was refused by notice dated 10 November 2022.
 - The development proposed is erection of 1 No. dwelling with 1 No. parking space.
-

Decision

1. The appeal is dismissed.

Preliminary Matters

2. I have used the description of the proposal as set out in the Council's Decision Notice, which is more accurate than that used in the planning application form. The appellant has used this revised description in the appeal form and so I am satisfied that no party would be prejudiced by my using this description. A revised version of the National Planning Policy Framework (the Framework) was published in December 2023. I have sought the comments of the main parties on it and have dealt with the appeal on this basis.
3. The Council's third reason for refusal referred to the effect of drainage from the proposal on the nutrient neutrality of the River Avon, which is designated as a Special Area of Conservation, Special Protection Area, Ramsar site and a Site of Special Scientific Interest. However, the Council now accepts that the proposal would actually drain into the River Stour, rather than the Avon. As such, the Council no longer seeks to pursue its third reason for refusal. I see no reason to disagree, and so I will not consider this matter further.

Main Issues

4. The main issues are the effect of the proposal on
 - the character and appearance of the area, and
 - the living conditions of the occupiers of nearby dwellings, with regard to daylight, sunlight, outlook and noise.

Reasons

Character and Appearance

5. Blackmore Road consists of a residential estate, principally consisting of terraced rows of modern dwellings. More mixed housing is currently under

construction nearby at Niveus Walk. However, the surroundings of the appeal site are distinctive and consist of 1.5 storey blocks, each containing back-to-back pairs of small semi-detached units, known as cluster houses. The blocks have areas of planned green space between them, providing relief from the otherwise tight form of development. The appeal site consists of one such space, associated with 76 Blackmore Road (No 76).

6. Many of the green spaces between the blocks have been enclosed by fencing, diminishing the sense of openness, including at the appeal site. Some of the dwellings have also had small extensions and additions. Nevertheless, this part of the estate remains distinctive. This is because of the ordered, broadly similar layout, design and plan form of the blocks, and the positive contribution of the remaining unenclosed areas of open space.
7. The proposal seeks to erect a detached, 1.5 storey self-build dwelling, designed to meet the needs of the appellant, who has a disability and who currently occupies No 76. The proposal includes level access, a guest/carer area and the space and facilities for the appellant to continue living and working independently. The proposal would have a low ridge height similar to an extension to an adjacent property, 72 Blackmore Road.
8. The proposal would remove the existing fencing around the site. This would make it more open at its edges, although this could take place regardless of the proposal. It would also include planters to enhance the communal footpath. Nevertheless, the proposal would fill much of the plot with built form. As a result, its overall effect would be to undermine rather than improve the openness of the space between the blocks. Consequently, it would result in a cramped, overdeveloped appearance.
9. Furthermore, the detached footprint of the proposed dwelling, together with its shape, position within the site and low ridge height would fail to reflect the characteristic plan form and design of the other cluster houses. Consequently, the proposal would have an incongruous appearance that would harm the distinctive, open plan character of this part of the estate, including in public views obtainable from Blackmore Road.
10. For these reasons, the proposal would have a harmful effect on the character and appearance of the area. As such, it would conflict with Policy 24 of the North Dorset Local Plan (NDLP), adopted January 2016, which requires that new development improves the character and quality of its location and responds to its local context. For similar reasons, the proposal would conflict with the aim of the Framework, for development that is sympathetic to its surroundings.

Living Conditions

11. Dwellings at 70 and 72 Blackmore Road (Nos 70 and 72) are close to the appeal site, being on the opposite side of the footpath. Both have windows that face towards the site. However, at ground floor level the windows are generally small and secondary in nature, being obscure glazed or serving, for example, a porch. The proposal would have a roof form hipped back from the frontages of Nos 70 and 72. As such, the impact of the proposal on the light and outlook available from these windows would be limited and it would not cause unacceptable overbearing or overshadowing effects.

12. Those using the first-floor windows of Nos 70 and 72 would essentially look over the top of the proposal and so adequate light and outlook for occupiers of these rooms would be maintained. The windows could allow views down into the bedroom rooflight of the proposal. However, acceptable outlook as well as privacy for the occupiers of the proposal could be achieved by imposing a planning condition requiring the rooflight to be obscure glazed and fixed shut.
13. No 72 has a garden and patio adjacent to the site. A small garden serving the proposed dwelling would adjoin the common boundary, separated by currently open fencing. Those using the amenity space of No 72 may well hear noise from people within the proposal and its garden. Even so, I have little reason to believe that noise levels would be unusual or excessive, and such a relationship is not uncommon in built-up areas. In terms of light and outlook to the garden and patio of No 72, only a small part of the proposed dwelling would be close to them. This and the relatively low height and hipped roof of the proposal means that its effects would be small.
14. In these circumstances, the proposal would not unduly harm the living conditions of occupiers of Nos 70 or 72. No 76 has only a door and an obscure-glazed window facing onto the appeal site at ground floor level. As such, the effect of the proposal on its future occupiers would also be small. I reach the same conclusion in respect of other properties, such as 74 Blackmore Road, which would not face the proposal and so would be less affected by it.
15. For these reasons, I conclude that the proposal would not have an unduly harmful effect on the living conditions of the occupiers of nearby dwellings, with regard to daylight, sunlight, outlook and noise. It would therefore comply with NDLP Policy 25 and its requirement for adequate levels of privacy, daylight, sunlight and noise to neighbouring properties and future occupiers.

Other Considerations

16. There is no dispute that the Council can now demonstrate a supply of housing and has a Housing Delivery Test score such that Framework paragraph 11(d) is not engaged. As a result, housing land supply does not provide sufficient reason for me to reach a decision other than in accordance with the Development Plan.
17. The proposal would add to the supply of self-build housing which is supported by the Framework. It would also result in a more efficient use of land, on a small site within a town identified as a focus for growth, where infilling is permitted. Construction of the proposal would make a positive economic contribution to the area, and it would make No 76 available for future occupiers, resulting in further social and economic benefits. It would be built to high environmental standards. However, these benefits would be limited because of the small size of the proposal, as a single dwelling.
18. NDLP Policy 7 identifies that new affordable housing may provide for those with impaired mobility. However, this relates to a strategic level of need, rather than providing support for specific schemes, and the proposal is not for affordable housing. I do not doubt that No 76 would be difficult if not impossible to extend, and so is not a realistic alternative to the proposal. I also accept that finding alternative suitable accommodation locally may be difficult. Nevertheless, I must balance the benefits of the proposal to the appellant with its wider impacts.

Planning Balance and Conclusion

19. In reaching my decision, I have had due regard to the Public Sector Equality Duty contained in the Equality Act 2010, including the protected characteristic of disability. Article 8 of the Human Rights Act 1998 requires that decisions ensure respect for private and family life and the home. I have kept these interests at the forefront of my mind, but they are qualified rights and interference may be justified where in the public interest.
20. Dismissal of the appeal may well result in a continuation of the current living arrangements, adversely affecting an individual with a protected characteristic. I have had due regard to the need to eliminate discrimination and promote equality of opportunity, and the benefits to the appellant. However, I conclude that the adverse impacts of the proposal to the character and appearance of the area mean that dismissal would be necessary and proportionate in the public interest.
21. For the reasons given, I have found conflict with the Development Plan as a whole. The material considerations in this case do not indicate a decision other than in accordance with the Development Plan. This leads me to conclude that the appeal should be dismissed.

O Marigold

INSPECTOR