

Appeal Decision

Site visit made on 19 December 2023

by Martin Andrews MA(Planning) BSc(Econ) DipTP & DipTP(Dist) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 19.01.2024

Appeal Ref: APP/D1265/W/23/3323616

50 Grove Road, Portland DT5 1DA

- 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 Neil Charlton against the decision of Dorset Council.
 - The application, Ref. P/FUL/2022/03438, dated 31 May 2022 was refused by notice dated 8 December 2022.
 - The development proposed is the erection of a dwelling.
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Decision

1. The appeal is allowed and planning permission is granted for the erection of a dwelling at 50 Grove Road, Portland in accordance with the terms of the application, Ref. P/FUL/2022/03438, dated 31 May 2022 and subject to the conditions in the attached Schedule.

Main Issue

2. The main issue is the effect of the proposed development on the provision of amenity space for residents of adjoining flats.

Reasons

3. The Council's objection to the appeal scheme relates solely to the reduction in amenity area for the adjoining eight flats that were constructed from the conversion of the former Clifton Hotel/Pub pursuant to permission ref. WP/17/00451/FUL in December 2017, as amended by permission ref. WP/19/00606 in October 2019. The Council does not have a minimum standard for such amenity areas and considers each case should be decided on its merits.
 4. I have not seen the approved plans for the conversion scheme but understand that the amenity area for the flats' residents was shown on the approved plans as extending further to the rear to include what is now the current appeal site. The Council estimates that this severance has reduced the communal space by over 50% to 100sqm or 12.5sqm per flat and considers this to be inadequate. The appellant's figure is a total of 178.7sqm, but despite this substantial difference I was able to form an on-site judgement as to its adequacy.
 5. In this regard, I saw on my visit that the amenity area as provided has been separated from the appeal site by a wooden fence and that there is some further sub-division within it, including the provision of an informal storage area. In the middle of the amenity area there is a lawn of a size suitable for younger children's play and for residents' sitting out. I regard this as an area of
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modest size rather than 'large' as the appellant claims. However, given that it would be extremely unlikely that occupiers of all eight flats would want to use it at the same time, neither is it patently inadequate or unfit for purpose.

6. Furthermore, the first floor flats have extensive balcony areas securely enclosed by metal railings and these provide space for sitting out with the benefit of a southerly aspect that would make the most of sunlight. A similar individual provision occurs for ground floor flat nos. 4 and 8. There is no indication that the Council has allowed for any of these areas in its calculations, even though for many Local Planning Authorities (certainly in larger urban areas and in particular the London Boroughs) balconies are normally included as amenity space that contributes to offset the communal requirement.
7. The Council additionally refers to the proximity of the proposed dwelling to the flats as 'compounding' the adverse effect of the under-provision of amenity space. There is no explanation of exactly what this means, but as the Council does not object to the character and appearance of the new building on this site, I assume it refers to the potential for the use of the amenity area to disturb the occupiers of the proposed dwelling. In that event, prospective occupiers of the proposed chalet bungalow will be able to take this into account before deciding whether to live on a 'tight' site close to a block of flats.
8. Overall, from all I have seen and read I find that in the absence of any local or national quantitative guidance on residential amenity space (and noting also that none of the occupiers of the flats have objected) the proposed development would not be harmful. Accordingly, there would be no harmful conflict with Policies ENV11 and ENV12 of the West Dorset, Weymouth and Portland Local Plan 2015 or with Government policy in the National Planning Policy Framework 2023, including in particular paragraph 135f). In weighing the planning balance, I have also had regard to the considerable benefits arising from the provision of an additional dwelling in a sustainable location.

Other Matter

9. The appeal site lies within The Grove Conservation Area. The officer's report on the appeal application states that the proposed dwelling *'is of a design and appearance that would not be harmful to the Conservation Area'*. I agree with that assessment and therefore that the character and appearance of the conservation area would be at least preserved.

Conclusion

10. For the reasons explained above I shall allow the appeal and grant planning permission for the proposed dwelling. The Council has suggested conditions if the appeal is allowed and I agree that these are reasonable and necessary. A condition requiring the development to be carried out in accordance with the approved plans is needed for the avoidance of doubt and is in the interests of proper planning.
11. A condition in respect of external materials will preserve visual amenity, whilst a drainage condition will reduce the risk of surface water flooding. A condition stipulating that the development shall be carried out in accordance with the submitted Environmental Noise Assessment will safeguard the amenity of occupiers. Conditions removing permitted development will both maintain

external amenity space and safeguard the character and appearance of the area. Finally, a parking and turning space condition will ensure the provision of adequate access and parking for vehicles.

Martin Andrews

INSPECTOR

Schedule of Conditions

- 1) The development to which this permission relates shall be begun not later than the expiration of three years beginning with the date of this Decision;
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans: Drawing Nos. 2904:406/001 Rev. D & 2904:406/002 Rev. C ;
- 3) Prior to development above damp proof course level, details and samples of all external facing materials for the walls and roof shall be submitted to, and approved in writing by, the Local Planning Authority. Thereafter, the development shall proceed in accordance with the agreed materials;
- 4) Prior to the commencement of development, a detailed surface water management scheme for the site, based upon the hydrological and hydrogeological context of the development, and providing clarification of how drainage is to be managed during construction and a timetable for implementation of the scheme, shall be submitted to and approved in writing by the Local Planning Authority. The surface water scheme shall be implemented in accordance with the approved details, including the timetable for implementation;
- 5) The development hereby approved shall be carried in accordance with the submitted Environmental Noise Assessment undertaken by Acoustic Consultants Ltd and issued on 18 October 2022;
- 6) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any order revoking and re-enacting that Order) with or without modification, no enlargement(s) of the dwellinghouse hereby approved, permitted by Class A of Schedule 2 Part 1 of the 2015 Order, shall be erected or constructed;
- 7) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any order revoking and re-enacting that Order) with or without modification, no garages, sheds, or other outbuildings permitted by Class E of Schedule 2 Part 1 of the 2015 Order shall be erected or constructed;
- 8) Before the development hereby approved is occupied, the turning/manoeuvring and parking areas shown on Drawing Number 2904:406/002 Rev. C shall have been constructed. Thereafter, these areas shall be permanently maintained, kept free from obstruction, and available for the purposes specified.