



Appeal Decision

Site visit made on 2 November 2023 by R Dickson BSc (Hons) MSc MRTPI

Decision by John Morrison BA (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 31 January 2024

Appeal Ref: APP/D1265/W/23/3323638

11 Molverley Gardens, Wimbourne Minster, Dorset BH21 1HJ

- 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 & Mrs Simon & Pauline Fisk against the decision of Dorset Council.
 - The application Ref P/FUL/2022/02630, dated 24 April 2022, was refused by notice dated 13 March 2023.
 - The development proposed is described as "sever plot and erect one new dwelling".
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Decision

1. The appeal is dismissed.

Appeal Procedure

2. The site visit was undertaken by a representative of the Inspector whose findings are set out below and to which the Inspector has had regard before deciding the appeal.

Main Issues

3. The effect of the proposed development on the character and appearance of the area, with specific regard to the Giddylake/Beaucroft Special Character Area (SCA).

Reasons

4. Molverley Gardens is a verdant and open cul-de-sac which, with the exception of the appeal site, consists of dwellings of a similar age and design with integral garages, and set on similar generous plots. The SCA is characterised by low density development with high architectural quality, plentiful space between buildings and significant tree and boundary hedges which provide screening and a backdrop for the houses.
5. No 11 is noticeably older than others in the street. It is set on a much larger and arguably anomalous plot. The entire garden is behind a large mature hedge, with an open entrance to the property on the upper part of the site, and a gated entrance to the lower part of the garden. This entry would form the new entrance to the proposed dwelling, with the large hedge being maintained. At present, there are limited views into the site from this angle.
6. Although the density of dwellings on the plot and subsequently in the area would increase, the siting of the proposed unit within the severed plot would not be dissimilar to others in Molverley Gardens. While some dwellings have more generous space between them, Nos 8 and 9 sit close to one another and other properties on the eastern side sit close to their neighbouring boundary.

As a result, the proposed dwelling would not appear to be out of character with the existing properties in terms of its siting within the plot.

7. I have not seen a comparison as to the amount of land take of the proposal with the relative plot size compared to others on Molverley Gardens. That said, and from the plans, it would appear that the amount of the plot to be built on would also be similar to the existing properties. Accordingly, the size of the proposal would appear to be consistent with the existing properties in the cul-de-sac, appearing neither too large, nor cramped. The gaps between buildings would thus remain consistent and given that the site is largely screened by mature hedging and would continue to be, it would integrate with its surroundings, having a very limited effect on the overall spaciousness of the cul-de-sac and, by association, the wider SCA. I note the use of a detached garage in the design of the scheme, which is uncommon, but its own siting would not unacceptably compromise the spaciousness of the eventual plot. It would also be subservient to its host.
8. With this and the above in mind, the proposal would not detract from the character or appearance of the area, including the SCA. As such it would accord with Policy HE2 of the Christchurch and East Dorset Local Plan Part 1 – Core Strategy 2014 which seeks to deliver high quality development which reflects and enhances areas of recognised local distinctiveness.

Other Matters

9. The Council can currently only demonstrate 4.15 years supply of deliverable housing sites. On this basis, and in regard to the particular circumstances of the case, paragraph 11 d) ii) of the National Planning Policy Framework 2023 (the Framework) should be applied. This sets out that the most important policies would be out of date and planning permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole. As no harm has been found in regard to the main issue, there are no matters of planning merit to balance against the benefits of the appeal scheme. Which would, in any case, comply with the relevant policies of the development plan. The action of paragraph 11 d) ii) does not therefore alter my findings nor the outcome of the appeal.
10. Towards the boundary of the garden with Rowlands Hill there are several mature trees which contribute positively to the Rowlands Hill/St Johns Hill Conservation Area (CA), which sits adjacent to the site. The submitted Tree Protection Plan shows that the proposal would be compatible with the trees and would therefore not have a harmful impact on the CA through any potential loss. The Council have not raised any objections as to the effect of the appeal scheme on the setting of the CA and I have no reason to disagree.

Conclusion

11. For the reasons given above, the proposed development would not be harmful in planning terms and, consequently, would comply with the development plan.

R Dickson

APPEAL PLANNING OFFICER

Inspector's Decision

12. The appeal site is subject to an extant agreement under Section 106 of the Town and Country Planning Act 1990. The agreement precludes the future severance of the plot to No 11 in the interests of maintaining the density of the immediate area and, by association, the particular characteristics of the SCA. The Council have confirmed that, for development to take place, the agreement would have to be varied. I can see that the appeal site is within the area defined by the extant agreement.
13. Whilst my representative has found no harm arising out of the main issue, harm which is closely aligned to the reasons behind the agreement as it was originally completed, whilst it is still extant, no physical development would be able to take place should a planning permission be granted. In addition, there is no variation of the agreement with the appeal documents. Furthermore, the extant agreement is a binding legal document. It cannot be unilaterally revoked by one of the parties at appeal. Nor can it be revoked by a condition attached to a subsequent permission.
14. With this in mind, and notwithstanding my representative's findings on the planning merits of the appeal scheme with which I agree, I am unable to allow the appeal. It therefore has to be dismissed.
15. I am also aware that the proposed development, due to its nature and location, has the potential to have significant adverse effects on the integrity of protected habitat sites. I have seen the Council's evidence in this regard and specifically their relevant adopted strategies. I am also cognisant of my obligations under the relevant regulations as the competent authority in making this decision. Since I am dismissing the appeal however, I have not considered the matter further.

John Morrison

INSPECTOR