



Appeal Decision

Site visit made on 29 October 2024

by C Rose BA (Hons) BTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 19 November 2024

Appeal Ref: APP/D1265/W/24/3339527

Land to the East of Grove Hill, Martinstown DT2 9JP

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant consent, agreement or approval to details required by a condition of a planning permission.
 - The appeal is made by Mr and Mrs Gerald, Rosemary Duke against the decision of Dorset Council.
 - The application Ref P/RES/2022/07407 sought approval of details pursuant to condition No 2 of outline planning permission Ref WD/D/19/002051, granted on 24 March 2020.
 - The application was refused by notice dated 18 January 2024.
 - The development proposed is Approval of the details of the layout, scale and appearance of the buildings, the means of access thereto and the landscaping of the site.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The description of development in the banner heading above is taken from the application form as neither party has provided written confirmation that a revised description has been agreed.
3. Permission is sought for reserved matters following the grant of outline planning permission. All matters were reserved for future consideration as part of that permission. I have determined this appeal accordingly.
4. The appeal is accompanied by the submission of drawing number PL02 Rev B Proposed House Plans and Elevations detailing the use of Purbeck Stone at ground floor on all elevations of the proposed dwelling. This plan supersedes drawing number PL02 Rev A and relates to the first, second and third reasons for refusal. Although the amended plan has not been subject to formal public consultation, the Council has commented on it as part of this appeal. In light of this, and given my findings below, I am satisfied that no party would be prejudiced by my acceptance of this amended plan. Therefore, having regard to the principles of Holborn¹, acceptance of the plan would not be procedurally unfair and as a result I have considered it in determining this appeal.

Main Issues

5. The main issues are the effect of the proposal on:

¹ Holborn Studios Ltd v The Council of the London Borough of Hackney [2017] EWHC 2823 (Admin)

- the character and appearance of the area, having regard to the site's location within the Dorset National Landscape and including whether it would preserve or enhance the significance of the Winterbourne St Martin Conservation Area;
- flood risk with particular regard to groundwater levels; and,
- the living conditions of nearby occupiers on Hardy Close with particular regard to outlook

Reasons

6. The appeal site is located to the southern edge of Martinstown where built development is situated to both sides of the main road through the village off a number of cul-de-sacs. The appeal site comprises an open field to the rear of two-storey dwellings on Hardy Close that raises steeply up from the village.
7. The core of the village comprises the Winterbourne St. Martin Conservation Area (CA). The appeal site and Hardy Close lie outside of, but adjoin, the CA. The Winterbourne St Martin Conservation Area Appraisal (the Appraisal) identifies the key characteristics of the CA as including the rural setting of the village, which nestles in the Winterbourne valley with the chalk Downland on either side, of which the appeal site forms part of. As a result, the chalk Downland either side of the village, and including the appeal site, form part of the setting to the CA. The Appraisal also identifies two Rights of Way close to the appeal site. One of which runs along Grove Hill directly past the appeal site.
8. The appeal site falls within the Dorset National Landscape (DNL), formally the Dorset Area of Outstanding Natural Beauty (AONB). The DNL is a landscape of national importance. The National Planning Policy Framework (the Framework) states that great weight should be given to conserving and enhancing the landscape and scenic beauty of the AONB's. This guidance is reflected in Policy ENV1 of the West Dorset, Weymouth and Portland Local Plan 2015 (LP) that states that development which harms the character, special qualities or natural beauty of the AONB, including its sense of remoteness, will not be permitted.
9. The West Dorset Landscape Character Assessment (February 2009) identifies the site as lying within the South Dorset Downs landscape character area which in part is characterised by broad, open and rolling downland, with gentle convex slopes and small-broad valleys.

Character and appearance

10. The proposed two-storey dwelling would be accessed off Grove Hill and located fairly centrally within the site. In order to cater for the sloping nature of the land, the dwelling would be cut into the hillside such that the ground floor would generally be below existing ground level. As a result, part of the site would be excavated to a significant degree.
11. Due to the location of the majority of dwellings to the south side of the village being within the valley floor on less steeply rising land, the immediate area around the appeal site is not characterised by dwellings sitting within plots excavated to a similar extent. While I acknowledge that a very limited number of properties off Manor Grove to the east of the appeal site deal with rising levels through split level plots, and acknowledge that some excavation may be necessary given the sloping nature of the site, I saw no examples of dwellings

excavated into the hillside to the extent of the appeal proposal at the time of my site visit and no examples have been drawn to my attention. I note that the commercial building to the west of the site has been constructed into the hillside, but this is not residential and is not characteristic of the area or CA as a whole. As a result, its presence does not justify the proposal.

12. Furthermore, by reason of a combination of the extent of excavation and position centrally within the plot, the proposed dwelling would be visually detached from the existing built form. As a result, it would have a closer visual association with the open land within the DNL forming part of the rising chalk land and valley, particularly when viewed from Grove Hill. Given that the CA and DNL are partly characterised by tight-knit development that does not extend excessively up and into the rising chalk land to either side of the village, the proposal would depart from the established built form and as a result would be harmful to the setting of the wider CA and fail to conserve the landscape and scenic beauty of the DNL.
13. I have had regard to the presence of existing built form at Manor Grove and to the north side of the village. However, I do not find these directly comparable to the appeal proposal as that built form comprises a tightly knit shape of development closely following the village edge. In comparison, the appeal proposal would appear slightly detached from the built form of the village in a more open context.
14. With regard to the concerns raised by the Council concerning window detailing and openings, I acknowledge that the CA is predominately characterised by dwellings comprising traditional sized window opening and detailing. This is reflected in the Appraisal that identifies the use of traditional materials and architectural details. Notwithstanding, the appeal site sits outside of the CA adjoining and viewed in association with more modern development at Hardy Close and Manor Grove. Furthermore, the largest openings would not be readily visible from the public domain, a number of windows contain glazing bars similar to more modern developments, and I do not find the materials, size of the proposed dwelling or its rectilinear form to be particularly bulky or alien in comparison to nearby built form of similar size as referred to by the appellant. It is noteworthy that the Council raise no concerns regarding materials. Therefore, and despite the more modern openings, the appearance of the dwelling in isolation from the extent of excavation would not harm the character or appearance of the area or wider CA.
15. While I acknowledge the plans submitted as part of the outline planning application show a dwelling partly excavated into the site in a similar position, as all matters were reserved at that stage, the plans were indicative only and do not form part of that formal proposal. As a result, only the principle of a dwelling was approved at that stage, with the extent of any excavation not certain or for consideration. While the Council found that a form of residential development would be acceptable, this does not mean that every form of development would be acceptable as these matters are for consideration as part of the consideration of the reserve matters. I do not therefore find that these plans or the outline consent justify the current proposal. For the same reasons I do not find that the Council are using the current application to revisit the principle of development.

16. I have had regard to the provision of landscaping to the site, but such planting would take time to establish, particularly on a chalky bank, would not screen the building or site in totality and would not hide the extent of excavation from the access off Grove Hill.
17. I therefore find that despite a lack of harm from the bulk, rectilinear form, and detailing, due to the extent of excavation, the proposal would harm the character and appearance of the area, fail to conserve and enhance the landscape and scenic beauty of the Dorset National Landscape (to which I have given great weight) and fail to preserve or enhance the setting of the Winterbourne St Martin Conservation Area. As such, the proposal conflicts with the requirements of LP Policies ENV1, ENV4, ENV10, and ENV12. Amongst other things, these stipulate, that development will not be permitted that harm the character, special qualities or natural beauty of the Dorset Area of Outstanding Natural Beauty, that development should conserve and where appropriate enhance the significance of heritage assets, are compatible with the character of the site and its surroundings and achieve a high quality design in harmony with the area as a whole. The proposal would also be contrary to paragraph 135 of the Framework that states that development should be sympathetic to local character and history, including the surrounding built environment.

Flood risk

18. While the site lies within Flood Zone 1, the evidence indicates that there is a high risk of groundwater flooding due to the proposed depth of excavation to construct the dwelling, topography, and water table levels.
19. I have considered that there is a condition related to surface water drainage on the outline permission, however this relates to the drainage of water running off surfaces. As such I do not consider that this condition covers any effect on groundwater/the water table.
20. As stated above, while I acknowledge the plans submitted as part of the outline planning application show a dwelling partly excavated into the site, as all matters were reserved at that stage, the plans were indicative only and the extent of any excavation at that stage was not certain or for consideration.
21. As the extent of excavation is only known for sure as part of the consideration of reserve matters, it is appropriate for the Council to raise the matter at this stage, following discussions with its flood management team. While I acknowledge that the appellant's firsthand experience over 60 years is that the site is not subject to flood risk, acknowledge the commercial development on the adjoining site, and note the contents of the Flood Risk Assessment in this regard, the detail is limited, the works were some time ago and do not provide certainty that the extent of excavation now proposed would not have an adverse effect.
22. Consequently, in the absence of further information, I cannot be sure that the proposed development would not adversely affect flood risk with particular regard to groundwater levels. Therefore, it would conflict with LP Policy ENV5 which, amongst other things, states that new development should be planned to avoid the risk of flooding from groundwater where possible and minimise the risk of flooding by ensuring that development will not exacerbate flooding elsewhere.

23. For the same reasons, the proposal would be contrary to Paragraph 173 of the Framework that states that local planning authorities should ensure that flood risk is not increased elsewhere.

Living conditions

24. The proposed dwelling would be located to the south of existing two-storey dwellings on Hardy Close on rising land.
25. I acknowledge that the ground floor of the proposed dwelling would be above the eaves height of properties on Hardy Close. Nonetheless, by reason of a combination of its excavation and distances of approximately 16m to the rear garden boundaries of the closest dwelling on Hardy Close, and just in excess of 32m to their rear elevations, the proposed bulk of the dwelling would not have an oppressive or overbearing effect on occupiers of these properties or result in detrimental levels of overlooking.
26. Furthermore, there is intervening boundary planting to the rear of the closest properties on Hardy Close with the ground floor of the proposal set behind excavated land. These would partly screen the proposal from the ground floor of these properties.
27. It follows from the above that the proposal would not harm the living conditions of nearby occupiers on Hardy Close with particular regard to outlook. As such, it would comply with LP Policy ENV16 that, amongst other things, states that proposals should be designed to minimise their impact on amenity and quiet enjoyment of both existing and future residents, and do not have a significant effect on the amenity of the occupiers of properties through overbearing impact.

Other Matters

28. The Councils' sixth reason for refusal raises concerns regarding likely significant effects on the Poole Harbour Site of Special Scientific Interest, Special Protection Area and Ramsar sites. However, as I am dismissing the appeal for other reasons, I do not need to consider this matter or the related duties under the Conservation of Habitats and Species Regulations 2017 further.
29. While there is no dispute between the main parties that the proposed access is acceptable, and I have found no harm above with regard to the scale of development and appearance of the dwelling, this does not address the harm identified by virtue of the excavation.

Planning Balance and Conclusion

30. Given the small scale and localised effect of the proposal, it would result in 'less than substantial harm' to the setting of the Conservation Area as a designated heritage asset. It is important to note that 'less than substantial harm' does not equate to a less than substantial planning objection.
31. Paragraph 208 of the Framework requires that 'less than substantial harm' should be weighed against the public benefits of the proposal. I acknowledge the proposal would result in some public benefits, i.e. the provision of a low carbon dwelling boosting the supply of homes, provide a high standard of living, associated contribution to the local economy and community, improved biodiversity, associated jobs, Council Tax and spend from construction and

occupants. However, given the small scale of the proposal, the benefits are limited and do not outweigh the 'less than substantial harm' to the Conservation Area as a whole.

32. Although I have found no harm, with regard to access, scale, the proposed appearance of the building or to the living conditions of nearby occupiers, the proposal would cause harm to the character and appearance of the area, fail to preserve or enhance the character or appearance of the CA, fail to conserve the landscape and scenic beauty of the DNL and harm flood risk. In my view, these are the prevailing considerations, and the proposal should be regarded as being in conflict with the development plan, when read as a whole.
33. There are no material considerations, including the Framework and benefits outlined above, that indicate that the proposal should be determined other than in accordance with the development plan.
34. For the above reasons, and having considered all other matters raised, I therefore conclude the appeal should be dismissed.

C Rose

INSPECTOR