



Appeal Decision

Site visit made on 13 May 2025

by **J J Evans BA (Hons) MA MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 09 June 2025

Appeal Ref: APP/D1265/W/24/3353923

South View, Weston Road, Easton, Portland, Dorset DT5 2BY

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission.
 - The appeal is made by Mr David Hicks against the decision of Dorset Council.
 - The application Ref is P/FUL/2024/01698.
 - The development proposed is the erection of a dwelling-house.
-

Decision

1. The appeal is dismissed.

Preliminary Matters

2. 53 Weston Road and High Croft Cottage (ie 51 Weston Road) are grade II listed buildings in the Weston Conservation Area. As required by Sections 66 and 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 (the Act) special regard has been paid to the desirability of preserving a listed building or its setting or any features of special architectural or historic interest which it possesses, and of preserving or enhancing the character or appearance of a conservation area.

Main Issues

3. The main issues in this case are:
 - the effect upon the character and appearance of the area, having particular regard to whether the scheme would preserve the settings of nearby listed buildings, and whether it would preserve or enhance the character or appearance of the conservation area; and
 - the effect of the scheme upon the living conditions of nearby residents, having particular regard to outlook.

Reasons

Character and Appearance

4. The appeal site is part of the rear garden of South View and is positioned to one side of Gypsy Lane. The garden comprises lawns with shrub borders, a few trees, a garage and driveway, and two timber outbuildings. Adjacent to the lane is a mature hedge, and to the other boundaries of the site there are the gardens of nearby houses. Beyond the lane is a row of houses that abut or are very close to the public highway, to the rear of which are paddocks and fields.

5. A distinctive feature of the conservation area is the juxtaposition of a variety of open spaces with long lines of houses. Weston Road is a broad road with wide verges either side that in turn are framed by houses. In addition to these rows of houses there are others near to Weston Green and along Gypsy Lane. Weston Green is an area of public open space, and there are also other expansive open spaces separating the rows of houses that include private gardens. The presence of boundary walls and houses that abut or are very close to the public highway gives a defined definition and enclosure to the public and private realms. These features, along with the repeated presence of simply styled, mostly two storey houses, many of which are constructed from the strikingly coloured local stone, are all part of the significance of the conservation area.
6. Gypsy Lane is narrow in breadth, with no footways, and the proximity of the houses to one side creates an intimate enclosure of the highway. The houses form a long line to the eastern side of the lane, and the repeated presence of mostly historic, modestly styled, similarly sized houses that front the public highway and overlook the gardens opposite, makes a positive contribution to the character and appearance of the conservation area.
7. Amongst this line of houses there are two distinctive buildings, High Croft Cottage and 53 Weston Road (No 53). These houses are next to each other and both are listed. The latter is at one end of a terraced row that gently sweeps up the lane, and its age, its simple, plain form, its modest size, and its 12-pane sash windows, are all part of its special architectural and historic interest. Next to it is High Croft Cottage, and compared to the simplicity of No 53, this thatched roof house makes an eye-catching contrast, and particularly so given its position on a bend in the lane. The detached nature of this house, its vernacular style, materials and form, all denotes its age, dating as it does from the seventeenth century. These features, along with it being set back from the highway behind a stone-cheeked porch, and its sweeping thatched roof, are all part of its special architectural and historic interest.
8. These listed buildings form part of the row of houses to one side of the lane, and they make a positive contribution to the lane and to the character and appearance of the conservation area. The curved nature of the lane draws the eye to these houses when travelling along the road. In addition, both are visible from long distances away, and they can be seen from numerous public vantage points, including as far away as the public footpaths to the north.
9. Although the site has not been designated as an important local gap, it contributes to the significance of the conservation area in that it is part of a large open area that comprises a cluster of generously sized residential gardens that are framed by the houses along Weston Road and by the long row of houses to one side of Gypsy Lane. These gardens and the appeal site form an expansive area of open space that is not only a distinct element of the character and appearance of the conservation area, but also forms part of the settings of the two listed buildings as it allows them to be seen and experienced from long distances away.
10. The provision of a detached dwelling would harmfully interrupt the open nature of the western side of the lane, thereby conspicuously eroding the spaciousness that the site contributes to the area. The dwelling would not form part of a row, but would appear curiously separated from nearby houses, and given this positioning it would be intrusive, thereby drawing the eye away from the listed buildings as well

as effectively concealing them within distance views, such as that available from the public footpath near to Eastville Cottages.

11. Furthermore, the detached nature of the house and its form would appear very different to the modestly sized, simply formed and detailed two-storey houses that frame Gypsy Lane. The house would be set down in the hillside and also back from the public highway. Despite this and the use of local stone, the front gable detailing and the variety of window sizes within the front elevation, would fail to reflect or harmonise with the simplicity of the style and form of the nearby houses, including those opposite that have been identified as locally important within the Appraisal of Conservation Areas of Portland (2017). Such differences would serve to exaggerate the jarring impact of the scheme upon the settings of the listed buildings. Although there are a variety of house types in the wider area, the provision of the dwelling would fail to accord with the distinct character and appearance of the conservation area.
12. Whilst the plot size may be larger than others nearby, the house would be positioned close to two boundaries, and it would thereby appear as constrained. There are a few garages and outbuildings to the western side of the lane, along with a variety of boundary treatments that include walls and tall hedges. This legible ancillary residential nature distinctly contrasts the close-knit row of houses. Another dwelling may be expected in an essentially residential area, but in this case it would be a discordant presence that would fail to accord with its context. The provision of a landscaped boundary to the lane may soften the impact of the scheme. However, landscaping cannot be relied upon to screen a development for its lifetime, and particularly so in this instance given the shallow depth of the front garden of the proposed dwelling.
13. The appellant has referred to the site having the benefit of permitted development rights. Nevertheless, Class E, Part 1, Schedule 2 of the General Permitted Development Order (2015) (as amended) would not permit the erection of a detached house, and any development that could occur would be incidental to the enjoyment of the host dwelling and smaller in size than the building proposed. As regards the dwelling permitted near 33 Park Road, this is not within a conservation area and is positioned between other dwellings, thereby having a very different context than the appeal scheme. As such it does not form a binding precedent for allowing the appeal.
14. The National Planning Policy Framework (the Framework) requires that when considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation. For the reasons given above the works would have a harmful impact upon the setting of nearby listed buildings and also upon the character and appearance of the conservation area. These harms would be less than substantial as the scheme would affect only part of the settings and conservation area, although such harms would be of considerable importance and weight. Under such circumstances, the Framework advises that where development would lead to less than substantial harm, this harm should be weighed against the public benefits of the works.
15. The appellant considers the scheme would provide an additional dwelling upon a windfall site that would make an efficient use of land, all of which are objectives of the Framework. There would be other social and also environmental benefits

arising from an energy efficient dwelling, with future occupiers being near to and able to support local services and facilities. However, the Framework attributes great weight to the conservation of designated heritage assets, and the benefits arising from a single dwelling would be modest, and would not outweigh the considerable harm to the conservation area and to the settings of the nearby listed buildings.

16. For these reasons the scheme would result in unacceptable harm to the character and appearance of the area, and would neither preserve the settings of nearby listed buildings, nor preserve or enhance the character or appearance of the conservation area. The suggested conditions would not overcome these harms. There would be conflict with the Act and with Policies ENV4, ENV10 and ENV12 of the West Dorset, Weymouth and Portland Local Plan (2015) (LP) and with Policies PORT/EN4 and PORT/EN7 of the Portland Neighbourhood Plan (2021) as these require, amongst other things, that development should be informed by the character of the site and its surroundings, actively reinforce sense of place, and conserve and where appropriate enhance the significance of designated heritage assets.

Living Conditions

17. The house has been carefully designed to minimise overlooking to nearby residents in Corner House and those within the terrace of houses opposite. However, the height, size and proximity of the dwelling to the terrace would result in an oppressive and dominating outlook for the occupiers of these houses. Even though the house would be set back from the lane and down into the slope, such measures would do little to mitigate the overbearing proximity of the dwelling to nearby houses. Views from the front elevation windows of these homes would be directly onto the dwelling and would form a harmfully dominant enclosure of their outlook, as well as reducing light levels when the sun was low in the sky.
18. Although the house would have a roof that would slope away from the nearby terrace, the dwelling would be taller than the eaves of the houses opposite. The set back from the public highway would provide some relief from the oppressive immediacy of the outlook for nearby residents, but the narrow nature of the lane is such that the house would dominate. There is an existing level of enclosure to the western side of the lane due to the presence of tall hedges, walls and single storey outbuildings. However, none of the walls or buildings has a comparable size and height to that proposed, and of the existing outbuildings that do abut the highway, they are mostly at the top of the lane, and do not form a direct outlook for any nearby houses.
19. Although the appellant considers the scheme would provide an additional dwelling that would make an efficient use of land, as required by the Framework, the Framework also requires a high standard of amenity for existing and future users. For the above reasons the scheme would not accord with this objective, and the suggested conditions would not ameliorate the harm. Although LP Policy ENV16 makes no reference to minimum separation distances between dwellings, this policy does require, amongst other things, that development should minimise impact upon the amenity of existing residents, including that it does not have a significant adverse effect as regards overbearing impact. Having regard to the findings above, the scheme would fail to accord with this policy.

Other Matters

20. The Council's officer report has referred to the appeal site being within 5km of the Chesil Beach and Fleet Ramsar, Special Area of Protection, and Special Area of Conservation. Natural England have advised that development which results in an increase of population may contribute to an unacceptable increase in recreational pressures upon these protected habitat sites. The Council has stated that a contribution for mitigation measures would be achieved through their Community Infrastructure Levy Charging Schedule. The Conservation of Habitats and Species Regulations (2017) require the decision maker to undertake an Appropriate Assessment where there are likely to be significant effects from the proposal, either alone or in combination with other schemes. This duty falls to occur with the appeal, and would include scrutinising measures to ensure that the integrity of the habitat sites would not be adversely affected. However, as the appeal is being dismissed for other reasons, this has not been necessary.
21. Local residents have raised a number of additional concerns, including access and parking issues, construction traffic, and conflict with other users of the lane. Following the findings on the main issues, there is no need for these matters to be considered further.
22. The appellant's concerns regarding the Council's handling of the application relate to procedural matters that fall to be pursued by other means separate from the appeal process.

Conclusion

23. There would be conflict with the development plan when considered as a whole, and there are no other considerations, including the requirements of the Framework, that outweigh this finding. Thus, for the reasons given above and having considered all other matters raised, the appeal is dismissed.

J J Evans

INSPECTOR