



Appeal Decision

Site visit made on 5 August 2025

by **O Marigold BSc DipTP MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 26th August 2025

Appeal Ref: APP/D1265/W/25/3358754

Barrodene, Grosvenor Road, Weymouth, Dorset DT4 7QL

- 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 Steve Smith against the decision of Dorset Council.
 - The application Ref is P/FUL/2023/04699.
 - The development proposed is erection of a dwelling.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. Since the determination of the planning application by the Council, a revised National Planning Policy Framework (the Framework) has been published. The parties have had the opportunity to comment on this, and I have made my determination against the updated national policy context.

Main Issues

3. The main issues are:
 - the effect of the proposal on the character and appearance of the area, including the Lodmoor Conservation Area (CA) and trees protected by a Tree Preservation Order (TPO), and
 - the effect of the proposal on the risks and impacts of flooding, including the sequential test.

Reasons

Character and Appearance

4. Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 (the Act) requires that I pay special attention to the desirability of preserving or enhancing the character or appearance of the CA. The CA has many large Victorian and Edwardian properties with traditional features and detailing, most in residential occupation. The CA includes many mature trees giving the area a sylvan appearance. Relevant to this appeal, its significance is its attractive, treed character.
5. Barrodene consists of a large building of character, divided into flats, on the corner of Grosvenor Road and Westbourne Road. It has a garden area to the side, which includes frontage trees protected by a TPO, which positively contribute to the

verdant character of the area. The application proposes to erect a detached dwelling within the side garden. This would have windows serving habitable rooms facing towards the trees. An amenity space and a vehicular turning area at the front are also proposed.

6. The evidence before me is that the roots of the protected trees extend beneath the pavement and road adjacent to the site. As such, together with other measures, there is little dispute that the dwelling could be constructed without physical harm to the trees. The new dwelling and its driveway would be located further away from the trees than the flatted building proposed during an earlier dismissed appeal¹.
7. The dwelling would be outside of the canopy or driplines of the frontage trees, and the canopies extend away from the property. That said, the tree canopies may still increase in size, particularly the relatively recently planted sycamore (T8), which replaced a previous tree². In any case, although not the only amenity space available to future occupiers, there is no dispute that the front garden area of the proposed dwelling would be dominated by the existing trees.
8. Given the close proximity and large size of the trees, they would be an oppressive presence to future occupiers of the dwelling, now and in the future. I am concerned that the relationship with the tall trees would adversely affect the outlook available to the house and garden to the front, as well as its perception.
9. Large front bays and other windows and rooflights would maximise the availability of light to the dwelling, and occupiers would have a choice of rooms. The 2025 Arboricultural Impact Assessment includes shading diagrams. Nevertheless, it states that no detailed assessment has been undertaken of the potential conflict between future site use and the shade cast by trees. Nor does it rule out requests for pruning by residents of the dwelling.
10. Furthermore, as accepted by the appellant, the front elevation and garden of the new dwelling would be shaded by its orientation, and the trees would also affect available daylight. With restricted light, future occupiers may well seek to reduce or remove the trees. Fallen tree debris and bird mess would add to the deleterious effects and inconvenience to occupiers of the proposal.
11. My attention has been drawn to other properties that are close to and face towards trees in the local area, including in respect of Barrodene itself. However, I do not have full details of the planning histories of all the examples, and future occupiers cannot be assumed to be tolerant of the negative effects of the trees on their living arrangements. They may well put pressure on the Council for the trees at the appeal site to be significantly pruned or felled. Once occupied, such requests would be difficult for the Council to resist, despite the TPO.
12. Consequently, the relationship between the proposal and the trees would be unsustainable, making harm to them and their contribution to the area likely. This in turn would undermine the sylvan significance and character of the area. For the reasons given above, the proposal would harm the character and appearance of the area, including the CA as a whole.

¹ PINS reference APP/P1235/W/17/3171725

² LPA reference P/TRT/2021/01699

13. As a result, the proposal would conflict with policies ENV4, ENV10, ENV12 and ENV16 of the West Dorset, Weymouth and Portland Local Plan (the Local Plan), adopted October 2015. These require development to conserve the significance of heritage assets, to respect local character including trees, and to avoid significant impacts on amenity through overshadowing or loss of light.
14. For the same reasons, the proposal would not accord with the similar requirements of the Framework, or the Act. I give great weight to the conservation of the designated heritage asset, as required by Framework paragraph 212. In the language of the Framework, the harm to the CA would be less than substantial and so should be weighed against public benefits, which I will undertake under Other Considerations, below.

Flooding

15. Parts of the site of the proposed dwelling are within a natural depression, with hollows where ground levels are lower than the land surrounding it. The site is within Flood Zone 1. However, as identified in the Flood Risk Assessment and Drainage Strategy (FRA), dated July 2025, there is a low to medium risk of pluvial or surface water pooling, caused by the low spot in the land and resultant accumulation of water. Furthermore, the strata underlying the site is likely to have poor infiltration rates.
16. The effects of the proposal would be localised, with no hydraulic connectivity to wider areas. Even so, where there is a risk of flooding, the Framework requires that a sequential approach is taken, steering development to areas of lowest flood risk if possible. This includes in relation to surface water flooding.
17. The proposal includes measures to deal with this issue, by way of a positive drainage strategy and system. This would include permeable paving, the collection of water from the site, and its discharge to the existing surface water sewer, as well as the re-grading of ground levels. The proposed dwelling and its floor level would be positioned above any latent flooding. The FRA makes allowances for climate change.
18. However, the re-grading of the site levels could well increase surface water flood risk within the surrounding area. Exceedance flow paths have not been provided to show otherwise, or the freeboard that the finished floor levels would provide. Nor do I have confirmation from the water company of any agreement to a connection with the public surface water sewer.
19. The PPG³ seeks avoidance over mitigation, thereby placing the least reliance on property-level resilience features, such as those proposed here, as the most effective way of addressing flood risk. As such, it makes clear that the sequential test needs to be satisfied, even where an FRA shows that the development can be made safe throughout its lifetime without increasing risk elsewhere.
20. Framework paragraph 175 makes exceptions to the application of the sequential test. Relevant to this appeal, these include where an FRA demonstrates that no built development including land raising within the site boundary would be within an area at risk of flooding, now or in the future. In this case, the site is currently within an area at risk from flooding and, for the reasons given above, it has not

³ Paragraph: 023 Reference ID: 7-023-20220825

been shown that the risk would be removed. Accordingly, I am not satisfied that the exception applies.

21. The Council has provided details of potential alternative sites based on the Local Plan area. The FRA does not identify or assess any alternative available sites or apply the sequential test. Consequently, the sequential test is not passed and so the exception test does not apply.
22. For the reasons given above, I conclude that the proposal would have harmful effects in respect of the impacts and risks of flooding, including failing to comply with the sequential test. It would therefore conflict with Local Plan Policy ENV5 which requires that development is steered towards areas at lowest flood risk, and that it does not exacerbate flooding. It would similarly conflict with the Framework. I give this harm substantial weight.

Other Considerations

23. Construction of the proposal would make a positive economic contribution locally, for instance to the building industry. Its future occupiers would also generate social and economic benefits. It would add to housing land supply, result in the efficient use of land, be close to services and facilities, and could be delivered quickly. The proposal would include ecological enhancements.
24. That said, as a single dwelling, these benefits would be modest and so I give them limited positive weight. Consequently, I conclude that the public benefits of the proposal are not sufficient to outweigh the less than substantial harm to the CA. Nor do these benefits outweigh the overall harm that I have identified above.
25. The proposal lies within an area where it may affect the Chesil & The Fleet Special Area of Conservation (SAC), Special Protection Area (SPA) and Ramsar site. These are protected pursuant to the Conservation of Habitats Regulations 2017. Had I found no harm in respect of the main issues, as competent authority I would have carried out an Appropriate Assessment in respect of the potential effects on the SAC and SPA. However, as the balance of considerations is against the proposal, this matter need not be considered any further in this case.

Planning Balance and Conclusion

26. For the reasons given, I have found conflict with the Development Plan as a whole. The material considerations in this case, and the weight I give to them, 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