



Appeal Decision

Site visit made on 2 September 2025

by **B Astley-Serougi BA(Hons) LLM MSc MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 23 September 2025

Appeal Ref: APP/D1265/W/25/3365374

The Old Malthouse, High Street, Langton Matravers, Dorset BH19 3HB

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission under section 73 of the Town and Country Planning Act 1990 (as amended) for the development of land without complying with conditions subject to which a previous planning permission was granted.
- The appeal is made by Old Malthouse (Purbeck) Limited against the decision of Dorset Council.
- The application Ref is P/VOC/2024/07523.
- The application sought planning permission for Redevelopment of site including demolition of several school buildings, conversion & construction of new buildings to provide 19 dwellings with vehicular access, off street parking, gardens & landscaping without complying with a condition attached to planning permission Ref P/VOC/2024/04675, dated 29 November 2024.
- The condition in dispute is No 20 which states that:
The dwellings hereby approved shall only be occupied by persons as their sole or principal residence and verifiable evidence to demonstrate proof of compliance shall be made available to the Local Planning Authority within 14 days of receipt of their reasonable request.
- The reason given for the condition is:
To ensure that the approved properties are not used as second homes in accordance with policy H14 of the Purbeck Local Plan 2024 in the interests of the sustainability of local communities and meeting local housing need.

Decision

1. The appeal is dismissed.

Applications for costs

2. An application for costs was made by Old Malthouse (Purbeck) Limited against the decision of Dorset Council. This application is subject to a separate decision.

Preliminary Matters

3. The application form states the description of development as '*Variation of condition to approved application P/VOC/2023/04930 (To make minor changes to approved plans of application 6/2019/0604 in order to facilitate more efficient internal configuration, building regulation requirements and other functional reasons, including changes to the elevations of some of the dwelling houses and to provide detached rather than semi-detached dwelling and provide a more traditional and vernacular appearance relative to the area and development as a whole.) Variation of condition 1 of approved application - to make minor material amendments to the approved elevation and floor plans.*' However, the description of development used by the Council on the decision notice is more precise, given that the appellant seeks to remove condition 20. I have therefore used this in the banner heading.
4. As the site is within the Dorset National Landscape (the DNL) I have paid regard to my duty under Section 85 of the Countryside and Rights of Way Act 2000 (as

amended) to seek to further the purpose of conserving and enhancing the natural beauty of the area.

Main Issue

5. The disputed condition prevents the appeal scheme dwellings from being used as second homes in order to benefit sustainable communities. Therefore, the main issue in this appeal is whether the condition is reasonable and necessary having regard to sustainable communities.

Reasons

6. Planning Practice Guidance (PPG) outlines that Permission granted under Section 73 of the Town and Country Planning Act 1990 (as amended) (S73) takes effect as a new, independent permission to carry out the same development as previously permitted subject to new or amended conditions.¹
7. S73(2)(a) highlights that a local planning authority shall consider only the question of the conditions subject to which planning permission should be granted and if they decide that planning permission should be granted subject to conditions differing from those subject to which the previous permission was granted, then the planning permission should be granted accordingly.
8. It further outlines that new conditions can be imposed provided that they do not alter the development that was subject to the original permission and that the conditions could have been imposed on the earlier planning permission.²
9. The Flexible Options for Planning Permission chapter of the PPG is relevant for S73 applications. It highlights in Annex A: Summary Comparison Table³ that applications under S73 should be considered against the Development Plan and notably, that attention should focus upon national and development plan policies and other material considerations which may have changed significantly since the original grant of permission.
10. Therefore, given all of the above, it is, in my judgement, reasonable to consider the Purbeck Local Plan 2024 given it was adopted in July 2024 (the PLP) after the original permission.
11. Policy H14 of the PLP provides, support for new housing in the DNL as long as there is a restriction in perpetuity to ensure that the dwellings are occupied as principal residences only, unless one of the exemptions is met. The appeal site is located within the DNL in Langton Matravers. Consequently, Policy H14 of the PLP is relevant. Given that the appeal scheme would not result in new homes commercially let for holiday makers or the replacement of a single home, it does not constitute one of the exemptions.
12. Regarding whether the appeal scheme would provide new dwellings, the application form submitted by the appellant states that the development began in January 2024. However, there is limited substantive evidence before me to adequately demonstrate that the dwellings are completed and occupied. Consequently, in my judgement, the appeal scheme would, once completed and occupied, result in new dwellings. Accordingly, Policy H14 of the PLP is relevant.

¹ Paragraph: 015 Reference ID: 17a-015-20140306

² Paragraph: 040 Reference ID: 21a-040-20190723

³ Paragraph: 019 Reference ID: 17a-019-20140306

13. Given all of the above, condition 20 is, to my mind, necessary to ensure that the dwellings contribute to the sustainability of local communities and meeting local housing needs. Furthermore, given I have identified that S73 allows for new conditions to be imposed and considered against development plan policies which have changed since the original permission, I consider it to meet the tests outlined in paragraph 57 of the National Planning Policy Framework.
14. The appellant could implement an extant consent which does not have a condition restricting the use of the dwellings as principal residences as outlined in the PPG⁴. There is a greater than theoretical possibility that it would be implemented and thus attracts moderate weight. Nevertheless, whilst it is a material consideration, it does not justify the removal of condition 20 for the reasons outlined above regarding the sustainability of local communities and meeting local housing need.
15. In conclusion, the removal of condition 20 would conflict with Policy 14 of the PLP insofar as it seeks to ensure new dwellings contribute to the sustainability of local communities and meet local housing need.

Other Matters

16. The appeal site is located within the Langton Matravers Conservation Area (the CA). Section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires special attention to be paid to the desirability of preserving or enhancing the character or appearance of the conservation area. The CA is predominantly residential and contains a range of distinctive stone built vernacular house forms and building types. The general architectural unity and well-preserved quality of the CA contributes positively to the character and appearance of the CA as a whole and thereby to its significance as a designated heritage asset. Bearing in mind the extent, nature and location of the proposed development, the character and appearance of the CA as a whole would be preserved. I note that the Council raised no objection in this regard either. Nevertheless, this lack of harm weighs neutrally and does not amount to a consideration in support of the appeal or alter my conclusion on the main issue.
17. There is intervening development between the appeal site and the Grade II listed buildings known as 82 and 83 High Street. Mindful of the statutory duty set out in S66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 (the Act), I have had special regard to the desirability of preserving its setting. The significance of the listed buildings derives in part from their historic fabric and architectural features. Nevertheless, given the location of the appeal site, I consider that the significance of 82 and 83 High Street would not be harmed. A lack of harm in this respect, however, does not alter my overall conclusions.

Conclusion

18. The proposal conflicts with the development plan and the material considerations do not indicate that the appeal should be decided other than in accordance with it. For the reasons given above the appeal should be dismissed.

B Astley-Serougi

INSPECTOR

⁴ Paragraph: 015 Reference ID: 17a-015-20140306