

PLANNING COMMITTEE
Appeal Decisions

20 March 2019

1. PURPOSE AND RECOMMENDATIONS

Purpose of Report: To inform Members of notified appeals and appeal decisions and to take them into account as a material consideration in the Planning Committee's future decisions.

Recommendations: **It is RECOMMENDED that:**
(This report is for Information)

Wards: Eastern

1.0 Appeal Reference: APP/U1240/W/18/3215572

Planning Reference: 3/18/1544/FUL

Proposal: Demolish existing dwelling and erect four detached dwellings with car parking and garaging (as amended by plans rec'd 5/7/18)

Address: 44 Lake Road, Verwood, Dorset, BH31 6BX

Appeal dismissed

The application was refused under delegated powers.

The spacious appeal site lies within an established residential area, and the existing building is a detached two storey dwelling, with small ancillary outbuildings.

The Inspector considered the main issues to be the effect of the proposal on the character and appearance of the area, trees, and the living conditions of the neighbouring occupants of 46 Lake Road.

The appeal proposal which would substantially intensify development of the site by sub dividing into 4 plots, was considered to cause significant harm to the character and appearance of the area and conflict with Policies HE2 and LN2 of the Christchurch and East Dorset Core Strategy (2014).

With regards to trees, the Inspector was unable to conclude that the proposal could be accommodated without causing harm to mature trees, and therefore stated that it does not comply with Policies HE2 and HE3 of the Christchurch and East Dorset Core Strategy (2014).

The Inspector stated that the proposal would affect the outlook from within the garden at no. 46 due to its proximity, overall height & width of the rear elevation, and the pitched roof, and therefore adversely affect the enjoyment of private amenity space, combined with the ground level of Unit 2 of the

proposal being above that of no. 46. As such the Inspector concluded that the appeal scheme would have a harmful impact on the living conditions of the neighbouring occupants at no.46 and therefore does not accord with Policy HE2 of the Christchurch and East Dorset Core Strategy (2014).

For the reasons above, the Inspector concluded that the appeal should be dismissed.

2.0 Appeal Reference: APP/U1240/D/19/322770

Planning Reference: 3/18/2992/HOU

Proposal: Removal of existing Juliet style balcony from 1st floor kitchen patio doors and replace with safety spiral staircase and platform

Address: 37 Kiln Way, Verwood, Dorset BH31 6GE

Appeal allowed by decision letter dated 05 April 2019

The proposal is for *'Removal of existing Juliet style balcony from 1st floor kitchen patio doors and replace with safety spiral staircase and platform.'* Planning application 3/18/2992/HOU was refused on 12/11/2018 under delegated powers for the following reason:

'1. The elevated nature and siting and of the proposed platform and external staircase are considered to result in loss of privacy and overlooking, particularly to No's 30 & 32 Liederbach Drive and adjoining 35 Kiln Way contrary to Policy HE2 of the Core Strategy which required development to be compatible with its surroundings in terms of the relationship with nearby properties. For these reasons, the proposal is also contrary to the NPPF 2018, para 130 which states that permission should be refused for development of poor design that fails to take the opportunities available for improving the character and quality of an area and the way it functions.'

The Inspector noted that the appeal dwelling is a three storey end of terrace house in a modern residential estate and a balcony feature as per the proposal is a common feature within the locality, with some associated overlooking issues. The Inspector also considered that the platform leading to the proposed spiral staircase would be modest in dimensions (as a replacement to the Juliet balcony railings), and whilst there would be some degree of overlooking to the adjoining properties, these opportunities would be infrequent. The scale of the staircase was considered to be relatively modest and not overbearing to neighbouring occupants. As a result of the above, and further to site visits to the 3 neighbouring dwellings, the chance of loss of privacy to neighbouring occupants was considered to be very slight.

The Inspector concluded that the proposal would not give rise to a material level of overlooking or loss of privacy to the occupants of neighbouring dwellings, and therefore complied with Policy HE2 of the Christchurch and East Dorset Local Plan Part 1 – Core Strategy (2014).

The appeal was allowed subject to the following 3 conditions, with the standard time limit condition amended by the Inspector to ensure that the

platform and spiral staircase match the existing Juliet balconies, in terms of finish and character of the surrounding area.

3.0 Appeal Reference: APP/U1240/W/18/3210122

Planning Reference: 3/13/0513/FUL

Appeal Dismissed

Proposal: Construction of 3 No. chalet bungalows and access road as amended by plans and additional information received 5th August 2013 and 25th November 2013.

Address: Land adjacent to Oak Tree Cottage, Howe Lane, Verwood, Dorset, BH31 6JF

The appeal application sought planning permission for 3 no. chalet bungalows and access road without complying with a condition attached to planning permission 3/12/0513/FUL dated 5 June 2013.

The inspector noted that the condition regarding access had not been discharged by the Council as information was missing that prevented the Council from agreeing the construction method statement and specification for the proposed driveway. The appellant's position was that the majority of the information that was required to allow the development to commence on site has been provided and that outstanding information was minor and could be submitted without delaying commencement on site.

The Inspector considered that the main issue in this case was whether the condition was reasonable and necessary in the interest of protecting mature trees on the site.

There was no dispute over the value of the trees in question as highlighted by two previous appeals. The inspector concurred with the findings of both inspectors, given the significant amenity value of the TPO trees. The inspector agreed with the Council that all the information required for condition was required, including outstanding information; and that submitted plans are contradictory and would benefit in producing a concise detailed plan bringing all element of the proposed together.

To conclude, the inspector noted the first part of condition 9 cannot be discharged and that the disputed condition is reasonable and necessary.

4.0 Appeal Reference: APP/U1240/W/18/3217298

Planning Reference: 3/18/2339/FUL

Appeal Dismissed

Proposal: Erection of six cabins with associated open enclosures each to be occupied by a private collection of primates kept incidental to the enjoyment of the dwelling house as such

Address: Slough House, Slough Lane, Horton, BH21 7JL

The application was refused under delegated powers on the grounds that the proposed development would harm the openness of the Green Belt.

The appeal Inspector agreed with the Council that the proposed cabins and enclosures proposed to be constructed in front of the dwellinghouse would constitute inappropriate development and, notwithstanding the screening offered by the hedge, would result in moderate loss of openness.

The Inspector considered the fall back position that the structures in a different location might benefit from permitted development, but judged that there was insufficient information to conclude that they would be deemed incidental to the enjoyment of the dwellinghouse and only theoretical possibility that the fall back would be implemented. He dismissed the suggestion that a condition removing Class E permitted development rights for outbuildings could be imposed to avoid further harm, stating that this would only come into force once development had commenced and that the condition would not pass the test of necessity. The Inspector noted that the appellant had to find alternative living accommodation as a result of development of the M4 motorway but was not persuaded that re-location to this Green Belt location was necessary. He concluded that there were no very special circumstances to outweigh the harm to the Green Belt and dismissed the appeal.

5.0 Appeal Reference: APP/U1240/W/18/3212131

Planning Reference: 3/18/1420/FUL

Appeal Dismissed

Proposal: Erect a detached dwelling to be used as a holiday let, with associated vehicular access and parking

Address: Land adjacent to Heatherbank, Rushall Lane, Lytchett Matravers, BH16 6AJ

Permission was refused under delegated powers because it was judged to be inappropriate development in the Green Belt and failed to provide mitigation to avoid harm to Dorset Heathland.

Although the appeal site lies between two other properties the Inspector agreed with the Council that the site lay within the Green Belt where the proposed dwelling would be inappropriate and would result in harm to openness and represent encroachment into the countryside.

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The Inspector recognised that the proposal would generate some benefits in terms of employment opportunities but he gave the social and economic benefits only limited weight. In dismissing the appeal he noted that there were no very special circumstances to outweigh the harm to the Green Belt and the application failed to accord with the Habitats Regulations.