

Appeal Decisions

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:	Council-wide

3.0 APPEAL DECISIONS

3.1 Appeal Reference: APP/D1265/W/20/3258313

Planning Reference: 6/2020/0161

Proposal: Replace existing dwelling with detached house and erect additional dwelling adjacent. Form new access and parking

Address: 1A Battlemead, Swanage, Dorset BH19 1PH

Appeal: Allowed.

Application for costs: Refused

3.2 The application to replace an existing dwelling with a detached dwelling and erect an additional detached dwelling adjacent, with new vehicular access and parking was refuse consent, contrary to the officer recommendation of approval subject to conditions, by the Eastern Planning Committee on 29 July 2020. The Committee's reasons for refusal were: increase in density resulting in cramped appearance; failure to sensitively integrate with existing low density character; failure to reflect established building lines; bulk of development; contrived internal layout; and development not being affordable, suitable or decent housing.

3.3 The main issues of the appeal were:

(i) Effect on character and appearance of the area:

The Inspector noted that the plots would not appear unusually narrow within wider street scene; each house would be set back within the plot with driveways to the side and would appear spacious within street scene; the proposed staggered building lines provides logical design response and suitable transition between existing building lines; less

deep gardens are consistent with the character of the site and adjacent plot (1A and no 37); the neutral increase in density would not be harmful; street facing elevations and height of two dwellings would be more consistent with the Battlemead street scene than the existing side-on appearance and would represent an enhancement. The Inspector concluded that the proposed development would not have an unacceptably harmful effect on the character and appearance of the area.

- (ii) Whether the proposed dwellings would provide acceptable living conditions for their future occupiers with respect to internal layout and outlook:

The Inspector noted that the obscure glazing/non-opening of the rear facing bedroom window is unnecessary as this primarily offers views over end of rear gardens. The existing situation is that a large first floor rear dormer at 1A Battlemead overlooks the neighbouring rear elevation. The proposed development would therefore represent a substantive improvement in terms of No 35's privacy and only a nominal difference in respect of No 1. The first-floor rear bedroom of Unit A would be unconventional in not having a rear facing window, but this is to ensure that the rear elevation of No 35 would not be excessively and unacceptably overlooked. However, the bedroom would have a suitable outlook as there would be a front facing wrap around corner window instead. The Inspector concluded that the scheme would provide acceptable living conditions for its future occupiers in respect of the internal layout and their outlook.

- 3.4 The Inspector also judged in respect of other material considerations that:
- 3.5 Neighbouring Amenity: the position, design and height of the dwellings relative to the surrounding residential properties would not result in unacceptable harm with regard to privacy, outlook, overshadowing or noise and disturbance.
- 3.6 Small garden size: the proposed gardens are not deep but would provide sufficient useable private garden space for future occupiers.
- 3.7 Setting of a precedent: each proposal must be assessed on its own merits and in this case substantial weight is given to the fact the existing occupation of the site by 1A Battlemead is inconsistent with the characteristic layout of the locality.
- 3.8 No affordable housing: there is no policy evidence to indicate the development is required to make affordable housing provision.
- 3.9 Second homes policy: the policy carries insufficient weight at this time for any such restrictions to be applied to the proposal.

- 3.10 Highways: With parking proposed and on-road parking bays available there is no justification to take a different view from the Highway Authority. The increase in traffic resulting from the dwellings would be relatively small.
- 3.11 The Inspector concluded that the proposed development would be in accordance with the development plan and there are no material considerations which indicate the development should otherwise be resisted. The appeal was allowed subject to conditions.

Application for costs

- 3.12 In considering the application for an award of costs the Inspector noted that while unreasonable behaviour by the Council has been established in relation to affordable housing, this was a peripheral matter which the appellant was able to deal with briefly in their statement and did not give rise to discernible additional expense. The award of costs was refused.

4.01 Appeal Reference: APP/D1265/W/20/3260010

Planning Reference: 6/2019/0615

Proposal: Convert store to residential unit

Address: Rear of 31 Station Road, Swanage, BH19 1AD

Appeal: Allowed

- 4.02 Permission had been refused via delegated powers for the proposed conversion of the store to a dwelling for the following reasons:
- i) Loss of retail floor space (storage) in an area identified as the primary retail area in the town with implications for viability of the unit contrary to policies RP and STC
 - ii) Poor amenity for future occupiers
- 4.03 The Inspector judged that from available evidence the unit was not essential to support retail activities at number 31; it had been used as storage for local businesses rather than the retail unit. There would not be a loss of retail use arising from the proposal and there was no evidence of an unmet need for storage facilities to support the vitality and viability of the town centre so no conflict with policy RP would result.
- 4.04 The Inspector acknowledged that the proposed development would have small internal spaces and that outlook from the ground floor bedroom into the narrow lane would be restricted but they judged that 'this is not a family dwelling and so this bedroom is unlikely to be heavily used during the day or as an active living space demanding a high quality outlook'. There was no substantive evidence to suggest that the kitchen would not function effectively, the site was close to public open space and the Inspector judged that the living space would provide adequate outlook and daylight. Overall no conflict with the aims of design policy D were identified.

4.05 The appeal was allowed and approved granted subject to plans and flood mitigation conditions.

Application for costs

4.06 The Inspector noted that the Council took some time to determine the application but different behaviour would not have led to an alternative decision or avoided the appeal so this did not amount to unnecessary or wasted expense in the appeal process.

4.07 The Inspector also noted that although the policy officer had removed their objection following the submission of additional details, their comments continued to refer to uncertainties to the wider vitality and viability of Swanage town centre. Whilst the officer report failed to clarify the extent to which the additional evidence had been considered, ultimately the weight to be given to such evidence is a matter of planning judgement, the Council had made reasoned submissions at the appeal stage and therefore no unreasonable behaviour was identified and the costs appeal was dismissed.