

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

2.0 Appeal Decision no. 1

Appeal Reference: APP/D1265/W/20/3265649

Planning Reference: WD/D/19/003186

**Proposal: Demolition of original farmhouse in Conservation Area.
Erection of 1 no. new 4 bed low carbon house (with variation of condition 1 of planning approval WD/D/17/002888 to amend approved plans) without complying with a condition attached to planning permission Ref WD/D/17/002888, dated 23 April 2018**

Address: Homestead Farm, Main Street, Bothenhampton, Bridport, DT6 4BJ

Decision: Allowed

2.1 The planning application was considered by the Western and Southern Area Planning Committee in August 2020. The case officer for the application recommended to the committee that the application be approved. The committee decision was to refuse planning permission for the following reasons:

- 1) The proposal is visually dominating and prominent built form of development, out of character to the area. The site is located within the Conservation Area and where the wider setting of that area is affected such that the proposal does not "preserve" or "enhance" that area as is required and set out given the statutory Section 72 test of the Planning (Listed Building and Conservation Areas) Act 1990. On that basis it has an adverse impact on the existing Conservation Area character and harms the Conservation Area character and appearance. That harm would be less than substantial but there are no wider public benefits arising from the

proposal that would outweigh that harm in the planning balance. As such the proposal would not be in accordance with Policies ENV4, ENV10 OR ENV12 of the West Dorset, Weymouth and Portland Local Plan (2015); Policies HT2, D1 and D8 of the Bridport Neighbourhood Plan; nor paragraph 127 and section 16 of the National Planning Policy Framework (2019) and in particular para 192 which states:

In determining applications, local planning authorities should take account of:
c) the desirability of new development making a positive contribution to local character and distinctiveness.

2) The proposed development by reason of its mass, scale and bulk has an unduly dominating and overbearing impact when viewed from existing neighbouring properties in Main Street and Duck Street. As a result it sits uncomfortably in relation to those neighbouring occupiers and is detrimental to their amenity (outlook). Its mass, scale and bulk is also detrimental to the character and appearance of the area. As such the proposed development would be contrary to Policies ENV10, ENV12 & ENV16 of the West Dorset, Weymouth and Portland Local Plan (2015); Policies D1 & D8 of the Bridport Neighbourhood Plan; and Section 12 of the National Planning Policy Framework (2019) and in particular paragraph 127 which states amongst other things that decisions should ensure that developments provide a high standard of amenity for existing and future users.

2.2 The refusal of planning permission was appealed and the appeal was considered by the Planning Inspectorate by means of a Public Inquiry held virtually in May 2021.

2.3 The Inspector considered the main issues in the determination of the appeal to be the effect of the development on:

- The character and appearance of the area including whether the development preserved and enhances the character or appearance of the Bothenhampton Conservation Area (CA).
- The effect of the development on the living conditions of the occupants of neighbouring properties on Main Street and Duck Street with regard to outlook.

Conservation Area:

2.4 The Inspector noted that there was no dispute that the different elements of the building have been constructed with each element higher than indicated in the 2018 permission, noting that the variations range from 0.15m to 0.81m with smaller variations applying to the replacement buildings closest to Main Street.

2.5 The Inspector commented on the noteworthy difference in height between existing buildings on the high pavement opposite the appeal site and the

appeal building and that the difference sets the context of the relationship between the new and existing properties.

- 2.6 The Inspector noted that the 2018 permission accepted the replacement of the demolished structures with a new building tight up against Main Street and further structures running at right angles which replace the original buildings. The increase in height of these particular elements (0.15m, 0.27m and 0.32m) are in the view of the Inspector very small and do not materially alter the character or significance of the group of buildings or the streetscape within the CA. The Inspector considered that this didn't negatively impact on the ability to appreciate the high hills, hedge and trees which contribute the wider setting of the CA from the high pavement.
- 2.7 The Inspector when visiting the site and viewing the development from the raised pavement on Main Street noted that there was no one point where the building can be seen in its totality given the "Y" shaped configuration and this limits the ability to experience all elements of the building at the same time and that the modern elements are not visible in the streetscape of Main Street until immediately in front of the appeal site.
- 2.8 The Inspector noted that there would be changes visible from the high pavement toward the horizon, but that the key consideration was whether they would be harmful to the experience of the CA to observers from the high pavement and thereby negatively affecting its character. The Inspector considered that from the evidence before her and her observations on site that the changes would not negatively affect its character.
- 2.9 The Inspector concluded in respect of the Conservation Area that taking account of the heights of the building on Main Street; the topography of the surroundings; and the limited alteration to the vista across the appeal site, that the development does not have a harmful impact upon the character and appearance of the area and in this regard preserves the character of the CA in a similar way to the 2018 permission.

Amenity

- 2.10 The Inspector stated that the amenity impact in dispute is concerned with the effect of the development upon the outlook from a number of adjacent properties.
- 2.11 The Inspector observed the view from each of the seven properties identified by the Council as sensitive receptors affected by the increased height of the various elements of the development. The Inspector concluded that by reason of the separation distances to existing and elevated properties on the high pavement of Main Street, the development does not adversely affect the outlook from any of the properties cited along Main Street.
- 2.12 In respect of the property on Duck Street the Inspector considered that the change in detail given the distanced involved does not result in a substantially different relationship than would have resulted from the construction of the

2018 permission and as such would not be harmful to the outlook of occupants of that property.

- 2.13 The Inspector stated that “the increased height of the building removes marginally more of the view across the appeal site than the original consent but that fact, in itself, does not mean that the structures are “overbearing” to adjacent properties. Whilst residents of the existing properties have inevitably experienced a change in their outlook and now see a larger structure this does not inherently cause harm to amenity. The loss of a view must not be confused or conflated with harm to outlook.” The Inspector conclude that there was no conflict with the relevant policies of the local plan and neighbourhood plan.

Other Matters:

- 2.14 The Inspector noted that there was no evidence before her which would lead her to disagree with the main parties case that the development does not have any adverse effect on the AONB.
- 2.15 The reason for the changes to the height of the buildings as set out by the appellant was noted as a separate issue to the effect of the external height changes on the character or appearance of the CA and as such the Inspector said that the matter has not been determinative to the outcome of the appeal.
- 2.16 The Inspector noted the frustration of local residents in respect of the appellant’s deviation from the approved plans but advised that the application is determined on its own merits and whilst the concerns of representors was noted they did not alter the findings of the main issues.

Conclusion:

- 2.17 The Inspector stated “In conclusion, I have found that the proposal would accord with the Development Plan and the objectives of the Framework. I have not found any other harm arising from the changes made from the 2018 planning permission. Consequently, for the reasons set out above, the appeal is allowed without compliance with the original condition No.1 related to plans approved under WD/D/17/002888, subject to conditions as set out in my formal decision.”
- 2.18 An application for costs against the Council was refused.

Appeal Reference: APP/D1265/W/20/3259917

Planning Reference: 3/19/0854/FUL

Proposal: Change of use and conversion of existing redundant agricultural building to form 4 dwelling houses.

Address: Bedborough Farm, Uddens Drive, Colehill, Wimborne, Dorset, BH21 7BQ

Appeal: Dismissed

A planning application for ‘Change of use and conversion of existing redundant agricultural building to form 4 dwelling houses.’ Was refused planning permission on

five grounds that the proposal was (i) inappropriate development in the Green Belt, (ii) harmed openness by way of the intensification of use, (iii) was of poor design, (iv) adversely affected the rural character of the area and (v) obstructed the route of a public footpath.

The Inspector agreed with the appellant that the building was capable of conversion, and agreed that the footpath might be moved, this secured through a planning condition.

Notwithstanding these points the Inspector sided with the Council that the four dwellinghouses proposed were inappropriate development in the Green Belt and would cause harm to openness, stating:-

'9. The existing building would be converted into four dwellinghouses, and no extension would be required to enable the change of use to residential accommodation. However, whilst it would not necessarily be more intensive than the lawful agricultural would be subdivided into four distinct plots, which would be formally enclosed with hedgerow and wire fencing. This, together with the domestic paraphernalia which would be associated with the proposed residential use, such as garden furniture, washing lines and bin storage, would add visual clutter, thus leading inevitably to a moderate loss of openness. Having regard to the available evidence, there is no certainty that the provision of domestic paraphernalia would have a lesser impact upon openness than the established pattern of open storage associated with the building's present use.

10. For the foregoing reasons, the appeal proposal would not accord with the exception set out in paragraph 146 d) of the Framework, and would therefore amount to inappropriate development in the Green Belt. It would have a detrimental impact on the openness of the Green Belt and fail to assist in safeguarding the countryside from encroachment, contrary to one of the five purposes of the Green Belt.'

In relation to design the Inspector was equally supportive

12. The appeal scheme is characterised by the assertive modernity of its detailing, having notably regard to the vast expanses of glazing and balconies, but also the shapes of the windows and proposed materials, which would fail to reflect the rural appearance of the farmstead. The regimented appearance of the communal parking area and formal subdivision of the appeal site into four separate plots would introduce a distinctly more urban form of development which would harmfully contrast with the rural character of its surroundings.

13. This would be exacerbated by the proposed forms of boundary treatment to enclose the individual plots and provide security and privacy to the future occupiers, and the domestic paraphernalia associated with the proposed residential use, which would add clutter within this rural area. This issue could not, in my view, be resolved through landscape enhancements to the existing bund or by imposing a condition requiring the submission and approval of detailed schemes, simply because landscaping ought to be used to complement good design, rather than as means to conceal inappropriate development.

15. Given the above, the appeal scheme would appear as an incongruous form of development which would cause considerable harm to the rural character of the area. It would therefore conflict with Policies HE2 and HE3 of the Christchurch

The Inspector concluded that whilst the appeal scheme would not result in the creation of isolated homes in the countryside it would constitute inappropriate development in the Green Belt and lead to a moderate loss of openness. Furthermore, that the proposal would also conflict with the Green Belt purpose of safeguarding the countryside from encroachment.

On these points the Inspector ascribed substantial weight to the harm which would be caused to the Green Belt and afforded great weight to the harm which the proposal would cause to the rural character of the area.

The appeal was therefore dismissed on this basis.

Appeal Reference: APP/D1265/W/20/3260119

Planning Reference: 3/19/2469 and 3/19/2770

Proposal: Construction of a single detached house with parking and access

Address: Land Adjacent to Brambles House, Church Lane, West Parley, Ferndown, Dorset, BH22 8TR

Appeal: Dismissed

A dual Planning and Listed Building was made for the 'Construction of a single detached house with parking and access'. The building was to be sited within the curtilage of Brambles Farmhouse a Grade II Listed Building. The land in question formed part of the historic walled garden to the property but had been severed in ownership.

The applications followed a previous application and listed building that was refused and dismissed at appeal; the applicant sought to overcome the previous shortcomings.

Officers were of the view that area of land, whilst in separate ownership, was functionally and historically linked to Brambles Farmhouse and that the principle of severance and creation of a new residential plot could not be supported in principle. Furthermore, that the design approach taken was poor. The reasons for refusal read:

1. The immediate area has a rural character; the site is elevated from the road and looks out across Church Lane to open fields to the east. The proposed detailing of the dwelling makes little reference to the immediate rural context and appears as a confused hybrid between a barn and industrial style building, the use of five fully glazed bays and seven rooflights within the roofslopes are poorly considered. Given the historical significance of this plot, being a walled garden, closely associated with the Listed Farmhouse, this style of dwelling would be an incongruous feature in this sensitive rural setting. The new access into the site and large wooden gates further erodes the rural character of the area. In these respects the proposal represents poor design that fails to take the opportunities available for improving the character and quality of an area and the way it functions contrary to Policies HE2 and HE3 of the Christchurch and East Dorset Local Plan (Part 1), Saved Policy DES11 of the East Dorset Local Plan, and

guidance contained within Section 12 – Achieving well-designed places of the National Planning Policy Framework (NPPF).

2. Development in sensitive areas, such as the curtilage of a Grade II Listed Building must respect the setting and context of the existing assets.

There is a strong historical connection between the Brambles House a Grade II Listed Building and walled garden, which adds more significance to this land. The overall design approach, the scale of the proposal, detailing and new access all result in a proposal that will be viewed as sitting uncomfortably against the Grade II listed building.

The proposal would cause substantial harm to the setting and character of Brambles Farmhouse, a Grade II Listed Building. No justification has been put forward to demonstrate that this harm is necessary to achieve substantial public benefits that outweigh that harm. The proposal fails Policy HE1 of the Christchurch and East Dorset Core Strategy Part 1 and guidance contained with the National Planning Policy Framework (NPPF) Section 16 (Conserving and enhancing the historic environment), paragraphs 193-197.

The application was heard under the written representation procedure. The Inspector fully agreed with the Council's reasons for refusal.

9. *Despite the degree of separation with Brambles Farmhouse, the new dwelling, which would remain visible from Church Lane and the adjacent footpath, would, due to its size and detailed design, significantly change the historic function of the site as a former walled garden. The creation of a new domestic curtilage, resulting from the construction of a new dwelling on a distinct plot, with a separated vehicular access onto Church Lane, would essentially lead to the loss of the functional link which would have historically connected Brambles Farmhouse and the appeal site.*

10. *This would be exacerbated by the footprint of the proposed dwelling which, together with the proposed patio and driveway, would diminish the sense of space within the walled garden and erode the sense of green space. For these reasons, the proposal would erode the ability to understand and appreciate the historic function of the appeal site and its historic links with Brambles Farmhouse, to the detriment of the significance of this Grade II listed building.*

11. *The proposal would not lead to a total loss of significance and would not therefore cause substantial harm to the special interest of Brambles Farmhouse, including as derived from its setting. Nevertheless, the appeal scheme would cause less than substantial harm to the significance of this Grade II listed building, to which I ascribe considerable importance and weight.*

12. *In such circumstances, paragraph 196 of the National Planning Policy Framework (the Framework) indicates that the harm should be weighed against the public benefits of the proposal including, where appropriate, securing its optimum viable use. There is little evidence before me suggesting that the proposal would constitute the optimum viable use for the site, but it is clear that it would nevertheless make a modest contribution towards housing supply and choice.*

13. *Moreover, the benefits of the scheme include the repair and reinstatement of collapsed and damaged sections of the boundary walls to the eastern and northern boundaries of the site, although it is of note that the walled garden would not be*

restored in totality, notably due to the creation of a vehicular access for the proposed dwelling. It would also bring the site back into use. However, when considering the harm that the proposal would cause to the significance of the listed building and its setting, such harm would not be outweighed by the presented public benefits.

14. For the foregoing reasons, the appeal scheme would fail to preserve the special interest of Brambles House and its setting, and would therefore be contrary to Policy HE1 of the Christchurch and East Dorset Local Plan Part 1 – Core Strategy1 (CS) and Section 16 of the Framework, which notably seek to ensure that the significance of all heritage assets and their settings are protected and enhanced.

On the issues of design the Inspector was equally supportive:

16. ...It is intended to look like an ancillary cart shed style building, which would be located on the edge of the former walled garden, along the northern boundary of the site. However, the footprint of the new dwelling would erode the largely undeveloped character of the walled garden and the contribution it presently makes to its rural surroundings.

17. I also share the concerns raised by the Council regarding the detailing of the proposal, which would be more akin to a Victorian industrial building than a structure typically found in a kitchen garden. The vast expanses of glazing and plethora of rooflights would give the building an overtly domestic character, which would only exacerbate its awkward appearance as a hybrid structure. The harm would be compounded by the proposed vehicular access and design of the proposed entrance which, whilst providing additional screening for the development, would have an urbanising effect and appear at odds with the rural character of this area. Additionally, it would draw further attention to the site as a separate residential plot....

18. In such a sensitive context, the new building would appear as an incongruous feature, which would have a detrimental effect on the rural character and appearance of the area. Whilst it would be largely screened by the boundary walls and mature landscaping, it would, by reason of its position and scale, remain visible from Church Lane, notably from the vehicular access, and from the footpath adjacent to the site's northern boundary.

20. Given the above, I find that the proposal would unacceptably harm the rural character and appearance of the area.

The appeal was dismissed.

The above appeal demonstrates the importance given by Inspectors to the wording of the National Planning Policy Framework (NPPF) in relation to the protection to the setting of Listed Buildings. The decision underlines that importance of properly assessing the significance of heritage assets and for the Council to robustly challenge applications that fail to appreciate and respond to these.

**Appeal Reference: APP/D1265/W/20/3263432 and APP/D1265/Y/20/3263430
Planning/Listed Building application References: 6/2020/0316 (HOU) and
6/2020/0317 (LB)**

Proposal: proposed rear single storey extension (existing canopy and post to be removed) and proposed internal ground floor wc'
Address: 8 High Street, Wool BH20 6BP
Appeal: Both appeals were dismissed

Located within the Wool Conservation Area, the appeal site comprises a thatched Grade II listed building constructed during the eighteenth century, which makes an important contribution to the character and appearance of the Wool Conservation Area.

'Despite its single storey scale, the proposed development would span across the entire width of the property's former store element and represent a disproportionate addition to the listed property relative to the footprint of the original cottage. By reason of its excessive size, the new addition would thus erode the appreciation of the listed building, especially as the rear elevation would be entirely screened by subsequent additions, including the rear passageway opening. Furthermore, it would blur the clear distinction between the historic cottage and store components of the property.

I am also concerned with the design of the proposed extension, which would involve a combination of lean-to, gable and flat roof elements. A section of roof would also be cut out to ensure that the first floor window serving bedroom 1 remains unaffected by the proposal. The resulting built form would appear as a contrived and overly complicated addition, which would harmfully contrast with the simplicity of the host dwelling. Although a contemporary design approach may in some cases be appropriate, the choice of modern materials such as ivory aluminium and the extensive use of glazing would in this instance only exacerbate the awkward and alien nature of the proposal'.

The inspector acknowledged that the additional accommodation provided would benefit the applicants, that the rear of the property is not widely visible within the street scene and noted other extensions in the vicinity, but considered that the development would fail to preserve the significance of no 8 High Street, which makes an important contribution to the character and appearance of the Wool Conservation Area. The magnitude of the harm was judged as less than substantial, to which the inspector added considerable importance and weight.

'The proposed development and works would fail to preserve the special architectural and historic interest of the Grade II listed building known as no 8 High Street, and the character and appearance of the Wool Conservation Area. The appeal scheme would therefore conflict with Policies D and LHH of the Purbeck Local Plan Part 12, the Purbeck District Design Guide Supplementary Planning Document³ and the Wool Conservation Area Appraisal Document. Amongst other things, these expect development proposals to be of a high quality design and conserve the appearance, setting, character, interest, integrity, health and vitality of heritage assets. For these reasons, the proposal would also not accord with sections 2, 12 and 16 of the Framework, sections 16(2), 66(1) and 72(1) of the Act.

The benefits associated with the proposal would not outweigh the harm that has been identified and thus the conflict with the development plan. There are no considerations which indicate that the appeals should be determined other than in accordance with the development plan'.

Both appeals were therefore dismissed.

Planning Reference: 3/20/1047/FUL

Appeal Reference: APP/D1264/W/21/3266411

Proposal: Construction of a sand school

Address: Horton Farm, Sandy Lane, Three Legged Cross BH21 6RH

Appeal Allowed

The proposal was for a replacement sand school with associated car parking. It was refused by the Council due to the considerable increase in scale of the proposed sand school and car parking above the existing, and the resultant impact on the openness of the Green Belt and the likely requirement for supporting development which would be inappropriate in the Green Belt.

The Inspector considered that sand school would have no greater impact on openness and that "While the car parking area would be fairly large, there is no substantive evidence as to why it would harm openness".

The Inspector stated that there was no evidence to suggest that there would be a predictable requirement for supporting development and concluded that the proposal was not inappropriate development in the Green Belt.

An application for costs against the council was refused.

Planning Reference: 3/20/0553/HOU

Appeal Reference: APP/D1265/D/20/3264368

Proposal: Installation of six dormer windows and one gable window in existing roof

Address: The Oaks, Lane from the Oaks, Horton Hollow to Bethany Chalbury, Horton, BH21 7EP

Appeal Dismissed

The proposal was for the installation of six dormer windows and a side window in the existing roof at the dwelling. It was refused by the Council as when considered cumulatively with previous extensions the proposed dormers are disproportionate additions over and above the size of the original building and is therefore inappropriate development. The dormers increased the bulk which impacts upon openness.

The Inspector considered that although the site was well screened by mature trees and landscaping, and that there would be no increase in floorspace and the dormers are very modest when considered in isolation, the original building has been enlarged substantially since its construction. Accordingly, the proposal is considered as a disproportionate addition over and above the size of the original dwelling and contrary to Para 143 and 145c of the NPPF.

The Inspector concluded that the proposal would constitute inappropriate development in the Green Belt and would reduce openness to limited extent, but substantial weight is ascribed to the inappropriate nature of the development and to

the harm which would be caused to openness. The appeal scheme therefore conflicts with national policy.