
Appeal Decision

Site visit made on 8 November 2016

by Stephen Hawkins MA MRTPI

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 1st December 2016

Appeal Ref: APP/P1235/W/16/3152276

82 Greenways, Portland, Dorset DT5 2LF

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Mr P Ward against the decision of Weymouth & Portland Borough Council.
 - The application Ref WP/16/00014/FUL, dated 22 December 2015, was refused by notice dated 8 April 2016.
 - The development proposed is erection of dwelling.
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are:
 - The effect of the proposal on the character and appearance of the area.
 - The effect on the living conditions of the occupiers of adjoining residential property, having regard to outlook.
 - Whether there is a requirement for the provision for affordable housing in respect of the proposed development.

Reasons

Character and appearance

3. The appeal site forms part of the garden at the side and rear of a terraced property. It is located within a modern residential estate, which is largely made up of dwellings in terraces of varying length. The consistent alignment of the dwellings in each terrace in terms of their front and rear elevations and their eaves and ridge lines, reinforces the linear characteristics of the layout of the estate. Together with the strong similarities in the appearance of most of the dwellings, this contributes significantly to the estate's unified pattern of development.
4. I am given to understand that the proposal was evolved partly as a response to the refusal of outline applications for previous schemes refused by the Council in 2008 in respect of a detached dwelling¹. The proposed dwelling would be of two storeys, adopting a terraced form similar to the existing dwelling and it

¹ Council references 08/00356/OUT and 08/00764/OUT.

would have external materials that would harmonise with surrounding development.

5. Nevertheless, due to the limited width at the front of the appeal site, the proposed dwelling would be set well back from the front elevation of the existing dwelling. It would also project well beyond the rear elevation. The proposed dwelling would thus have a 'staggered' siting, with its elevations, eaves and ridge not aligning with those of the existing dwelling and the rest of the terrace. It would also be much closer to Furlands, the street at the rear of the appeal site, than the rest of the terrace.
6. As a result, the proposed dwelling would appear as a visually disruptive feature at the end of the terrace, in particular in views from Furlands. This would upset the harmonious appearance of the terrace and it would be entirely at odds with the otherwise cohesive character of the surrounding area. In this respect, none of the examples of development in the locality referred to by the appellant, some of which I saw during my site visit, exhibited strong similarities to the appeal scheme.
7. Therefore, I find that the proposal would cause unacceptable harm to the character and appearance of the area. Consequently, the proposal would not accord with Policy ENV10 of the adopted West Dorset, Weymouth and Portland Local Plan (LP), as it would not contribute positively to the maintenance and enhancement of local identity and distinctiveness and it would not be informed by the character of the appeal site and its surroundings. The proposal would also not accord with LP Policy ENV12. It would not achieve a high quality of sustainable and inclusive design and its siting, alignment and design would not complement and respect the character of the surrounding area or reinforce the sense of place. Its general design would not be in harmony with the adjoining buildings and the area as a whole and its position would not relate positively to adjoining buildings. Furthermore, the proposal would therefore be inconsistent with the core planning principle set out at paragraph 17 of the National Planning Policy Framework (the Framework) of seeking to secure high quality design.

Living conditions

8. The side wall of the proposed dwelling would project beyond the rear elevation of the existing dwelling by about 1.5 metres. The side wall would be in proximity to the closest windows in the rear elevation of the existing dwelling. These windows appear to serve a kitchen on the ground floor and a bedroom at first floor level. The side wall would not project beyond a 45 degree angle when measured from the centre of the kitchen window and it would not be higher than the existing dwelling. The side wall would nevertheless be an obtrusive feature when viewed from both windows. Consequently, the proposed dwelling would significantly erode the overall outward view from the kitchen window as well as the level of outlook from the first floor window. In both instances, this would result in a more urban and oppressive sense of enclosure being experienced by the occupiers in outward views from the windows.
9. I appreciate that there would not be any unacceptable overlooking of the existing dwelling or of neighbouring properties from the proposed dwelling. I am aware that the appeal scheme was also evolved in part as a response to the

Council's reason for refusal of a previous planning application in 2015² concerning its effect on the living conditions of the occupiers of another neighbouring property. The Council has not maintained its objection in that respect and I have not found any reason to disagree with them. Further, I note that the appellant has no objections to the proposal. Whilst in the event he sold the existing dwelling, incoming occupiers might be aware of the relationship with the proposed dwelling, that is not a good reason for leaving them with an unacceptably reduced level of outlook.

10. I have taken account of the examples of two storey and single storey extensions referred to by the appellant, in relation to their effect on the outlook enjoyed by occupiers of the neighbouring properties. Whilst some of these developments might exhibit similarities to the appeal scheme, I have not been given any details of the circumstances in which they were permitted by which I could make a meaningful comparison. The presence of existing development with a lower standard in terms of outlook is not a good reason to permit otherwise unacceptable development. Those developments might have been permitted at a time when local and national planning policies were very different and not reflective of current standards. Consequently, I shall afford the examples referred to limited weight.
11. Accordingly, I find that the proposal would substantially reduce the level of outlook currently enjoyed by the occupiers of the existing dwelling, thereby having an unacceptable effect on their living conditions. Therefore, the proposal would not accord with LP Policy ENV16, as it has not been designed to minimise its impact on the amenity and quiet enjoyment of existing residents close to the development and it would have a significant adverse impact on the amenity of the occupiers of properties through overbearing impact. Furthermore, the proposal would therefore be inconsistent with the core planning principle set out at paragraph 17 of the Framework of seeking to secure a good standard of amenity for all existing occupants of land and buildings.

Affordable housing

12. LP Policy HOUS1 requires that a financial contribution towards the provision of affordable housing should be provided where, as in the case of this appeal, open market housing is proposed, unless the proposal is for the replacement or subdivision of an existing home. As the proposal is for an additional dwelling, neither of the latter circumstances apply. Whilst the appellant has signed an agreement to pay the Council's drafting costs, that document is not a completed Planning Obligation.
13. Nevertheless, the Planning Practice Guidance (PPG) section 'Planning Obligations' at paragraph 031³, sets out specific circumstances where contributions for affordable housing should not be sought. This follows the order of the Court of Appeal dated 13 May 2016, which gave legal effect to the policy set out in the Written Ministerial Statement (WMS) of 28 November 2014. One of the circumstances where a contribution should not now be sought is where the development is for ten or less units.

² Council reference WP/15/00182.

³ Reference ID: 23b-031-20160519.

14. Therefore, although the proposal would not accord with LP Policy HOUS1, I have to afford the greater weight to national policy set out in the PPG and the WMS. Consequently, in the case of this appeal, a Planning Obligation making provision for affordable housing is not required to make the development acceptable in planning terms.

Other matters

15. I acknowledge that the Council had no objection to the proposal on highway safety grounds. I have found no reason to disagree with their conclusions in that respect.

Planning balance

16. In order to achieve the objectives of sustainable development set out at paragraph 7 of the Framework all three roles-economic, social and environmental-must be performed. The proposal would provide economic benefits, notably short-term jobs in the construction sector, as well as the increased spend by incoming residents in relation to local businesses. The proposal would also partly fulfil to the social role, as it would contribute to the supply of housing land. Although the Council states that it currently has a five-year supply of housing land, this is still a benefit to which some weight should be attached.
17. Even so, these benefits would all be small-scale. The proposal would not fully achieve the social role, as it would not create a high quality built environment. Moreover, by failing to contribute to protect the built environment, it would not achieve the environmental role. These adverse impacts would significantly and demonstrably outweigh the benefits of the proposal, when assessed the policies in the Framework taken as a whole.

Conclusion

18. The proposal would not accord with the Development Plan and it would be inconsistent with the Framework.
19. For the reasons given above I conclude that the appeal should be dismissed.

Stephen Hawkins

INSPECTOR