
Appeal Decision

Site visit made on 13 May 2020

by **L McKay MA MRTPI**

Inspector appointed by the Secretary of State

Decision date: 2nd June 2020.

Appeal Ref: APP/D1265/W/19/3242596

Land north of 15-19 Cheyne Close, Portland DT5 2JW

- 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 Betterment Properties (Weymouth) Ltd against the decision of Dorset Council.
 - The application Ref WP/19/00347/FUL, dated 4 April 2019, was refused by notice dated 22 October 2019.
 - The development proposed is erection of 5 no. terraced and semi-detached 2 bedroom houses.
-

Decision

1. The appeal is dismissed.

Procedural Matters

2. On 1 April 2019, Weymouth and Portland Borough Council ceased to exist and became part of a new Unitary Authority known as Dorset Council. The development plans for the merged Local Planning Authorities will remain in place for the area within the new Unitary Authority they relate to until such time as they are revoked and replaced. I shall therefore determine the appeal having regard to the policies set out in the West Dorset, Weymouth and Portland Local Plan (LP) which was adopted in 2015.
3. Since the Council's decision was issued, the Portland Neighbourhood Plan 2017-2031 (NP) has been subject to Examination, with the Examining Inspector's Report produced on 21 January 2020. The Council has determined that it will progress the NP to referendum. During the appeal process, in response to the Covid-19 pandemic, updated Planning Practice Guidance (PPG) regarding neighbourhood planning was introduced. This sets out that where the local planning authority intends to send a neighbourhood plan to referendum, that plan can be given significant weight in decision-making¹. I have sought the comments of the main parties in response to this change and have had regard to those comments and the NP when determining this appeal.

Main Issue

4. The main issue is the effect of the proposed development on the character and appearance of the area.

¹ Paragraph: 107 Reference ID: 41-107-20200513

Reasons

5. The appeal site comprises a sloping area of undeveloped land and section of wide verge at a prominent location at the junction of Rip Croft and Reap Lane, opposite another open, undeveloped area. These areas appear to have been purposefully designed as an open landscape buffer to complement the residential estate. They also create a strong visual link to the expansive areas of open land on the opposite side of Reap Lane which extend to the coast. The pattern of wide verges and open areas beside main routes and pedestrian/cycle paths is a distinctive feature of this part of the estate, giving it an open, green and spacious character. This contrasts with the closer-knit development of the remainder of the estate and the older part of Southwell.
6. Although it is not subject to any formal designations, the site falls within the Glossary definition of open space in the National Planning Policy Framework (the Framework), which encompasses, 'all open space of public value, including not just land, but also areas of water which offer important opportunities for sport and recreation and can act as a visual amenity'. LP Policy COM5 recognises that open spaces can be of public value for their amenity value as well as for recreational facilities. In addition, Policy Port/CR4 of the NP recognises that incidental open spaces incorporated into housing areas, including Southwell, to provide amenity and/or shared recreation space for residents are an essential part of those areas' character.
7. Due to its prominent location and undeveloped nature, the appeal site makes a significant positive contribution to the distinctive character of the area. It can therefore be considered an open space of public value. Because it is of amenity, rather than recreation value, the lack of formal recreation facilities, designed features, planting or public art on the site does not diminish its contribution. Nor does the fact that it is privately owned or maintained.
8. The proposed dwellings and their gardens would occupy most of the larger part of the site with only narrow strips remaining either side, resulting in almost all of the open space being lost. The proposed car parking would result in a significant area of hardsurfacing, interrupting what is currently a continuous green area connecting the site to other open spaces in the estate. As such, the proposal would appear prominent and dominant in the street scene and would significantly diminish the open, green and spacious character of the area.
9. The estate predominantly comprises terraced and semi-detached dwellings of simple design, fronting onto a road or open space with largely open front gardens. The design, form and building line of the proposed dwellings, the density of development and plot sizes would be similar to those in the surrounding area. However, the proposal would present largely blank side elevations and significant lengths of boundary treatment to Rip Croft. The resulting strong sense of enclosure would contrast harmfully with the openness of the surrounding area and would not relate positively to this main route. Although there are other blank elevations in the area, they are less prominent in the street scene, and therefore do not have the same impact as the appeal proposal would. The proposal therefore would not achieve the high-quality design required by local and national planning policy.
10. The proposal would not be ancillary to the use of the site or provide a sports facility, nor would any alternative replacement space be provided elsewhere. Although there are other areas of open space nearby, it is the combination of these with the appeal site that gives the area its distinctive character. Therefore, the loss of the appeal site would not be compensated for by the retention of other open spaces. There is also no substantive evidence before me that the site has not been

adopted by a public body because it was no longer needed. Therefore, although the appellant no longer wants the site there is no compelling evidence before me that as an open space of amenity value it is surplus to requirements. As such, the proposal would not meet any of the criteria in LP Policy COM5 or Framework paragraph 97 that allow development of open spaces, and the proposal would therefore conflict with those policies.

11. Accordingly, the appeal scheme would significantly harm the character and appearance of the area. It would therefore conflict with LP Policies ENV10 and ENV12 which, amongst other things, require development to achieve high-quality design and contribute positively to the maintenance and enhancement of local identity and distinctiveness.
12. Furthermore, the proposal would conflict with Policies Port/EN7 and Port/CR4 of the emerging NP which require development to reflect and reinforce the character of the locality and seek to protect areas of incidental open space that contribute to local amenity and character from development. The Examining Inspector found the Policies sound other than by deleting the words 'very special circumstances' from Port/CR4, a modification which does not affect the application of the policy to this proposal. Therefore, given the advanced stage reached and having regard to Framework paragraph 213 and the PPG, I afford these Policies significant weight.

Planning balance

13. The Council's submissions indicate that they can only demonstrate 4.88 years supply of deliverable housing sites. Although the appellant questions this figure, I have been provided with limited information to establish that the extent of the shortfall is greater than indicated by the Council. Nevertheless, Framework paragraph 11d) is engaged.
14. The proposal would deliver housing within the development boundary for Southwell in a location accessible to schools and other facilities and with regular public transport connections. It would contribute to the housing mix in the area and an identified need for smaller dwellings, as supported by LP Policies SUS1, SUS2 and HOUS3 and by Policies Port/HS1 and Port/EN6 of the emerging NP. However, while all dwellings make an important contribution to housing supply, given the modest scale of development the contribution of five dwellings would be commensurately modest.
15. Construction would bring economic benefits, however without a mechanism to ensure use of local materials and contractors, this may not be largely recirculated locally as the appellant asserts. It is likely that new occupants would support local services and facilities, however there is no substantive evidence before me that these services are at risk, as the appellant contends. There would be additional benefits from further council tax income and a new homes bonus. However, no schemes on which the bonus would be spent have been identified. In accordance with the PPG, it would not be appropriate to make a decision based on the potential for the development to raise money for the Council in the absence of evidence to demonstrate how that money would be used to make this particular development acceptable in planning terms. Moreover, the economic benefits of the proposal would be generic and would arise with any housing development. Consequently, I can only afford them limited weight.
16. There would be potential biodiversity benefits from garden planting and options for future occupiers to install features such as bird boxes, however these would be a matter of choice for future residents. I therefore cannot be certain that the

- proposal would result in a net gain of biodiversity, as such it carries very limited weight.
17. Although the proposal would result in the loss of an open space, the remaining streets and spaces would still be well-defined, safe and pleasant to use, and the proposal would not contribute to opportunities for crime. Nor would the proposal result in unacceptable harm to the local highway network. As such, I find no conflict with LP Policies ENV11 and COM7. Furthermore, the proposal would provide adequate drainage, incorporate energy efficiency measures, provide sufficient car parking, adequate accommodation for future occupiers and would not unduly impact on the living conditions of neighbours. These matters are however neutral, rather than positive, impacts in the overall planning balance.
 18. Against the above modest benefits, I have identified significant harm relating to the effect of the proposal on the character and appearance of the area. Consequently, the proposal would conflict with the development plan read as a whole. The relevant policies are consistent with the importance afforded to open spaces and high-quality design in the Framework and as such I afford the conflict with them substantial weight.
 19. While the site was identified as one with potential within the 2018 Strategic Housing Land Availability Assessment and is within the settlement boundary, these only provide an overarching indication of whether the location is appropriate for development. The proposal nevertheless stands to be considered against development plan policies, which I have identified conflict with.
 20. The proposal would boost housing supply on a small site, develop underutilised land in an existing settlement and provide a safe and accessible environment for future residents as encouraged by the Framework. However, while the Framework promotes effective use of land to meet the need for homes, it requires that development also safeguard and improve the environment, which would not be achieved here. The proposal would also not achieve the high-quality design and safeguarding of open space required by the Framework. Consequently, even if I were to conclude there is a shortfall in the 5-year housing land supply on the scale suggested by the appellant, the adverse impacts of granting permission would significantly and demonstrably outweigh the benefits of the proposal when assessed against the policies of the Framework taken as a whole.
 21. Overall, taking account of the Framework and the above considerations, including the benefits of the development, I find that material considerations do not indicate that planning permission should be granted for the development, which conflicts with the development plan.

Conclusion

22. For the reasons given above, the appeal is therefore dismissed.

L McKay

INSPECTOR