



Appeal Decision

Site visit made on 29 June 2020

by S Edwards MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 21 July 2020

Appeal Ref: APP/D1265/W/20/3248905

83 Wyke Road, Weymouth, Dorset DT4 9QN

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission.
 - The appeal is made by Mrs Lee against the decision of Dorset Council.
 - The application Ref WP/19/00155/FUL, dated 11 February 2019, was refused by notice dated 19 September 2019.
 - The development proposed is erection of chalet bungalow.
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Decision

1. The appeal is dismissed.

Preliminary 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 or replaced. I shall therefore determine the appeal having regard to the policies set out within the West Dorset, Weymouth and Portland Local Plan (LP), which was adopted in 2015.

Main Issues

3. The main issues are:
 - The effect of the proposal on the character and appearance of the area, having notably regard to the loss of a Tulip tree; and
 - The effect of the proposal on the living conditions of the neighbouring occupiers of no 83 Wyke Road, with particular regard to privacy.

Reasons

Character and appearance

4. The appeal site is located within an established residential area, which is primarily defined by detached properties set within proportionately sized plots. The abundance of trees throughout the locality makes a significant contribution to the pleasant and verdant suburban feel which characterises the area. The appeal site currently forms part of the rear garden of no 83 Wyke Road (no 83), which it is proposed to formally sever to enable the construction of a chalet bungalow. There are a number of mature trees on this property, several

- of which are protected by a Tree Preservation Order¹ (TPO) along the site's road frontage.
5. The new dwelling, by reason of its excessive footprint, would appear disproportionate to the size of the plot. This, together with the level of hardstanding required for the formation of access, turning and parking areas, would leave limited scope for the provision of landscaping and usable outdoor amenity space for the intended occupiers of the development. The siting of the proposed dwelling within proximity to two of its boundaries would compound the identified harm, by showing that it would not sit comfortably within its plot or its wider context, and result in a cramped built form, which would fail to relate to the surrounding pattern of development.
 6. In order to enable the development to proceed, the appeal scheme would require the removal of the early-mature Tulip tree (*Liorodendron tulipifera*), which is of public amenity value. The contribution which the Tulip tree makes to the verdant character of the locality is likely to increase in coming years to become a significant feature in the area, as other more mature trees decline. For this reason, and whilst it is accepted that it is not formally protected by the TPO, the removal of the Tulip tree would be particularly regrettable, and would further exacerbate the harm which the development would cause to the character and appearance of the area. Although the appellant would be willing to accept the imposition of a condition requiring the provision of a planting scheme, this would not satisfactorily mitigate for the loss of the well-established Tulip tree.
 7. My attention has been drawn to a number of developments which have been approved in the area, notably along Wyke Road. However, I have not been presented with details of the relevant approvals and I cannot therefore be certain that the circumstances of these particular schemes represent a direct parallel to the proposal before me, notably in respect of the nature of the development, plot size, layout and development plan policy.
 8. For these reasons, the proposal would have a detrimental effect on the character and appearance of the area and would subsequently conflict with LP Policies ENV10 and ENV12. Amongst other things, these policies require development proposals to complement and respect the character of the surrounding area, but also provide for the future retention and protection of trees which contribute to its distinctive character, even where such features may not always be designated or otherwise formally recognised. For the same reasons, the development proposal would fail to accord with paragraph 127 of the National Planning Policy Framework (the Framework).

Living conditions – Neighbouring occupiers of no 83

9. The proposal would include accommodation within the roofspace, with three dormer windows being provided to the front elevation and two dormers to the rear. Whilst the new house would be built on lower ground than the existing dwelling, the first floor openings situated to the front elevation of the property, particularly the window serving bedroom 4, would enable its occupiers to overlook directly a large part of the private amenity area of no 83, and from a modest distance.

¹ TPO 236 (Land at Belfied Park Avenue and Wyke Road, Weymouth Tree Preservation Order 2010).

10. This would give rise to harmful overlooking, which would be detrimental to the living conditions of existing and future occupiers of no 83 and adversely affect their enjoyment of their private amenity space. As two of these windows would serve habitable rooms, this could not be addressed by a condition requiring the openings to remain obscure glazed, as this would otherwise provide a poor outlook for the future occupiers of the development.
11. I therefore consider that the proposal would unacceptably harm the living conditions of the existing and future occupiers of no 83, with particular regard to privacy. It would therefore be contrary to LP Policy ENV16, which notably seeks to ensure that development proposals do not have a significant adverse effect on the living conditions of occupiers of residential properties through loss of privacy.

Planning Balance

12. There is no dispute between the main parties that the Council is currently unable to demonstrate a five-year supply of deliverable housing sites. As detailed within their appeal statement, the Council can only identify 4.83 years of deliverable housing sites. In such circumstances, paragraph 11 d) of the Framework, as directed by Footnote 7, indicates that the policies which are most important for determining the application are considered out-of-date and that permission should be granted unless any adverse impacts would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole.
13. The appeal scheme would support the economy to some degree, notably through the creation of work opportunities and demand for materials during the construction phase. Future occupiers may then use the services and facilities available locally. It can be argued that part of the social dimension of sustainable development would be fulfilled as the proposal would contribute towards housing supply and choice. However, although smaller developments may have a cumulative value, the contribution made by a single dwelling would be limited. Against that, I have found harm in respect of the effect of the proposal on the character and appearance of the area and the living conditions of neighbouring occupiers of the development. The environmental objective would therefore not be fulfilled.
14. Consequently, the adverse impacts of granting planning permission would significantly and demonstrably outweigh the modest benefits which would be derived from the proposal, when assessed against the policies in the Framework, taken as a whole. The proposal does not therefore benefit from the presumption in favour of sustainable development. There are no other material considerations that indicate that the proposal should be determined other than in accordance with the development plan, which I have found conflict with.

Conclusion

15. For the reasons detailed above, and having regard to all other matters raised, I conclude that the appeal should be dismissed.

S Edwards

INSPECTOR