



Appeal Decision

Site visit made on 14 December 2020

by M Bale BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 18 January 2021

Appeal Ref: APP/D1265/W/20/3258964
96 & 98 Buxton Road, Weymouth DT4 9PS

- 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 AJ Developments against the decision of Dorset Council.
 - The application Ref WP/19/01013/FUL, dated 9 December 2019, was refused by notice dated 6 July 2020.
 - The development proposed is to demolish existing buildings and erect a terrace of 5 no. dwellings, a terrace of 3 no. dwellings and a pair of semi detached dwellings with associated parking.
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Decision

1. The appeal is allowed and planning permission is granted to demolish existing buildings and erect a terrace of 5 no. dwellings, a terrace of 3 no. dwellings and a pair of semi detached dwellings with associated parking at 96 & 98 Buxton Road, Weymouth DT4 9PS in accordance with the terms of the application, Ref WP/19/01018/FUL, dated 9 December 2019, subject to the conditions in the attached schedule.

Procedural matter

2. The description of development on the application form refers to the number of bedrooms in each proposed dwelling. However, this is inconsistent with the submitted plans. I have, therefore, used the description from the appeal form, which also reflects the Council's decision notice, and determined the appeal on the basis of the submitted plans.

Main Issues

3. The main issues are the effect on the character and appearance of the area and the effect on the living conditions of Nos. 21-24 Martleaves Close, with particular regard to outlook.

Reasons

Character and appearance

4. Around the appeal site, the houses along Buxton Road are generally set well back from the highway. Together with wide views towards Portland and the coast on the opposite side of the road, this gives the area a spacious character. There is a large variety in architectural style, reflective of the age of the individual dwellings. Many are detached, but higher density development,

including terraces, around Lodge Way and Martleaves Close extend to Buxton Road adjacent to the site.

5. The proposed 5-dwelling terrace on the site frontage, would deploy a number of architectural devices that, combined with their height and narrow width, would create a development with a strong vertical emphasis. For this reason, they would differ from the low-slung horizontal form of the Lodge Way terraces and most of the surrounding detached dwellings whose width is emphasised over their height.
6. However, the variety in surrounding style and form does not give a clear pattern to follow, and other vertical design features such as projecting bays and forward facing gables feature on a number of nearby buildings. The surrounding architecture is not so strikingly horizontal in its detailing that a horizontal emphasis defines the area's character; the arrangement of dwellings and position relative to the highway has a greater influence. The dwellings around Lodge Way differ from those at Swaffield Gardens on the opposite side of the site, which are again different to the varied individual plots around the area. Sitting between Lodge Way and Swaffield gardens, the proposal would create another enclave that reflected its time of construction, whilst preserving the spacious open character with a deep set-back and landscaped frontage.
7. The frontage terrace would include a gable end in the side elevation at one end. This feature would create imbalance to the terrace as a whole, which would otherwise be broadly symmetrical. However, it would be set back from the front elevation such that it would not be a dominant feature in the terrace's overall form and appearance. The finished materials would reflect a number of other developments in the locality.
8. For the above reasons, the proposal would preserve the character and appearance of the area. Therefore, there would be no conflict with Policies ENV10 and ENV12 of the West Dorset, Weymouth & Portland Local Plan 2015 (LP) that require development to maintain and enhance local identity and distinctiveness, complementing the character of the site and its surroundings.

Living conditions

9. Amongst other things, LP Policy ENV16 sets out that development will only be permitted provided that it does not have a significant adverse effect on the living conditions and amenity of occupiers of properties through loss of privacy, inadequate daylight, excessive overshadowing, or overbearing impact.
10. The Council indicates that the side wall of plot 10 would be less than 13m from the rear elevations of Nos. 21-24 Martleaves Close which face the site, and would be over 1m above the lowest part of the neighbouring rear garden. In this context, the proposal would affect the outlook from and direct sunlight to the closest of these neighbouring dwellings and their gardens.
11. However, while the separation distance is not large, the roof would slope away from the existing neighbours, reducing the bulk of the building. There would only be one dwelling against the boundary so, although the outlook would be restricted, particularly from Nos. 22 and 23, the proposal would not result in complete enclosure of the rear garden environment.
12. The Council's reason for refusal also refers to No.20 Martleaves Close, but this is some distance from plot 10. Its separation to other plots, and the

relationship of other surrounding dwellings to the proposal is such that privacy and outlook would be safeguarded to an acceptable degree. There would be an increase in traffic and pedestrian movement alongside the boundary with Martleaves Close. However, as there is other vehicle parking adjoining this boundary, the increase in noise and disturbance would not be significant. There would be some disruption and disturbance during building works, but this would be short-lived and of limited weight in my decision.

13. I, therefore, find that the effects on the neighbouring residents would not amount to a significant adverse effect on living conditions and there would be no conflict with Policy ENV16.

Other matters

14. The Council refused planning permission for 4 reasons. One reason related to the lack of affordable housing contribution. While there is a local need for affordable housing that would not be addressed by the proposal, it has subsequently been confirmed by the Council that such a contribution would make the development unviable. There is no substantive evidence that the build costs, profit margins, or other figures set out in the appraisals are unreasonable. Therefore, I am satisfied that the proposal cannot support an affordable housing contribution.
15. Another reason for refusal related to concerns over the surface water drainage proposals. Additional information provided with the appeal documentation has now been confirmed by the Council to be acceptable, subject to the imposition of planning conditions. While some further consideration of open sustainable drainage systems may have been beneficial, with regard to the previously developed nature of the site, there is no indication that harm or increased off-site flood risk would result.
16. Increased residents would result in greater pedestrian movements on Buxton Road. I understand that the road can be difficult to cross, which is needed to access bus stops, schools and other local facilities. The site layout may also lead to an element of servicing from Buxton Road, which could affect traffic flows. However, the Local Highway Authority have raised no objection to the proposal, which indicates that the parking, access and visibility arrangements, effects on safety and traffic flows are acceptable. There is no substantive evidence to lead me to a different conclusion.
17. It may well be that the design seeks to maximise the number of dwellings at the site and provide sea views that may be attractive to potential purchasers. However, while there is some suggestion that amendments or a reduction in numbers could result in a preferable development, I have found that the design approach would not result in unacceptable harm. There is some local concern that, having obtained permission, proposals for the site may change in the future. However, I must determine the appeal on the basis of the submitted details and other evidence available now.

Conditions

18. A plans condition is required in the interests of certainty. To ensure that adequate facilities are available for the traffic likely to be attracted to the site and in the interests of highway safety, conditions are necessary to require the laying out and retention of parking and turning spaces, and visibility splays. In

the interests of the character and appearance of the area, conditions are necessary to secure details of the external surfaces of the dwellings, boundary treatments, bin stores and landscaping of the site.

19. To protect biodiversity interests, a condition is required to ensure that the development proceeds in accordance with a biodiversity mitigation plan that has been approved by the Council. In the interests of surface water management and preventing an increase in off-site flood risk, conditions are required to secure approval and ongoing maintenance of a surface water drainage scheme. I have made some revisions to the Council's suggested conditions in the interests of clarity and in accordance with Planning Practice Guidance.

Conclusion

20. For the reasons given above, I conclude that the appeal should be allowed.

M Bale

INSPECTOR

Schedule

- 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans: 9271/100 D; 9271/101 A; 9271/102 B; 9271/103 A; 9271/104 A; 9271/105 A; 9271/106 A; 9271/107.
- 3) Before the development hereby approved is first occupied or utilised the turning and parking shown on the approved site plan 9271/100 D shall have been constructed in accordance with the plan. Thereafter, these areas shall be permanently maintained, kept free from obstruction and available for the purposes specified.
- 4) Before the development hereby approved is first occupied or utilised the visibility splay areas as shown on approved site plan 9271/100 D shall be cleared/excavated to a level not exceeding 0.60 metres above the relative level of the adjacent carriageway. The splay areas shall thereafter be maintained and be kept free from all obstructions.
- 5) Prior to development above damp proof course level, details and samples of all external facing materials for the walls and roofs shall be submitted to, and approved in writing by, the Local Planning Authority. The approved details shall be installed prior to the occupation of the dwelling to which they relate and shall thereafter be maintained as such.
- 6) Prior to first occupation of the development hereby approved, the mitigation measures as detailed in the Biodiversity Mitigation Plan dated 19th January 2020 shall be carried out in full.
- 7) Prior to development above damp proof course level, a soft landscaping and planting scheme shall be submitted to, and approved in writing by, the Local Planning Authority. The approved scheme shall be implemented

- in full during the planting season November - March following commencement of the development or within a timescale to be agreed in writing with the Local Planning Authority. The scheme shall include provision for the maintenance and replacement as necessary of the trees and shrubs for a period of not less than 5 years.
- 8) Prior to the first occupation of the dwellings hereby permitted, details of the means of enclosure to the plot boundaries of the dwellings including height and materials shall be submitted to and approved in writing by the Local Planning Authority. No dwelling shall be occupied until the agreed means of enclosure for its plot boundaries has been erected and the boundary enclosure shall thereafter be maintained as such.
 - 9) Prior to first occupation of the dwellings hereby permitted, details of the design, height and materials of the proposed bin stores shall be submitted to and approved in writing. The bin stores shall be provided prior to the first occupation of the dwellings and shall thereafter be maintained as such.
 - 10) Notwithstanding details shown on the plans hereby permitted, no works associated with the construction of new buildings shall take place until a detailed surface water management scheme for the site, based upon the hydrological and hydrogeological context of the development (as supported by Ground Investigation and infiltration testing), and including clarification of how surface water is to be managed during construction, has been submitted to, and approved in writing by the Local Planning Authority, along with a timetable for the implementation of the scheme. The surface water scheme shall be fully implemented in accordance with the submitted details and in accordance with the approved timetable.
 - 11) No works associated with the construction of new buildings shall take place until details of maintenance & management of both the surface water sustainable drainage scheme and any receiving system have been submitted to and approved in writing by the Local Planning Authority. The scheme shall be implemented and thereafter managed and maintained in accordance with the approved details. These should include a plan for the lifetime of the development, the arrangements for adoption by any public body or statutory undertaker, or any other arrangements to secure the operation of the surface water drainage scheme throughout its lifetime.