
Appeal Decision

Site visit made on 3 August 2021

by C J Ford BA (Hons) BTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 3 September 2021

Appeal Ref: APP/D1265/W/21/3269335

Scrap Metal Yard, Upway Street, Weymouth DT4 7DN

- 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 J Restorick against the decision of Dorset Council.
 - The application Ref WP/20/00101/FUL, dated 3 February 2020, was refused by notice dated 12 November 2020.
 - The development proposed is erection of 4no. dwellings.
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Decision

1. The appeal is dismissed.

Preliminary Matter

2. A revised version of the National Planning Policy Framework (the Framework) was published in July 2021 and the main parties were given the opportunity to submit comments. The 2021 version of the Framework is referred to in the decision.

Main Issues

3. The main issues are:
 - Whether or not the proposed development would preserve or enhance the character or appearance of the Weymouth Town Centre Conservation Area; and
 - Whether there would be acceptable living conditions for the future occupants of the proposed development with specific regard to the provision of private outdoor space and privacy.

Reasons

The Weymouth Town Centre Conservation Area (CA)

4. The significance of the CA derives from the historic importance of the area and its identifiable physical character. The appeal site historically formed an open space within the densely developed early 19th century terraced properties that encompassed it and which still front King Street to the north, Upway Street to the east and Commercial Road to the west. The site is currently a reclamation yard with goods stacked in places. That said, due to the open nature of the storage, as well as the limited coverage by buildings, the sense of an open area which markedly contrasts with the dense built form of the surrounding terraces and the later bus depot to the south remains. This is an important and distinctive element of the character of this part of the CA.

5. It is understood the appellant originally proposed eight dwellings on the site and a scheme which reduced this to six was refused in 2019, (Council Ref: WP/19/00118/FUL). The appellant has provided an image of the proposed site layout for the refused scheme which shows the accommodation in two separate buildings and a fairly sizeable open area running alongside a large section of the western boundary. The open area comprised a parking court and across the site six parking spaces would have been provided. However, one of the Council's reasons for refusal was that the proposal would result in a cramped form of development, and it was set around parking spaces which were not required in such a sustainable location.
6. In seeking to address these concerns, the appeal scheme only proposes four dwellings. The parking court and all six parking spaces have also been removed, leaving a single drop-off space. However, notwithstanding the significant reductions in the on-site provision, the coverage of the built form appears comparable to the earlier scheme, if not greater, given the centrally positioned dwellings are all linked north to south within the site and there is no single large discernible open space, unlike the former parking court. Consequently, the appeal proposal has not responded positively to the previous refusal and it would similarly be cramped.
7. The removal of the unsightly reclamation goods from the appeal site would be positive. However, owing to the degree to which the characteristic open area behind the terraces would be occupied by a permanent and cramped built form, there would be harm caused to how the site contributes to the historic and physical character of the CA in the terms described above. As such, the proposed development would fail to preserve or enhance the character of the CA.
8. Given the scale of the proposed development in the wider context of the CA, the harm caused would be less than substantial. Paragraph 202 of the Framework sets out that where a proposed development would lead to less than substantial harm to the significance of a designated heritage asset, the harm should be weighed against the public benefits of the proposal including, where appropriate, securing its optimum viable use. Paragraph 199 also sets out that great weight should be given to the conservation of designated heritage assets, irrespective of whether any potential harm is less than substantial.
9. The appeal scheme would provide new dwellings which would expand the housing choice and mix locally for residents. The proposal would also make use of a brownfield site and reduce the reliance on the use of publicly valuable greenfield sites. Nevertheless, given the scale of the proposal, the addition to the stock for public use would be small in the grand scheme. Visual improvements would also be limited given the site's containment in wider public views and biodiversity net gains would be very limited given the scale of the proposed additional planting. Residential development is likely to be the optimum viable use of the site. However, given the identified deficiencies of the proposed scheme, the optimum design solution in order to deliver this has not been achieved.
10. With the above in mind, and whilst worthy of some weight, the public benefits of the appeal scheme would not attract sufficient weight to outweigh the harm to the CA. Consequently, the proposed development would conflict with Policy

ENV4 of the West Dorset, Weymouth & Portland Local Plan 2015 (LP). This policy sets out that development should conserve and where appropriate enhance the significance of designated heritage assets. It would likewise conflict with section 16 of the Framework which promotes the desirability of sustaining and enhancing the significance of heritage assets.

Living Conditions

11. The proposed scheme would accommodate three 2-bedroom properties and one 1-bedroom unit. The submitted plans do not show any individual allocated garden spaces for the properties or a defined communal garden area. Instead, the Heritage and Design statement contains computer generated images of a 'courted area'. This would be the limited residual space around the centrally positioned built form and comprise hardstanding interspersed with small pockets of soft landscaping. The appellant also emphasises that the beach and other public open spaces are within easy walking distance of the site.
12. Given the courted area would provide access to the properties, it would primarily function as a service area. Consequently, it would not be an attractive space for future occupants to occasionally sit outside of their properties. Moreover, as it would wrap-around the outside of the built form without any segregation, it would adversely affect the privacy of future occupants as it would be possible for residents and visitors to closely walk alongside the ground floor living accommodation at both the front and rear of the properties.
13. Notwithstanding the proximity of the beach and other public open spaces, they would not adequately compensate for the lack of any specific on-site private amenity space whereby future occupants, particularly those of the three 2-bed properties which are capable of accommodating a small family, could readily access a suitable outdoor sitting area, for example.
14. Accordingly, there would not be acceptable living conditions for the future occupants of the proposed development with regard to the provision of private outdoor space and privacy. As such, it would conflict with Policies ENV11, ENV12 and ENV16 of the LP. Amongst other things, these policies seek to ensure appropriate provision is made for private amenity/garden space and that spaces are well defined and pleasant to use. They also seek to ensure future residents of properties do not experience significant adverse effects in respect of privacy and more generally that a high quality of design is achieved. Furthermore, it would conflict with paragraph 130 of the Framework which expects development to promote health and well-being, with a high standard of amenity for future users.

Other Matters

15. The Council's reason for refusal also stated the scheme does not provide adequate space for landscaping enhancements. While the modest proposed soft landscaping would be an improvement over the site's existing hard surfaces, given the cramped form of the development and the lack of suitable private outdoor space, it would not meet the requirement of Policy ENV10 of the LP that sufficient hard and soft landscaping is provided to successfully integrate with the character of the surrounding area.
16. The Council is currently unable to demonstrate the supply of housing sites as required by the Framework. As such, I am taken to paragraph 11 (d) of the

Framework where the most important policies would be deemed out of date. Amongst other things, and in this situation, paragraph 11 (d) (i) states planning permission should be granted unless the application of policies in the Framework that protect areas or assets of particular importance provides a clear reason for refusing the development. In this particular case, I have found that the proposed development would cause harm to the CA, a designated heritage asset, such that it would fail to preserve or enhance its character. Under the terms of the Framework, this provides a clear reason for refusing the development proposed. With this in mind, the provisions of paragraph 11 (d) (ii) do not apply. Neither does the appeal scheme benefit from the presumption in favour of sustainable development.

Conclusion

17. The proposal would conflict with the development plan as a whole and there are no material considerations, including relevant parts of the Framework, which indicate that the decision should be made otherwise than in accordance with it. The appeal is therefore dismissed.

C J Ford

INSPECTOR