



Appeal Decision

Site visit made on 10 January 2023

by **O Marigold BSc DipTP MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 17th January 2023.

Appeal Ref: APP/D1265/W/22/3306414

8 Castle Road, Portland DT5 1AU

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
 - The appeal is made by Mr Keith Tranter against the decision of Dorset Council.
 - The application Ref P/OUT/2022/00857, dated 9 February 2022, was refused by notice dated 10 March 2022.
 - The development proposed is erection of a single dwelling (outline-access only) and formation of associated ancillary parking and incidental land.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The application is in outline. A plan showing the possible footprint of the proposal has been provided by the appellant, and I have treated this as being illustrative, bearing in mind that all matters other than access, including layout, are reserved for future consideration.

Main Issues

3. The main issues are:
 - the effect of the proposal on the character and appearance of the area, and
 - whether the proposal would provide adequate living conditions for the occupiers of 8 Castle Road (No 8), and for the future occupiers of the proposed dwelling, in respect of privacy, outlook and outdoor space.

Reasons

Character and Appearance

4. The site consists of the rear garden of No 8, which is located on a hillside that slopes down towards the sea. Dwellings locally are formed in rows along the hillside, many positioned to face the attractive sea views. No 8 itself is one of several detached dwellings fronting Castle Road and with fairly long rear gardens.
5. Behind and above No 8, and a rear accessway serving it and other properties, are a row of dwellings. These dwellings front onto Harbour View Road but have rear windows that look towards the sea and No 8. There is no dispute that the

- site is in a built-up area within the settlement boundary for Portland, with good access to services and facilities.
6. The proposed dwelling would be located between the rear of No 8 and the dwellings on Harbour View Road. However, few if any of the other properties in the vicinity of the site have large buildings in their rear gardens and the area has a degree of openness and spaciousness.
 7. The size and precise location of the proposed dwelling is not fixed. However, despite the reasonable length of the existing garden (including the garage), any dwelling would need to incorporate parking and turning areas and have sufficient internal and external space, including amenity areas. Taking this into account, there would be little space available for a new dwelling within the site, even one of a modest size. As a result, a dwelling located here would appear cramped and out of place and would not reflect the somewhat spacious character of its surroundings.
 8. Furthermore, although there are existing tall boundary treatments around the site, a dwelling located here would have no dwellings immediately either side of it. When viewed from Harbour View Road and the rear accessway, it would not reflect the local pattern of development whereby dwellings are located primarily in rows. For these reasons, I conclude that the proposal would harm the character and appearance of the area.
 9. As such, it would be contrary to Policies ENV10 and ENV12 of the adopted West Dorset, Weymouth and Portland Local Plan, adopted 2015 (the Local Plan), that requires amongst other things development to contribute positively to local identity and distinctiveness and be informed by the character of the site and surrounding area. For similar reasons it would also conflict with the Neighbourhood Plan for Portland, adopted June 2021, the aims of which include protection of the special and unique character of the built environment of Portland.

Living Conditions

10. Details of the elevations, height and internal layout of the proposal are reserved for future application. However, from the information before me, the proposal would have its primary windows facing towards the sea. As such, it would also look towards the rear elevation of No 8, which has four first floor windows, and others at ground floor level. Although some are glazed with obscure glass, providing privacy, others are not so glazed and appear to serve habitable rooms.
11. Dwellings on Harbour View Road already have windows facing over the rear of No 8. A degree of mutual overlooking is to be expected in built-up areas such as the appeal site. The appellant has suggested that the design of the proposal could incorporate a mansard roof to ensure sufficient separation and privacy. Even so, the proposal would introduce a new dwelling much closer to the rear of No 8 and at a higher level than it.
12. Even positioned at the furthest point away from No 8, given the limited separation distance available, the proposal would result in windows looking at short distance directly down into the rear windows of No 8 and its external rear amenity area. This overlooking would harm the privacy of the occupants of No 8. Furthermore, given the short separation distance and its higher position, any

proposed dwelling may well also have an overbearing effect on the outlook of occupiers of No 8, when viewed from their rear windows.

13. There is currently tall hedging close to the rear elevation of No 8. However, even if this were to remain, it could not be relied upon to mitigate against the adverse effects to the occupants of No 8, particularly in winter months when it may have less foliage. Furthermore, because of the short distance available, windows on the rear elevation of the proposed dwelling are likely to be overlooked by those of the dwellings above, on Harbour View Road, adversely affecting the privacy of future occupiers of the proposal.
14. No 8 itself has a fairly large front garden. The sloping nature of the site, and the high front wall and vegetation fronting Castle Road, mean that No 8 would retain a reasonably sized and private area for outdoor recreation, even if its rear garden were built upon. However, given the limited space, the proposal would be likely to leave insufficient room for a useable garden area for the occupants of the proposed new dwelling. Furthermore, any such space would be overlooked by the rear windows of No 8, also resulting in a poor living environment for occupiers of the proposal.
15. For the reasons given above, I conclude that the proposal would not provide adequate living conditions for the occupiers of 8 Castle Road or for the future occupiers of the proposed dwelling, in respect of privacy, outlook and outdoor space. It would therefore be contrary to Local Plan Policy ENV11, which requires private amenity/garden space appropriate to the proposed use. It would also conflict with Local Plan policy ENV16, which requires that development must not have a significant adverse effect on the living conditions of occupiers of residential properties through loss of privacy.

Other Considerations

16. The National Planning Policy Framework (the Framework) makes clear that small windfall sites within existing settlements, such as here, can make an important contribution to early housing delivery. Bearing in mind the need for housing, including as a result of the ageing population, the proposal could provide for those seeking a modest-sized dwelling, perhaps downsizing from an under-occupied former family home.
17. However, although not a cap or a limit, there is no dispute that the Council can demonstrate a five-year supply of housing land. Furthermore, the Framework emphasises that development must be sympathetic to local character and have a high standard of amenity for existing and future users. As such, I find that the proposal would conflict with the Framework, read as a whole.
18. It may be the case that a double garage could be erected on the site under the Town and Country Planning (General Permitted Development) Order 2015 (GPDO). However, I have been provided with no clear evidence of such a proposal or that this represents a realistic fallback. Furthermore, in accordance with the GPDO, such a building would have to be single storey in height and incidental in use to No 8. As such, the size and appearance and use of such a building would be different to a separate dwelling and so would not have the same harmful effects as the proposal. Therefore, it does not justify the harm I identify above.

19. Although local residents have raised concerns about access for emergency services, the Highway Authority has not objected to the proposal, and I see no reason to disagree. The site is adjacent to the Grade II listed former police station and adjoins the Underhill Conservation Area (CA). However, having visited the site and its surroundings, I concur with the view of the main parties that the proposal would not harm the listed building or its setting and would have no adverse effect on the character or appearance of the CA. This does not however change my overall conclusions.
20. The site is within the buffer zone to the Chesil & Fleet Special Area of Conservation (SAC). As a European Designated Site, this is protected pursuant to the Conservation of Habitats Regulations 2017 as amended. Had I found no harm in respect of the main issues, I would as the competent authority have carried out a Habitat Regulations Assessment in respect of the potential effects of the proposal on the SAC. However, as I have found against the appellant on other substantive grounds, this matter need not be considered any further in this case.

Conclusion

21. For the reasons given, there would be conflict with the Development Plan, read as a whole. No material considerations have been shown to have sufficient weight to warrant a decision other than in accordance with it. I therefore conclude that the appeal should be dismissed.

O Marigold

INSPECTOR