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# Appeal Decision

Site visit made on 28 November 2022

**by S Edwards BA MA TCP MRTPI**

**an Inspector appointed by the Secretary of State**

**Decision date: 19 January 2023**

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**Appeal Ref: APP/D1265/W/21/3288118**

**Storage Land and Premises, Weston Road, Weymouth DT4 8JD**

- 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 Taylor Grey Homes against the decision of Dorset Council.
  - The application Ref P/OUT/2021/03467, dated 14 September 2021, was refused by notice dated 23 November 2021.
  - The development proposed is Outline application for erection of 6 no. dwellings.
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## Decision

1. The appeal is dismissed.

## Preliminary Matter

2. The application was submitted in outline, with all matters reserved. Access, Appearance, Landscaping, Layout and Scale are reserved for subsequent determination, and I have therefore had regard to the submitted drawings only insofar as they indicate how the site could be developed.

## Main Issues

3. The main issues are:
  - The effect of the proposal on the living conditions of neighbouring residents, having particular regard to outlook, privacy and light; and
  - Whether the proposal would provide satisfactory living conditions for future occupiers of the development, having particular regard to private, outdoor amenity space.

## Reasons

### *Living conditions of neighbouring residents*

4. The appeal site, which is currently in commercial use, comprises a single storey garage building fronting Weston Road and a large hardstanding area for the parking of vehicles. There is a two-storey terrace of properties known as Garibaldi Row which sits to the East of the site and looks directly onto it.
5. The appeal proposal would introduce a significant built form within proximity to the front elevation of Garibaldi Row. Despite the separation distance which would be maintained between the proposal and the existing terrace, the overall height and width of the building would severely restrict the outlook currently enjoyed by the occupiers of Garibaldi Row, and harmfully diminish the levels of natural light which the western facing elevation benefits from.

6. This is compounded by the fact that the front elevation represents the main outlook for the occupiers of Garibaldi Row, as views to the rear are already limited, notably due to the proximity of neighbouring properties fronting Weston Road and Chickerell Road. As a result, Garibaldi Row would become hemmed in between the appeal scheme and the neighbouring buildings, creating an unpleasant sense of enclosure for the residents. Consequently, the proposal would lead to a form of development which would appear oppressive and overbearing to these neighbouring residents and adversely affect their enjoyment of their property.
7. The front elevation of the proposed terrace would include a number of windows, which would enable its occupiers to overlook Garibaldi Row, and from a modest distance. I fail to see how this arrangement could not result in a harmful loss of privacy for the residents of Garibaldi Row. Additionally, the proposal would give rise to perceived overlooking, which would also have a detrimental effect on their enjoyment of their property.
8. Similarly, the proposed development could have an adverse effect on the living conditions of the occupiers of the neighbouring block, which includes a number of windows looking onto the appeal site. The rear elevation of the terrace, would include a number of windows, which adds to my concerns regarding the proposal and the resulting loss of privacy that would affect neighbouring residents.
9. My attention has been drawn to other parts of the town with small separation distances between buildings, but I do not have the details of the circumstances which led to these arrangements, and cannot therefore be certain that they represent a direct parallel to the proposal before me. Whilst the proposal may have been designed to reflect the pattern of development in the area, this does not provide justification for a scheme which would cause unacceptable harm to the living conditions of neighbouring residents.

*Living conditions for future occupiers*

10. Whilst this is an outline scheme, I find it difficult to see how the site could accommodate six dwellinghouses, whilst leaving sufficient space for a reasonable sized garden. The footprint of the built form required for the creation of six dwellings would inevitably occupy a significant proportion of the plot. Together with the degree of set back needed to minimise the effect of the development on the living conditions of neighbouring residents, this would leave limited scope for the provision of usable outdoor space to meet the day-to-day needs of future occupiers, particularly for domestic paraphernalia such as washing lines, tables and chairs, children's play equipment, etc.
11. As stated on the application form, this is a proposal for the creation of two- and three-bedroom properties, which may therefore provide accommodation for families with young children. The size of the rear gardens would be wholly inadequate for these types of dwellings. Although I note that the site lies within an accessible location and within relative proximity to parks and other outdoor recreation areas, this would not adequately compensate for the paucity of on-site provision for the proposed dwellings.

### *Conclusion on the main issues*

12. For the foregoing reasons, the proposal would cause unacceptable harm to the living conditions of the neighbouring residents, having particular regard to outlook, privacy and light. Moreover, it would fail to provide satisfactory living conditions for future occupiers of the development, with regard to private, outdoor amenity space. Accordingly, the appeal scheme would be in conflict with Policy ENV16 of the West Dorset, Weymouth and Portland Local Plan 2015, which seeks to ensure that proposals for development are designed to minimise their impact on the amenity and quiet enjoyment of both existing and future residents. It would also be contrary to paragraph 130 of the National Planning Policy Framework (the Framework), which requires development proposals to create places with a high standard of amenity for existing and future users.

### **Other Matters**

13. The planning application has been assessed on the basis that the Council did not have a five year supply of deliverable housing sites. In such circumstances, the policies which are most important for determining the application are deemed to be out of date and, as set out by paragraph 11d) of the Framework, planning permission should be granted, unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole.
14. However, the Council has advised that its position has changed since the determination of the planning application. The report for West Dorset, Weymouth and Portland Five-year housing land supply – April 2021, which has been published in May 2022, indicates that the Council now has 5.85 years of housing land supply. This is not disputed by the appellant. The tilted balance set out in paragraph 11d) of the Framework does not therefore apply in this instance.
15. The appeal scheme would make a contribution towards housing supply and choice, and enable the regeneration of a brownfield site located in an accessible area. It would also support the economy, firstly during the construction phase and in the longer term, as future residents would use the services and facilities available locally. However, the benefits associated with the proposal would be outweighed by the harm which I have identified.

### **Conclusion**

16. There are no material considerations, which indicate that the appeal should be determined, other than in accordance with the development plan. For the reasons detailed above, and having regard to all other matters raised, I conclude that the appeal should be dismissed.

*S Edwards*

INSPECTOR