



Appeal Decision

Site visit made on 29 January 2024

by E Worley BA (Hons) Dip EP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 22 February 2024

Appeal Ref: APP/D1265/W/23/3329031

Land north west of Branscombe Close, Branscombe Close, Southwell, Portland DT5 2JJ

- 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 Joe Saunders on behalf of Betterment Properties (Weymouth) Ltd against the decision of Dorset Council.
 - The application Ref P/FUL/2023/03148, dated 1 June 2023, was refused by notice dated 10 August 2023.
 - The development proposed is described as '(a) erect 3 no. detached 1 bedroom bungalows and a pair of semi detached bungalows (b) provide a car parking space and EV charging point for each bungalow plus visitor car parking (c) Lay out an area of 0.11 hectare as allotments and erect communal shed'.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. Since the appeal was lodged, a revised National Planning Policy Framework (the Framework) has been published. Both parties have had an opportunity to comment on the revised Framework and so have not been prejudiced by this change. I have thus had regard to the latest version of the Framework in determining this appeal.
3. The Council's second refusal reason refers to the effect of the development on the occupiers of '6A Branscombe Lane'. However, at my site visit it appeared that it is 6a Branscombe Close which adjoins the site, as shown on the submitted location and block plans. I have therefore considered the effect of the proposal on the occupants of this property.

Main Issues

4. The main issues are:
 - the effect of the proposed development on the character and appearance of the area;
 - whether the development would provide satisfactory living conditions for the future occupiers having specific regard to the amount of outdoor amenity space; and
 - the effect of the development on the living conditions of the occupiers of 117 and 117a Avalanche Road, and 6a Branscombe Close having specific regard to outlook.

Reasons

Character and appearance

5. The appeal site comprises a long narrow parcel of land. At the time of my site visit the land was largely overgrown and included dilapidated storage buildings located on part of the narrower section of the site. The site is bound on all sides by existing residential properties and their gardens and communal parking courts. The surrounding area includes 2 storey, single storey and chalet style detached, semi-detached and terraced properties of a range of ages and architectural styles on plots of different sizes.
6. Despite its current largely unmaintained appearance, the land is in the most part free from built development and forms a green wedge which has the effect of a visual break between the surrounding residential development. Whilst the site is not one of those areas of incidental open space listed at paragraph 2.19 of the Portland Neighbourhood Plan made on 22 June 2021 (PNP), the gap in the built form nonetheless creates a sense of openness between the residential development which contributes positively to the character and appearance of the area.
7. The appeal proposal would see the erection of a total of 5 one-bedroom single storey dwellings, including 3 detached and 2 semi-detached units, to be constructed with Portland stone and render and slate coloured roof tiles. Access to serve the development is proposed via a shared driveway which runs between the existing bungalows at the end of the Branscombe Close cul-de-sac. The access would lead to a small parking court for the occupiers of the development and their visitors, with EV charging points. The proposal also includes the provision of 15 allotments and a communal shed on the section of the land which tapers in width.
8. The dwellings in the cul-de-sac from which the access would be derived are set back a similar distance from the highway, with parking and gardens to the front, and rear gardens of a similar length. Notwithstanding the more irregular arrangement of the detached bungalows at 115, 117 and 117a Avalanche Road (Nos 115, 117 and 117a), the surrounding residential properties in the main include an area of garden space which extends immediately to the rear of the dwellings. The overall plot sizes vary considerably in the vicinity of the site, including several dwellings with rear garden areas of a modest size. Nonetheless, the general arrangement, although not always discernible in the street scene, creates a sense of spaciousness and separation between the built form, even on the smaller terraced plots with narrow gardens and those that benefit from domestic extensions and outbuildings to the rear.
9. However, the layout of the proposed development would be such that the properties would have areas of private amenity space of a limited depth to the rear and one side of the dwellings. Furthermore, the proposed dwelling immediately to the side of 6a Branscombe Close (No 6a) would benefit only from a very shallow rear private garden space. Combined with the modest size of the amenity space, the restricted separation distances between the built form and the boundaries to each plot would give rise to an undue sense of confinement. Consequently, the development would appear cramped and noticeably at odds with the established urban grain of the immediately surrounding area. Moreover, the loss of the existing open space between the

existing built form would diminish the open character of this part of the otherwise built-up area.

10. I acknowledge the development would be constructed using local stone and note the appellant's willingness to accept a condition to remove Permitted Development Rights for future extensions and alterations to the dwellings, as well as the construction of incidental outbuildings. However, these factors would not weigh in favour of the development, which I have found to be otherwise unacceptable.
11. My attention is drawn to a planning permission granted by the Council for a new dwelling at 'Land adj. 112 Weymouth Bay Avenue, Weymouth'. However, I do not have full details in respect of the development so I cannot be sure of the circumstances of the case. In any case, I have determined the appeal on its own merits, based on the evidence before me.
12. For the foregoing reasons I therefore conclude that the proposed development would harm the character and appearance of the area. Accordingly, it would be contrary to Policy ENV10 of the adopted West Dorset, Weymouth & Portland Local Plan adopted October 2015 (LP) in so far as it requires development to contribute positively to the maintenance and enhancement of local identity and distinctiveness and to be informed by the character of the site and its surroundings, the high quality design aims of Policy ENV12 of the LP which require development to, among other things, complement and respect the character of the surrounding area, and Policy ENV15 of the LP which supports development that optimises the potential of the site and make efficient use of land, subject to the limitations inherent in the site and impact on local character.
13. The proposal would also fail to accord with Policy Port/EN7 of the PNP in so far as it sets out that development proposals will be expected to be of a high quality design which complements the prevailing layout and density of the existing surrounding development and Policy CR4 of the PNP which seeks to protect areas of incidental open space within residential areas that contribute to local amenity, character and/or green infrastructure except where specific criteria are met. It would fail to reflect guidance in the Weymouth & Portland Urban Design Supplementary Planning Guidance (2002) in so far as it requires new development to take into consideration local building forms, which may include gardens. While the Framework encourages the efficient use of land, the proposal would conflict with its fundamental aims with regards to achieving well-designed and beautiful places.

Amenity space

14. Despite the limited size and configuration of the outdoor amenity space to serve each property, it would nevertheless allow space for future occupiers to carry out the usual outdoor activities associated with a dwelling, such as the drying of clothes or the siting of a table and chairs. Moreover, given the modest scale of the proposed dwellings, the amenity space would be of a sufficient size to meet the reasonable expectations of future occupiers of the proposed development.
15. Accordingly, I find that the proposed development would provide satisfactory living conditions for future occupiers of the dwellings with regards to the amount of outdoor amenity space. In that regard it would comply with Policy

ENV16 of the LP, which requires development to be designed to minimize its impact on the amenity of future residents within the development and paragraph 135 of the Framework in so far as it seeks to ensure that new developments have a high standard of amenity for future users.

Living conditions

16. The proposed bungalows would be single storey with hipped roofs. Nevertheless, the upper part of the buildings would be visible above the proposed 1.8m high boundary fence from the neighbouring properties and their gardens, including No 6a and Nos 117 and 117a. The single storey properties at Nos 117 and 117a are located a short distance from the site boundary. The bungalows would be positioned relatively close to the windows in the rear elevations of the properties which face the appeal site. The properties benefit from garden areas to the side of the dwellings as well as to the rear.
17. Despite the proximity to the site boundaries, the modest height and scale of the proposed bungalows, together with their roof form, is such that the resulting bulk of the development would not create a dominant or oppressive feature when viewed from Nos 117 and 117a and their gardens. Moreover, the spaces between the proposed bungalows would provide relief in the built form so as they would not have a continuous presence along the rear boundaries of the neighbouring properties. The outlook in other directions from the garden areas of Nos 117 and 117a would also remain unchanged as a result of the proposal.
18. The bungalow positioned directly to the side of No 6a would not project beyond the rear elevation of the property and would therefore not extend along its side boundary, which would reduce its prominence when viewed from the rear garden of the property. Whilst the detached bungalow to the rear of this would be visible from the rear garden of No 6a, due to the height, bulk and siting, offset from the shared boundary between the properties, it would not have an unacceptably overbearing effect when viewed from the garden of No 6a.
19. Nos 117 and 117a currently enjoy a degree of openness to the rear, as does No 6a to the side, due to the open nature of the appeal site. Whilst the proposal would change the outlook from the properties, for the reasons set out above, this would not give rise to significant demonstrable harm in that regard.
20. Whilst not specifically referred to in the Council's refusal reason, the officer's report also sets out concerns regarding the impact on No 115. However, for the foregoing reasons and specifically the position of the bungalows, which would not be located on land directly to the rear of No 115, the proposal would not be unduly visually dominating or imposing when viewed from this property or its garden.
21. I therefore conclude that the proposal would not have an unacceptably harmful effect on the living conditions of the occupiers of Nos 6a, 117, 117a or 115 with particular regard to outlook. In that regard it would not conflict with Policy ENV16 of the LP which supports new development where it does not have a significant adverse effect on the amenity of the occupiers of properties through, among other things, overbearing impact and Policy CR4 of the PNP which seeks to protect areas of incidental open space within residential areas that contribute to local amenity and the aims of paragraph 135 of the Framework

which seek to ensure that new developments achieve a high standard of amenity.

Other Matters

22. The proposal would offer benefits in terms of low cost housing supply in the area, in a location which benefits from accessibility to local shops and public transport links. This is a key objective of the Framework, which seeks to significantly boost the supply of housing. The Framework also acknowledges the important contribution small sites can make to meeting the housing requirement for an area, including the benefits of using suitable sites within existing settlements for homes. It would also generate CIL receipts to the Council and would result in some economic benefits during the construction phase and through local expenditure by future residents.
23. However, given the small scale of the scheme such benefits would be modest and therefore the weight to be attributed to them is limited. Moreover, the Council is currently able to demonstrate a deliverable five year supply of housing sites as required by the Framework¹. There is no substantive evidence before me to demonstrate that the Council's housing supply targets will not be met in the future.
24. The appeal submissions indicate that the proposal would meet local housing demand for small bungalows for elderly or disabled residents, which would reflect the aims of paragraph 60 of the Framework in relation to the needs of groups with specific housing requirements. However, in the absence of any substantive evidence to demonstrate an overriding need for this type of accommodation in the borough or that this need cannot be met elsewhere, I attribute limited weight to the benefit of the scheme in that regard. Moreover, there is nothing before me to demonstrate that the development would release larger family housing in the area.
25. Even if the land was subject to fly tipping, this does not in itself render the scheme acceptable. Moreover, it was evident at my site visit that the site is not particularly unsightly, consequently, any perceived benefits with regards to the appearance of the land would be of very limited weight.
26. The scheme would also offer benefits in terms of the provision of new allotments, which is supported by Policy CR3 of the PNP and could be secured through a planning condition. As there is nothing before me to suggest a demand for the allotments, this would be a neutral matter. Moreover, even if the proposed dwelling would be energy efficient, would exceed the minimum floor space standards and could deliver a net gain for biodiversity, as these are expectations of all new development, such considerations are neutral factors.
27. The proposed development is located approximately 2.5km from the Chesil and the Fleet designated Special Area of Conservation (SAC), Special Protection Area (SPA) and designated Ramsar site, which is subject to pressures from recreational disturbance. Had I been minded to allow the appeal, it would have been necessary to establish whether the proposal on its own or in combination with other projects would likely have significant environmental effects on the integrity of the European Site and whether the submitted legal agreement would be sufficient to avoid any adverse effects. However, as I am dismissing

¹ West Dorset, Weymouth and Portland Five-year housing land supply April 2023, published November 2023.

the appeal, my decision would not result in any adverse impacts in that regard. In any case, a finding that the proposal would not have an adverse effect on integrity, with or without any mitigation, would be at best a neutral matter.

28. Whilst I am sympathetic to the fact that the appeal proposal is a resubmission which seeks to address issues previously raised by the Council, I can only assess the current proposal on the basis of the information before me. Furthermore, the Council's handling of the application has little to do with the planning merits of the case.

Conclusion

29. There would be no harm to the living conditions of the occupiers of the neighbouring properties and the development would incorporate an appropriate amount of private amenity space for the future occupiers. However, set against this, I have found that the proposal would harm the character and appearance of the area and, therefore, the proposal would conflict with the development plan taken as a whole. Material considerations have not been shown to carry sufficient weight to indicate that a decision should be taken otherwise than in accordance with it.
30. For the foregoing reasons, the appeal is dismissed.

E Worley

INSPECTOR