

1.0 [WP/19/00699/FUL](#)

Site Address - 53 RODWELL ROAD, WEYMOUTH, DT4 8QX

Proposal - Demolition of existing dwelling and erect 6no. apartments with associated landscaping works and parking

Applicant name – Mr Wearing

Case Officer – Darren Rogers

Ward Member(s) Cllrs Heatley/Sutton/Wheller

Taking account of representations made during the Scheme of Delegation consultation with Members, the Head of Service considers that under the provisions of Dorset Council's constitution this application should be determined by the Area Planning Committee.

1.1 Summary of Recommendation: Approval subject to conditions

2.0 Reason for the recommendation:

- Absence of 5 year land supply
- Para of the National Planning Policy Framework (NPPF) sets out that permission should be granted for sustainable development unless specific policies in the NPPF indicate otherwise
- The location is considered to be sustainable and the proposal is acceptable in its design and general visual impact and as regards impact on Heritage Assets
- There is not considered to be any significant harm to neighbouring residential amenity.
- A key issue is that the application has been the subject of 2 appeal decisions which have been dismissed but the 2nd and most recent one of those only related only to the impact on the amenity of neighbours and not the design and external appearance of the proposal (considered acceptable) and as such this application is now considered to overcome the neighbour amenity impact issue. As such it is considered that there are no material considerations which would warrant refusal of this application.
- No adverse impact on Heritage Assets

3.0 Key planning issues

Issue	Conclusion
Principle of Development	Presumption in favour of sustainable development as the site is within the defined development boundary for Weymouth.
Design	Design and external appearance is considered appropriate for the site in

	the light of previous appeal decisions
Amenity	Not considered to result in a significant adverse effect on living conditions of neighbouring properties or future occupiers of the proposed development following the last appeal dismissed solely on this ground.
Heritage Assets	No adverse impact on Heritage Assets given previously dismissed appeal
Highway Safety	Highways raise no objections.
Community Infrastructure Levy (CIL)	CIL liable.

4.0 Description of Site

4.1 The site is to the south of the Town Centre Conservation Area which ends at St Leonards Road 150m to the north. Rodwell Road although being outside of the Conservation area does nonetheless contain impressive larger scale buildings and some Listed Buildings commensurate in character to many of the buildings in the Conservation Area and close to the junction of Rodwell Avenue namely No. 34 Rodwell Road 'Rodwell House'; 36 Rodwell Road, 48 Rodwell Road and Rodwell Cottage, 50 Rodwell Road.

4.2 The site is approximately 500m from the town centre, sits within the development boundary and is considered to be a sustainable location, on a main bus route between Weymouth and Portland. The street contains examples of flats and many properties without allocated parking.

4.3 The application site is a rendered detached 2 storey dwelling in a poor dilapidated state but still in occupation. Its main front door is on the side elevation facing no.31 Rodwell Avenue also 2 storey and detached in nature. The existing dwelling has a rear garden that is set well below Rodwell Road.

5.0 Description of Proposal

5.1 The proposal is to demolish the dwelling and replace it with 6 flats. These would be accessed from an internal parking area off Rodwell Avenue with a door at ground floor level facing Rodwell Road leading to a communal entrance hall. There would be 6 car parking spaces at ground floor level with a cycle store and bins storage area. The flats would be served by a private garden for apartment No. 1 (ground floor rear). Apartments 2, 3, 4 on the first floor would be served by large square terraces, apartments 5 and 6 on the second floor would be served by linear terraces all of which are on the east side to afford distant views of the coast.

5.2 The proposed materials would comprise a mixture of:

- Brick work
- Zinc cladding
- Aluminum framed windows

- Timber cladding on fibre cement board
- Aluminium Louvre system in front of aluminium framed windows
- fibre cement board
- concrete columns

5.3 The application follows 2 previously refused applications at the site and 2 dismissed appeals since 2016. The planning history at the site has crystallised the key planning considerations relevant to developing the site. The only outstanding issue in this respect remains the relationship between the proposed apartments and the neighbour to the east, No.31 Rodwell Avenue (No.31) having regard to the potential for overlooking and consequent loss of privacy.

5.4 The changes which have been made to the scheme, following the last dismissed appeal include, the raising of the height of the walls enclosing the first floor terraces to 1600mm and the second floor terraces to 1400mm. The design of the proposal is otherwise unaltered from the previous scheme which was in all other respects found to be acceptable by the most recent Planning Inspector.

6.0 Relevant Planning History

6.1 WP/16/00638/FUL Demolition of existing dwelling & erection of 6no. apartments with associated landscaping & parking - Appeal against non determination - Withdrawn

WP/17/00636/FUL Demolish dwelling and erection 6 apartments – Appeal against non determination - Appeal dismissed 13.6.18. The LPA sought to defend the appeal indicating that had it have been in position to have determined it, it would have refused permission on design and neighbour amenity grounds only.

WP/18/00503/FUL Demolition of existing dwelling and erection of a replacement residential building of 6 apartments with associated landscaping works and parking. Refused 25/9/2018 on design and neighbour amenity grounds again. Appeal dismissed but only on neighbouring amenity grounds. Partial Award of Costs against the Council for pursuing its objection of design grounds despite the previous appeal Inspector's unequivocal findings regarding the effect of the proposal on the character and appearance of the area as being acceptable.

7.0 Relevant Constraints

Within the defined development boundary for Weymouth

8.0 Consultations

All consultee responses can be viewed in full on the website.

8.1 Weymouth Town Council - *The Council objects on the grounds of ENV12 design and positioning of buildings. The Council welcomes the ground floor parking but there are concerns that the building takes up the whole of the plot, and there will be a considerable loss of green space.*

8.2 Highways – Dorset Council as the Local Highway Authority has NO OBJECTION subject to the following condition(s):

Before the development hereby approved is occupied or utilised the turning and parking shown on the submitted plans must have been constructed. Thereafter, these areas must be permanently maintained, kept free from obstruction and available for the purposes specified.

Reason: To ensure the proper and appropriate development of the site and to ensure that highway safety is not adversely impacted upon.

Before the development hereby approved is occupied or utilised provision must be made to ensure that no surface water drains directly from the site onto the adjacent public highway.

Reason: To ensure that the site is properly drained and that surface water does not flow onto the highway.

INFORMATIVE NOTE: Dorset Highways

The vehicle crossing serving this proposal (that is, the area of highway land between the nearside carriageway edge and the site's road boundary) must be constructed to the specification of the Highway Authority in order to comply with Section 184 of the Highways Act 1980. The applicant should contact Dorset Highways by telephone at Dorset Direct (01305 221000), by email at dorsetdirect@dorsetcouncil.gov.uk, or in writing at Dorset Highways, Dorset Council, County Hall, Dorchester, DT1 1XJ, before the commencement of any works on or adjacent to the public highway.

8.3 Conservation Officer – *The proposed development is a significant change to the mass at this location more than doubling the mass of the existing and abutting the highway along Rodwell Road and at an angle to the consistent building line established along the Avenue.*

Although the use of modern design and material is considered a positive move; the size, location and mass of the proposed is considered an incongruous feature and harmful to the setting of the listed buildings opposite this site.

However it is noted that the previous inspectors have established that this proposal does not affect the setting of the listed buildings "by degree of separation offered by Rodwell Road" - a remarkable comment as they are directly opposite the proposed site and bearing in mind the proposed development now sits up to the pavement potentially closer to the development than parts of 31 Rodwell Avenue and the subject of "amenity" concerns.

9.0 Representations

9.1 There have been 14 representations objecting to the application on the following grounds,

- no significant deviation from what has been proposed in previous applications, which have been refused or withdrawn.
- The proposed built area is well over double the present building footprint, representing a gross over development of this site.
- The size, type and style of the proposed building is grossly out of character with the immediate area. Most buildings are long established, traditional buildings, many of significant traditional design and character, especially on Rodwell Road, this is borne out with various listed buildings in the vicinity. The proposed materials are greatly out of character with the area, as is the "utilitarian" style of the building.
- The footprint of the proposed building does not appear to respect current building lines, particularly in Rodwell Avenue.
- It appears some trees and landscaping will be lost, particularly on the Rodwell Avenue side, as implied by the proposed plan. It is appreciated the Trees Officer has stated there are no TPO's in place, but (quote) "The proposal would involve the loss of these as well as other specimens that contribute to the visual setting of the area generally". We would agree with this, and suggest that significant visual amenity, enjoyed by many on this important "corridor" into Weymouth, provided by the present landscaping would be lost. Also the Trees and Landscaping Officer suggests that that the applicant has not included a plan indicating which trees are to be removed from the site and this should be provided. Again, we would endorse the Tree Officer's comments, due to the landscaping issues previously mentioned.
- Parking - there appears to be only 1 space per dwelling on site parking allocated, with nothing for visitors, and not taking into account multi car ownership, tradespeople etc. The only way this minimal parking can be provided on site appears to be from the basement parking facility, contributing to the vast bulk of this building. Parking issues are particularly acute in this area, one of the main issues being parking restrictions at a busy junction. We reject the statement that "In a sustainable location on a main bus route, the use of the car is not encouraged". People will be owning cars, and using them, in all probability, as per national trends, there will be more than one car per household.
- Access issues at a very busy traffic light junction. Traffic is often queueing past this site, particularly on the Rodwell Road side, on the busy "Boot Hill Corridor", and to a lesser extent, on the Rodwell Avenue side. As the Western Relief Road currently appears to be "not on the table" the present situation of traffic congestion can only remain the same, or more likely, get worse. Traffic waiting to turn into the development will exacerbate current problems, there is also minimal opportunity for a turning reservation in either road, due to road width, the bus lane or proximity to traffic lights.
- Overlooking / loss of privacy - Due to the proposed height of the property, we suggest that there will be issues of overlooking existing properties and lack of privacy. We suggest these issues would be on a much more reasonable scale, with a property more in keeping with the existing built environment.

- Views - We appreciate views are not a material consideration, but it has been apparently stated by the applicant that "The proposed flats have been designed to make the most of views to the sea". We are wondering, in turn, will this be to the detriment of long established views to the sea from other properties? ie Getting a view to the detriment of someone else's
- Shading / loss of daylight. We appreciate loss of daylight is more of a material consideration, but we are not convinced that appropriate calculations have been made to ensure reasonable percentage of sunlight, particularly mornings and evenings, at any time of year, have been performed, particularly in relation to the large "bulk" of this site having potential to block out a proportion of sunlight. Have even basic calculations, such as the 45° rule or 50:50 rule been performed?
- We would like to echo the planning officer's comments to Planning appeal Ref APP/P1235/W/17/3190036, to the previous Planning Application Ref WP/17/00636/FUL and WP/18/00503/FUL for this property, in that we believe they are still applicable to this new application, particularly scale, layout and massing on the site, design and materials incompatible with local environment, and detriment to visual amenity and distinctiveness of the area.
- We believe the proposal is still contrary to policies ENV10 (Landscape and town Setting) and ENV12 (The design and positioning of buildings) in the local plan, and design guidance in the National Planning Policy Framework, and also policy ENV16 of the local plan: "Planning should always seek to secure high quality design and a good standard of amenity for all existing and future occupants of land and buildings".
- As such, we believe this application is totally untenable on this site, particularly in relation to density and bulk, and suggest the applicant should probably consider traditional residential building with a bulk, density and style more in keeping with this area.
- As there is considerable pressure on local councils, particularly in areas such as Dorset, where we believe councils are desperately falling behind recommended house building "quotas", we would hope this would not put undue pressure for approval of this application, and that all important planning issues will be considered fairly. Indeed, the Planning Officer appears to state: "These adverse impacts outweigh the issue in favour of the scheme (its contribution to Housing Land Supply)". (Especially in view of the fact that balance seems to be always tilted in favour of contribution to housing land supply).
- The design of the proposed dwelling is totally out of character with this historical area of Weymouth! It still looks better placed on the Granby Industrial Estate.
- There will not be adequate parking as the majority of 2-bedroom dwellings have two cars. This will put added strain on an area where on road parking is already at a premium, especially during the summer holidays! You also have to take into consideration the visitors parking which will make matters worse to roads like Rodwell Avenue, Portway Close Etc. The entrance to the property is right on the one of the busiest junctions in Weymouth which at

peak travelling times and the majority of the summer is often gridlocked. The white stop line at the traffic lights as you turn left & right into Rodwell Road from Rodwell Avenue is adjacent to the entrance, so more often than not there is a vehicle blocking access to the property. So, with more vehicles & delivery drivers trying to gain access to the site could mean a queue of traffic backing up on to Rodwell Road causing a bottle neck at the junction. This could have implications to emergency vehicles that often use carriageway

- Firstly the aesthetic appearance of the development is far from matching, throughout Rodwell there are no aluminum windows or louvre panels. The majority of the buildings are constructed traditionally with red bricks in a standard bond design.
- The proposed elevations is not only aesthetically the opposite of what Weymouth is, but also dissipates the surrounding built environment
- We fear the increased traffic, noise, light and air pollution produced from this will affect health.
- Regarding vehicles, this will create a blind spot for moving vehicles and will create a dangerous environment.
- Concerns for sun-glare produced from the aluminium frames and metallic elements specified in the plans.
- No supporting documentation regarding traffic surveys and documents presenting measures what the developer is making to ensure the residents who would have to live with this obscene structure in our sea views a safe traffic management system for both long and short term.
- It has not in any way materially dealt with previous objections or the reasons given for previous refusals by the local authority. It seems that the applicant is determined to wage a war of attrition against local residents by submitting essentially the same plan, year after year (this being the fourth year that a version of this development has been submitted with no meaningful change).
- The notion that the changes from last year with regards to the increased wall height on the terraces etc. somehow negates previous objections is laughable, and in fact runs contrary to the applicant's previous claim that the mass, height and layout of the build was necessary to make the most of sea views, as these views will presumably now be impeded and the whole building will look even more like a prison/warehouse than it did previously. The idea that those unfortunate enough to live in a flat with a 1.5m wall on their terraces will not be adversely affected in terms of light and views is also surely a joke.
- Objections remain essentially the same as last year, and the year before -
 - The new building would be right on the boundary line, in extremely close proximity to our preexisting home, effectively boxing us in. This will block the light from three neighbouring
 - The elevated terraces on the application would provide residents of multiple properties with overlooking views directly into our garden/the rear of our home (including two foster children's bedrooms) from a position of height along the length of our eastern boundary. The notion that a slightly higher wall negates this is absurd.

- We are foster carers looking after vulnerable children and specifically sought out a more secluded garden/living space, so the above points regarding being overlooked as well as late night sound/light pollution from six properties suddenly appearing down the length of our house/garden are a serious concern.
- The significant height and length of the proposed structure would also block afternoon sunlight from our garden/property for a significant portion of the afternoon.
- We believe that the large quantities of sheet metal proposed for the upper floors look industrial, and do not fit the predominantly brickwork aesthetic of the surrounding residential area.
- The carpark seems too small for six properties, and we believe that having the entrance so close to the traffic light controlled junction will be a safety hazard for residents and commuters, and the size of the building and the fact it is built on the edges of the plot will obscure views on approach to said junction.
- The proposed structure seems entirely too large for the plot, and not in keeping with the design or character of the area, which includes several traditional brick and historic/listed properties.
- We note that none of the points raised in previous refusals/local authority statements have been addressed, and these are conveniently absent in the latest application, which seeks to misleadingly convey that the height of the walls on the terraces was the sole reason the application has been refused so many times before. By way of brief reminder, some previous comments on these documents (which are all, of course, publicly available online) are annexed below. If anybody can truthfully highlight how any of these issues have been addressed in the new submission, we would be amazed.
- To reiterate, we strongly object to the proposal as submitted. We do not argue with the fact that the building needs serious work or to be demolished and renovated; however, the current plan is clearly an ongoing attempt to maximise greed and developer profit over any form of actual concern about sustainable development or the local residents.

Weymouth Civic Society object that the proposal

- is overdevelopment of this limited site.
- The design is totally inappropriate for this location, being quite out of keeping with other buildings in the area. It would go against the grain of the local built environment and result in visual disruption of the general character of this area.
- Is in close proximity of the frontage of the building to Rodwell Road directly adjacent to the edge of the footway, and very close to the corner of the site at this important road junction.
- Consider that the access to the car park would be difficult, and that the number of parking spaces is inadequate, especially bearing in mind the very limited and already heavily used on-street parking.

10.0 Relevant Policies

National Planning Policy Framework

As far as this application is concerned the following section(s) of the NPPF are considered to be relevant;

Para 38 - Local planning authorities should approach decisions on proposed development in a positive and creative way. They should use the full range of planning tools available, including brownfield registers and permission in principle, and work proactively with applicants to secure developments that will improve the economic, social and environmental conditions of the area. Decision-makers at every level should seek to approve applications for sustainable development where possible.

Part 2 - Achieving sustainable development

Part 5 - Delivering a sufficient supply of homes

Part 12 - Achieving well- designed places

Part 16 Conserving the Historic Environment

Adopted West Dorset and Weymouth & Portland Local Plan (2015)

Int1 - Presumption in favour of sustainable development

ENV1 - Landscape, Seascape and sites of Geological Interest

ENV10 - The landscape and townscape setting

ENV11 - The pattern of Streets and spaces

ENV12 - The design and positioning of buildings

ENV16 - Amenity

SUS1 - Distribution of development

COM7 - Creating safe and efficient transport network

COM9 - Parking standards in new development

COM10 - The provision of utilities service infrastructure

Other material considerations

Urban Design (2002)

DCC Parking Standards Guidance

Weymouth And Portland Borough Council: Supplementary Planning Guidance 2.

Listed Buildings And Conservation Areas.

11.0 Human rights

Article 6 - Right to a fair trial.

Article 8 - Right to respect for private and family life and home.

The first protocol of Article 1 Protection of property

This Recommendation is based on adopted Development Plan policies, the application of which does not prejudice the Human Rights of the applicant or any third party.

12.0 Public Sector Equalities Duty

As set out in the Equalities Act 2010, all public bodies, in discharging their functions must have “due regard” to this duty. There are 3 main aims:-

- Removing or minimising disadvantages suffered by people due to their protected characteristics
- Taking steps to meet the needs of people with certain protected characteristics where these are different from the needs of other people
- Encouraging people with certain protected characteristics to participate in public life or in other activities where participation is disproportionately low.

Whilst there is no absolute requirement to fully remove any disadvantage the Duty is to have “regard to” and remove OR minimise disadvantage and in considering the merits of this planning application the planning authority has taken into consideration the requirements of the PSED.

In the context of the above PSED duties the scheme includes some parking spaces in close proximity to the units to provide easier access, the proposal involves units on the ground floor all at one level and the provision of a lift and mobility scooter storage.

13.0 Financial benefits

Material benefits of the proposed development	
Affordable Housing	N/A
CIL Contributions	Will be CIL Liable

Non-material benefits of the proposed development	
Council Tax	Not known
New Homes Bonus	Not known

14.0 Climate Implications

14.1 The development is considered to be in a sustainable location, being within the defined development boundary for Weymouth with the wider services and facilities and public transport links of the town close by.

14.2 Energy would be used as a result of the production of the building materials and during the construction process. However that is inevitable when building houses and a balance has to be struck between providing housing to meet needs versus conserving natural resources and minimising energy use.

14.3 The development would also be built to current building regulation standards at the time of construction.

15.0 Planning Assessment - The following issues are considered relevant to this proposal.

- Planning Principle
- Design and impact on character and appearance of the area
- Impact on neighbours amenity
- Heritage Assets
- Highways
- Ecology
- Developers contributions
- Affordable Housing

Principle of development

15.1 In terms of the principle of the development, the site lies within the defined development boundary for Weymouth. Policy SUS2 of the adopted local plan seeks to direct development to the main settlements and to strictly control development outside DDBs having particular regard to the need to protect the countryside and environmental constraints. Given the location of the site inside the DDB with good access to amenities, the principle of the application is acceptable. The development would also further assist in the lack of five year housing supply subject to compliance with other policies in the local plan.

15.2 The Council cannot current demonstrate a five year supply of deliverable housing sites. Following an appeal in Charminster in 2019 the Inspector there concluded that the Council cannot demonstrate a 5YHLS for the West Dorset, Weymouth & Portland plan area. The inspector concluded that the position is greater than 4.12 but less than 4.88 yrs eg less than 5 years. This means that para 11 footnote 7 of the NPPF is 'engaged' and relevant supply of housing, including Policy SUS2 may no longer be considered to be up to date. Where a 'relevant policy' such as SUS2 is considered to be out of date, para 11 of the NPPF is also engaged indicating that in such cases planning permission should be granted unless:

- i) the application of policies in the framework that protect areas or assets of particular importance provides a clear reason for refusing development proposed, or
- ii) any adverse impact of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the framework taken as a whole.

15.3 The lack of a 5 year supply, even if the supply is only marginally below 5 years, means that less weight has to be given to policies such as Policy SUS2 in decision making. This application is located within the defined development boundary (DDB) of Weymouth in the adopted local plan and would be seen in the wider context of the surrounding buildings and is a brownfield site in that it accommodates an existing dwelling. Based on the requirement to assist in the lack of five year housing supply the proposal in principle is considered acceptable in principle.

15.4 Design and impact on character and appearance of the area

Previous Inspectors have dealt with this issue. In the first dismissed appeal the Inspector stated that :

“Character and appearance

5. The site lies at the junction of Rodwell Road, a primary route through Weymouth, and Rodwell Avenue. Rodwell Road is varied in style, scale, design and materials, the architecture being typical of the time in which each building was built. Dwellings on Rodwell Avenue are varied, but the street has a strong character, as many dwellings are built in a similar style from a small palette of materials. The character weakens as the road climbs to its junction with Rodwell Road due to the presence of buildings, including the current 53 Rodwell Road, that do not follow the prevailing style.

6. Dwellings on Rodwell Avenue are of a domestic scale being a mix of 2-storey and 2.5-storey with rooms provided in steep roofs. Nos. 94 and 96 directly opposite the appeal site, are some of the taller examples and strongly define the junction. The proposed building would increase from a modest 2 storey height adjacent to No. 31 to 3 storeys on the corner with Rodwell Road. However, the road rises steeply past the site such that the building would not be so high relative to the road, instead being similar in height to Nos. 94 and 96. Against the backdrop of taller buildings that occupy higher ground on the opposite side of Rodwell Road, the building would be an appropriate scale for the corner plot. Rodwell Road rises steeply in both directions from its junction with Rodwell Avenue. Therefore, it is not a prominent location in the wider street scene. The scale of the building would sit comfortably with those around it and would not appear prominent in Rodwell Road.

7. Whilst the appeal scheme’s Rodwell Road elevation would be long and bulky, and fairly utilitarian in style, it would be broken up by some openings and projecting sections. Many of those nearby on the site side of the road present high walls or side elevations with few openings. The proposal would not be dissimilar and so it would not appear out of place. The higher part of the building closer to the junction would provide a focus such that the car park entrance would not dominate the Rodwell Avenue elevation. Directly opposite the site, Nos. 36-44 Rodwell Road are terraced so the buildings fill the entire width of the site when viewed from the road. Like No. 40, there would still be space around the proposed building to the rear such it would not entirely fill the site.

8. The choice of brick would draw reference from other buildings in the area. The zinc cladding, whilst not prevalent in the area would extend the roofline down the building in a similar way to nearby buildings with ‘mansard’ roofs. The materials would therefore be appropriate.

9. To conclude on this issue, the proposal would not harm the character and appearance of the area. In this regard it would, therefore, accord with the design policies of the National Planning Policy Framework (the Framework) and those parts of policies ENV10 and ENV12 of the West Dorset, Weymouth and Portland Local Plan 2011-2031 (LP) that seek to ensure the maintenance and enhancement of local identity and distinctiveness, and that buildings are designed to respond positively to adjoining buildings and the overall character of the area.

15.5 While many of those making representations including the Town Council and Civic Society who consider that the proposals are unacceptable as regards the design and external appearance of the proposals, that has not been the conclusions of the Inspector in dismissing the first application determined at appeal under application number WP/17/00636/FUL. Despite the Inspectors conclusion on design matters as being acceptable, the Council on the 2nd application (also the subject of an appeal decision) maintained its design objection under application number WP/18/00503/FUL. This Appeal was also dismissed but only on neighbouring amenity grounds. A Partial Award of Costs against the Council was allowed for pursuing its objection of design grounds with the Inspector here stating :

Character and appearance

12. The proposed development is similar to the scheme assessed as part of the previous appeal, except for the alterations to some of the terraces to the East elevation. The Inspector noted the presence of buildings which do not follow the prevailing style in the area, and found that the scale of the proposal would sit comfortably with those around it and would not appear prominent in Rodwell Road. The footprint, materials and overall design appearance of the proposed building were also considered acceptable. There is no reason for me to disagree. I therefore consider that the proposal would not cause unacceptable harm to the character and appearance of the area and find no conflict with the design aims of Policies ENV10 and ENV12 of the WDWP Local Plan, and the Framework.

15.6 Given the above information it would now be wholly unreasonable to refuse permission on design grounds and the Council could be faced with another award of costs against it if it were to do so. These Inspectors decisions are material planning considerations and given that 2 Inspectors have come to the same conclusion that the design and external appearance of the proposal is acceptable, it would be unreasonable for the Council to maintain its design objection.

15.7 As such the impact of the proposal on the character and appearance of the area is an acceptable one.

15.8 Impact on neighbours amenity

In the light of the conclusions of the preceding paragraph, the last appeal Inspectors decision focused mainly on neighbour amenity impacts and it was dismissed solely on that ground. The Inspector stated that:

Living conditions

5. No 31 is a two-storey detached property which lies within close proximity to the boundary shared with the appeal site. The Council is concerned that the outlook from this neighbouring property and outdoor area would be seriously affected by the bulk of the proposal. Having regard to the previous appeal decision, I note that the Inspector considered that the development would not have a harmful overbearing effect on the outlook from the rear windows or garden of that property. As the proposal would be sited further away from this neighbouring property, it was found likely that more light would be available to the side windows of no 31. There is no reason for me to take a different view.

6. With regard to privacy, the appellant sought to address the concerns raised within the 2018 appeal decision by reducing the size and altering the layout of some of the proposed terraces. However, the changes would not fundamentally overcome the loss of privacy previously identified. Whilst the depth of terrace to apartment 2 has been reduced, its orientation towards the rear garden of no 31 would allow any future occupiers to overlook directly, and from a modest distance, this neighbouring outdoor area. Equally, the proposed terrace to apartment 3 would enable views into the garden area of this neighbouring property.

7. The harm would be compounded by the second floor terraces to apartments 5 and 6 which, although sited further away from the boundary shared with no 31, would add to the unneighbourly relationship resulting from the proposed development. It would increase the perception of overlooking and loss of privacy for the occupiers of the neighbouring property, and have a detrimental effect on the enjoyment of their outdoor amenity space.

8. Despite the changes introduced as part of this revised scheme, the terrace to apartment 4 would still be located within close proximity to a small window situated to the side elevation of no 31. As noted previously by the Inspector, whilst this window may not serve a habitable room, it is not appropriate to introduce a relationship where one could look directly into the window at such close distance.

9. The height of the proposed balustrade and planter would not satisfactorily overcome the harm which I have identified. The appellant has suggested that a condition requiring the submission of a landscaping scheme could be submitted. However, any landscaping would likely take a considerable length of time to mature before being effective, and there is no guarantee that it would be retained or maintained in the long term. A 2.4 metre high boundary fence would not address the overlooking issues rising from the terraces at first

and second floor levels. Therefore, these elements do not persuade me to alter my views with regard to loss of privacy.

10. The Council also raised concerns in respect of the access which future occupiers of apartment 2 could gain onto the flat roof area above apartment 1. However, had I been minded to allow the appeal, this issue could have been resolved by the imposition of a condition requiring the window to remain fixed shut or restricting access to this area.

15.9 In answer to these concerns the applicant has responded to deal with the relationship between the proposed development and the neighbour to the east at Rodwell Avenue (No.31) having regard to the potential for overlooking and consequent loss of privacy. Their statement explains that:

The changes which have been made to the scheme, following the last dismissed appeal include, the raising of the height of the walls enclosing the first floor terraces to 1600mm and the second floor terraces to 1400mm. The design of the proposal is otherwise unaltered from the dismissed scheme which was in all other respects found to be acceptable by the most recent Planning Inspector.

It is clear from the Inspector's reasoning that the sole area of concern related to the potential for occupiers of the apartments to look across and down from first and second floor level into the rear garden of No.31. The Inspector considered the worst case scenario of the planting not being effective in front of the proposed terrace walls and concluded that at 1.5m high at first floor level and a 900mm high wall at second floor level would not be adequate.

The Inspector's concerns have been addressed in this resubmission by raising the heights of the terrace walls on each of the terraces to a height of 1.6m at first floor level and 1.4m at second floor level. The average eye level for a UK man is 1.63m whilst for a woman it is 1.50m. The submitted cross section drawings clearly illustrate that by increasing the wall heights this will negate the possibility for overlooking of No.31's garden. Views will be available towards the coast but not in a downward direction that could overlook the neighbouring property.

For the most part, it would be impossible for the occupiers of No.31 to know whether anyone was on the terraces. This is because views towards the terraces (from No.31's garden) would, by necessity, be at an upward angle and this coupled with the setback position of users of the terraces as a result of the planters would mean that a user of the terrace would be unlikely to be seen from No.31's rear garden even when standing.

The revisions to the design also therefore avoid there being a perception of overlooking because the occupiers of No.31 will be aware that it would not be

possible for future occupants of the proposed apartments to overlook their garden. In this respect the perception that overlooking could take place would not occur following these changes to the design of the proposal as views up to the apartments' terraces would be limited to the walls and planting behind.

The raised terrace wall at apartment 4 would remove the potential for views into the side window in the western elevation of No.31. The Inspector's objection that screening between properties would be inadequate has been overcome. Indeed, the redevelopment has the potential to offer betterment because an existing first floor east side window in No.53 facing directly towards the side window in No.31 would be removed following the demolition of No.53.

The applicant can confirm that they are willing to accept a planning condition requiring either the first-floor window facing onto the flat roof (above apartment 1) to be fixed shut or a requirement that the roof shall not be accessed or used as roof terrace. The Inspector recommended that a condition could be used to secure either of these measures. This should alleviate the concern that this flat roof might be used as a roof terrace which is not the intention within the scheme.

15.10 Policy ENV16 of the Local Plan and paragraph 127 of the Framework seek to ensure that new development provides a high standard of amenity for existing and future users. As such it is considered that the proposal would be in accordance with Policy ENV16 of the Local Plan and the NPPF, the latter stating that proposals for development should be designed to minimize their impact on the amenity and quiet enjoyment of both existing residents and future residents within the development and close to it.

15.11 The provision and retention of the balcony screens and use of the flat roof above apartment 1 can all be made a condition of any approval.

15.12 Heritage Assets

As with the last appeal decision the Inspector stated that :

"The appeal site lies within proximity to a number of Grade II Listed Buildings situated on the opposite side of Rodwell Road. No concerns were raised by the Council or the Inspector who dealt with the previous appeal regarding the effect of the proposal on the setting of these designated heritage assets. By reason of the degree of separation provided by Rodwell Road, I am satisfied that the proposed development would not cause harm to the setting of these Grade II Listed Buildings."

15.13 Despite your Conservation Officer raising concerns about the impact of the development on the nearby listed buildings, commenting about it being an "incongruous feature and harmful to the setting of the listed buildings opposite" that

was not the view taken by the previous Inspector. He concluded that *“by reason of the degree of separation provided by Rodwell Road, I am satisfied that the proposed development would not cause harm to the setting of these Grade II Listed Buildings”*

15.14 In the light of the above assessment, and to repeat again that Inspectors decisions are material planning considerations, it would be unreasonable for the Council to refuse permission for adverse impact on Heritage Assets noting that an appeal decision concludes that no such harm to their setting would arise. As such it is considered that the proposed development would comply with Policy ENV4 of the Local Plan and section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990 as regards the special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses is considered to be met

15.15 Highway Safety

With regards to the previously refused applications none were refused on highway grounds and none were the main considerations of the Inspectors in dismissing the appeals. There are no highway objections to this current proposal despite those objecting to it, given the sites access in proximity to the traffic light junction and which utilises that existing access for basement parking. Given that there are no highway objections and that the previous appeal decisions (being material planning considerations) did not see highway matters as a main consideration, it would be unreasonable for the Council to refuse permission on grounds of unacceptable impact on highways. As such it is considered that the proposal meets the requirements of Policy COM7 & COM9 in the Adopted West Dorset and Weymouth & Portland Local Plan (2015), and the advice contained in the NPPF para 109 which states that *“Development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe”*. That is not considered to be the case.

15.16 Ecology/Biodiversity

The application is below the site area for there to be a requirement for any bio diversity mitigation or ecology issues being less than 0.1 ha or where there are no known protected species or important habitats/habitat features. Given the above the proposal is not considered to have an adverse impact on biodiversity/ecology interests and this issue formed no part in the consideration or determination of the previous appeals by previous Inspectors.

15.17 Community Infrastructure Levy (CIL)

The adopted charging schedule only applies a levy on proposals that create a dwelling and/or a dwelling with restricted holiday use. All other development types are therefore set a £0 per square metre CIL rate. The development proposal is CIL liable. The rate at which CIL is charged is £93 per sqm. Confirmation of the final CIL charge will be included in a CIL liability notice issued prior to the commencement of the development Index linking as required by the CIL Regulations - (Reg. 40) is

applied to all liability notices issued, using the national All-In Tender Price Index of construction costs published by the Building Cost Information Service (BCIS) of the Royal Institution of Chartered Surveyors. CIL payments are index linked from the year that CIL was implemented (2016) to the year that planning permission is granted.

15.18 Affordable Housing Contributions

Policy HOUS1 requires all new dwellings to make a 35% contribution towards affordable housing. National planning policy and national guidance establish thresholds below which affordable housing contributions should not be sought. As this site falls below these thresholds (10 dwellings in this urban area) an affordable housing contribution is not required.

16.0 Conclusion

16.1 The NPPF encourages residential development in locations where it would support housing supply; where an efficient use of land can be achieved; and where jobs, shops and services are reasonably accessible by modes of transport other than the private car. The proposed development as concluded by the previous appeal decisions would be located close to the town centre, and deliver some benefits to the local economy through short term construction and use of local shops. It would also contribute towards housing supply and choice.

16.2 The scheme remains largely the same in terms of its overall design and external appearance and no matter what criticism there arte of others to that 2 appeal Inspectors have determined that it is acceptable in that regard. Those decisions are material planning considerations to this assessment.

16.3 The scheme now proposes to mitigate the impact of the development on the amenity of neighbours at no.31 Rodwell Avenue by providing screens to external balconies of the apartments and coupled with their height and distance to the boundary with no31 that is considered to be a satisfactory solution that overcomes the adverse amenity impact concluded by the previous appeal Inspector.

16.4 It is therefore considered that there are no material harmful effects that would significantly and demonstrably result in a recommendation to refuse planning permission as is detailed in the main body of the report.

16.5 The proposed development is acceptable and therefore recommended for approval.

17.0 Recommendation - Approval subject to the following conditions :

1 The development to which this permission relates must be begun not later than the expiration of three years beginning with the date of this permission.

REASON: This condition is required to be imposed by Section 91 of the Town and Country Planning Act 1990 (as amended).

2 The development hereby permitted shall be carried out in accordance with the approved plans:

Location Plan - Drawing Number 366.P.001 P4 received on 25/09/2019 - Approved

Proposed Ground Floor Plan - Drawing Number 366.P.100 P6 received on 22/08/2019 - Approved

Proposed First Floor Plan - Drawing Number 366.P.101 P7 received on 22/08/2019 - Approved

Proposed Second Floor Plan - Drawing Number 366.P.102 P6 received on 22/08/2019 - Approved

Proposed Roof Plan - Drawing Number 366.P.103 P5 received on 22/08/2019 - Approved

Proposed Section AA - Drawing Number 366.P.200 P3 received on 22/08/2019 - Approved

Proposed Section BB - Drawing Number 366.P.201 P2 received on 22/08/2019 - Approved

Proposed Section AA - Drawing Number 366.P.202 P2 received on 22/08/2019 - Approved

Proposed Section BB - Drawing Number 366.P.203 P2 received on 22/08/2019 - Approved

Proposed West Elevation - Drawing Number 366.P.300 P5 received on 22/08/2019 - Approved

Proposed South Elevation - Drawing Number 366.P.301 P5 received on 22/08/2019 - Approved

Proposed East Elevation - Drawing Number 366.P.302 P6 received on 22/08/2019 - Approved

Proposed North Elevation - Drawing Number 366.P.305 P5 received on 22/08/2019 - Approved

View facing South as Proposed - Drawing Number 366.P.500 P3 received on 22/08/2019 - Submitted

View facing South as Proposed - Drawing Number 366.P.501 P3 received on 22/08/2019 - Submitted

View facing West as Proposed - Drawing Number 366.P.502 P3 received on 22/08/2019 - Submitted

View facing North as Proposed - Drawing Number 366.P.503 P3 received on 22/08/2019 - Submitted

REASON: For the avoidance of doubt and in the interests of proper planning.

3 Before any development is carried out above damp proof course level details and samples of all facing and roofing materials shall be submitted to, and approved in writing by, the Local Planning Authority and the development shall be completed in accordance with these details.

Reason: To ensure that the external appearance of the completed development is sympathetic to its locality.

4. Before any development is carried out above damp proof course level, full details of both hard and soft landscape works shall be submitted to and approved in writing by the Local Planning Authority. All hard and soft landscaping shall be carried out in accordance with the approved details. The works shall be carried out prior to the occupation of any part of the development or in accordance with a programme agreed in writing with the Local Planning Authority.

Reason: Landscaping is considered essential in order to preserve and enhance the visual amenities of the locality.

5 Before the development hereby approved is occupied or utilised the turning and parking shown on the submitted plans must have been constructed. Thereafter, these areas must be permanently maintained, kept free from obstruction and available for the purposes specified.

Reason: To ensure the proper and appropriate development of the site and to ensure that highway safety is not adversely impacted upon.

6 Before the development hereby approved is occupied or utilised provision must be made to ensure that no surface water drains directly from the site onto the adjacent public highway.

Reason: To ensure that the site is properly drained and that surface water does not flow onto the highway.

7 Prior to any construction taking place a Construction Environmental Management Plan detailing hours of construction and parking for site operatives shall have been submitted to, and approved in writing by the Local Planning Authority. Thereafter, unless otherwise agreed in writing by the Local Planning Authority the development shall proceed in strict accordance with the plan as have been agreed.

Reason. To safeguard the amenity of neighbours from undue noise and disturbance

8 There shall be no use of the flat roof area above apartment 1 as an external amenity area and there shall be no direct access to that area from apartment 2. Prior to the occupation of apartment 2 the window proposed to be installed immediately next to the external balcony of apartment 2 as shown on the submitted plans on the east elevation shall be permanently fixed shut.

Reason. To safeguard the amenity of neighbours

9 No apartment hereby approved shall be brought into occupation unless and until the privacy/balcony screens as shown on the east elevation for proposed apartments 2-5 have been provided in accordance with the approved plans. When provided they shall be permanently retained as such.

Reason. To safeguard the amenity of neighbours

INFORMATIVE NOTE: Dorset Highways

The vehicle crossing serving this proposal (that is, the area of highway land between the nearside carriageway edge and the site's road boundary) must be constructed to the specification of the Highway Authority in order to comply with Section 184 of the Highways Act 1980. The applicant should contact Dorset Highways by telephone at Dorset Direct (01305 221000), by email at dorsetdirect@dorsetcouncil.gov.uk, or in writing at Dorset Highways, Dorset Council, County Hall, Dorchester, DT1 1XJ, before the commencement of any works on or adjacent to the public highway.