

Appeal Decisions

1. PURPOSE AND RECOMMENDATIONS

Purpose of Report: To inform Members of notified appeals and appeal decisions and to take them into account as a material consideration in the Planning Committee's future decisions.

Recommendations: **It is RECOMMENDED that:**
This report is for Information

Wards: Those covered by the area planning committee

2.0 Appeal Decision no. 1

Appeal Reference: APP/D1265/W/20/3254095

Planning Reference: WP/17/00836/FUL

Proposal: The construction of new vehicular and pedestrian access, surface water management ponds, open space and landscaping

Address: Land to the north west of Wessex Roundabout, Radipole Lane, Chickereil

2.1 The planning application was considered by the Western and Southern Area Planning Committee in July 2020. The case officer for the application recommended to the committee that the application be approved. The committee decision was to refuse planning permission for the following reason:

The development does not make adequate provision for pedestrians and cyclists with narrow pavements and no pavement to the south of the vehicular access, beyond the entrance to the site, meaning that pedestrians and cyclists would have to cross the access road to continue on a pavement into the site. Hence the proposal is contrary to Policy ENV11 of the West Dorset, Weymouth and Portland Local Plan (2015) and Paragraphs 91a and 110a of the National Planning Policy Framework (2019).

2.2 The applicant subsequently appealed the decision and the appeal proceeded by means of written representations.

2.3 The Inspector considered the main issue to be the effect of the development on pedestrians and cyclists. The Inspector considered that the nearby roundabout was well served by shared use pedestrian and cycle facilities and

it is reasonable to expect a demand for pedestrian and cycle movements to and from the site, irrespective of whether the adjacent proposed housing development occurs. The site is within 2.5km of the town centres and 8km cycle distance of the majority of Weymouth. Such distances to nearby residential areas, services and employment make sustainable travel a realistic alternative to private car use.

- 2.4 The Inspector notes that the scheme would require cyclists leaving the site toward the roundabout, to turn right out of the proposed access on-road and then join the shared use facilities at the roundabout. The alternative would be for cyclists to dismount when leaving the site, crossing the proposed access road to the short section of intended footway and walk along the proposed link to the roundabout, pushing their bicycle. This would be counter intuitive, likely increasing conflicting traffic movements from that which currently exists, particularly for those wishing to travel to or from the west or south of the site and would not encourage sustainable travel.
- 2.5 The Inspector considers that pedestrians wishing to access or egress the south of the adjacent site would need to cross the proposed access road and then back on themselves a short distance later, contrary to the natural desire line. That the appellant doesn't consider it feasible to construct a longer footway on the southern side of the proposed access does not make the proposal acceptable.
- 2.6 The Inspector considered he had insufficient information before him to consider that the lack of provision for pedestrians and cyclists would not lead to highway safety issues at or around the proposed access. The proposal does not cater for natural desire lines. The proposal would not facilitate adequate access to the nearby cycle facilities, requiring them to cross the road at closer proximity to the busy roundabout than that currently.
- 2.7 The inspector acknowledged that the proposal may result in betterment to visibility than at the current junction and create a new footway link to the roundabout. He also accepted that it would not adversely effect congestion or parking. The proposal as a whole does not cater sufficiently for pedestrians and cyclists and would not encourage sustainable travel. The proposal would not accord with Policy ENV11 of the adopted local plan, which amongst other things seeks to ensure development proposals are clear and simple for people to use and are well connected with the surrounding areas. The proposal would not accord with the NPPF, particularly paragraphs 91a and 110a which amongst other things seek to ensure that planning decisions should aim to achieve healthy, accessible places and allow for easy pedestrian and cycle connections.

3.0 Appeal Decision no. 2

Appeal Reference: APP/D1265/W/20/3254096

Planning Reference: WD/D/17/002597

**Proposal: Application for approval of reserved matters for access, appearance, landscaping, layout and scale in relation to outline approval
WD/D/14/001938**

Address: Wessex Stadium, Radipole Lane, Chickerell, DT4 9XJ

- 3.1 The application was considered by the Western and Southern Area Planning Committee in February 2020. The case officer for the application recommended to the committee that the application be approved. The committee decision was to refuse planning permission for the following reasons:
1. The proposed development by reason of its design and materials is not in keeping with nearby development. It is considered to be poor quality design with an urban character in a rural setting and is bland and lacking in distinctive character. Hence the proposed development is contrary to Policies ENV10 and ENV12 of the West Dorset, Weymouth and Portland Local Plan (2015) and paragraphs 127 and 130 of the National Planning Policy Framework (2019).
 2. The proposed development having only one access point lacks permeability and constitutes poor urban design with a lack of choice of routes into, out of and through the site contrary to Policy ENV11 of the West Dorset, Weymouth and Portland Local Plan (2015) and paragraph 127 of the National Planning Policy Framework (2019).
- 3.2 The appeal proceeded by means of written representations. The Inspector considered that the first main issue was the impact on character and appearance. The Inspector considered that the character and appearance of the area was reflective of an urban fringe and there was no established pattern to the built form or land use. The upper levels of large structures in the immediate area are also clearly visible from some distance. The Inspector considered that although the upper floors of the proposed apartment blocks would be visible from the B3157 there would be a degree of screening by virtue of proposed landscaping. Similarly, although relatively tall, when seen in the context of existing buildings nearby, including the Police HQ and that which they would replace, the scale of the proposed development would not be at odds with that in the immediate area.
- 3.3 The Inspector considered that the appearance of the buildings in the proposed development would incorporate a mixed design, breaking up the overall appearance of the built form of the site. He noted that the proposed materials are used in the closest residential areas, albeit there is no prevailing uniformity in appearance to the area given its mixed type and form.
- 3.4 The Inspector considered that whilst 2.5 storey dwellings were proposed and residential development in the area of 1.5 or single storey the proposed development sits well away from those buildings, separated by proposed landscape screening and the large utilitarian Police HQ. That the proposed buildings do not have chimney pots would not harm the character and appearance of the area. It was apparent that chimney pots were not a feature of several large residential sections of the Southill area to the east. The

Inspector considered that the landscaping proposals would screen the development at the boundaries and planting within the development would further punctuate the built form.

- 3.5 The Council highlighted to the Inspector recent development at Putton Lane. The Inspector considered that the appeal site was not in the same context as those sites.
- 3.6 The Inspector concluded that by virtue of the mixed pallet of materials proposed, the surrounding land use, presence of other existing tall buildings nearby and a clear separation between the proposed development and the nearest residential areas, the proposed development would not harm the character and appearance of the area. The Inspector considered that the development would accord with Policies ENV10 and ENV12 of the local plan and the NPPF.
- 3.7 The second issue considered by the Inspector was the proposed layout of the development. The Inspector noted that separate footways exist in parts of the proposed development however they generally feature on only one side of the road. This would necessitate the crossing of the proposed development's roads contrary to likely desire lines to move around within the development and to access or egress the site. The Inspector considered that those residents wishing to access the LEAP from the south and south-west would require an unnecessarily circuitous walk from their homes. An informal grassy path at the west of the site due to its position and stepped access would in the Inspector's view not be readily used. Furthermore it would be of unmade construction.
- 3.8 The location of parking spaces at the south of the site for apartments 10-27 would necessitate residents walking to and from their cars either in the road to cross the road to the footway opposite and back again which would be contrary to desire lines. The Inspector noted that this would be a particular issue for the disabled and other reliant on footways for travel.
- 3.9 The Inspector considered that permeability for pedestrians was further constrained when seeking to access or egress the site from properties in the south by virtue of only one footway leaving the site to the main access point. Those reliant on footways would have to cross the road twice to access their home. Whilst informal grasscrete paths are proposed to the eastern edge of the site they would lead to private land not in the applicant's control and would not connect to the nearby public right of way. As such residents wishing to use the right of way would have to walk a long distance through the site to double back on themselves at the main access.
- 3.10 The Inspector considered that off-road cycle facilities are not required in the proposal. However he considered the proposals did not sufficiently cater for likely pedestrian movements and desire lines. The Inspector that just because the development received no objections from the highway authority on road safety rounds does not mean the proposal is permeable or adequately serves pedestrians. The Inspector didn't consider the fact that the site only had one vehicular access as harmful.

- 3.11 The Inspector concluded that the development would not accord with Policy ENV11 of the Local Plan as the development was not well connected through the site and with the surrounding area. In that regard it would also not accord with paragraph 127(f) of the NPPF which intends that proposals should create accessible and inclusive environments, which also promote health and well-being. The Inspector noted that whilst the Council does not have a 5 year housing land supply as before him related to reserved matters of an existing outline approval this did not effect his decision.

4.0 Appeal Decision no. 3

Appeal Reference: APP/D1265/W/20/3252474

Planning Reference: WD/D/19/000805

Proposal: Erection of 1 no. dwelling

Address: Silver Mead, Firch Lane, Walditch, DT6 4LQ

- 4.1 The application was refused under delegated powers in November 2019 for the following reason:
1. Having regard to its remote location outside any settlement boundary, and the subsequent reliance on the occupants of the dwellings on the private car, it is considered that this scheme will have a significant, negative, impact on the environment resulting in an unsustainable form of development. There is no overriding need to allow a dwelling in this location, within a cluster of buildings which have no goods, facilities or services, nor does the application present a re-use of an existing building, provision of an essential rural workers dwelling, nor an affordable housing scheme. As such, it is contrary to the provisions of Loders Neighbourhood Plan LNP Policy E5, Policy SUS2 of the West Dorset, Weymouth & Portland Local Plan 2015. It would do little to assist in meeting the 5 year housing land supply and its adverse environmental impacts would significantly and demonstrably outweigh the any economic benefits contrary to advice contained within the NPPF (July 2019).
- 4.2 The site is outside of any DDB in the adopted local plan or the Loders Neighbourhood Plan. The proposal conflicts with Policy SUS in the Inspector's view. NP Policy E5 only allows new buildings outside DDBS in exceptional circumstances. There was no substantive evidence before the Inspector that the proposal would meet an identified local housing need. While the appellant proposes that the dwelling would be for a local family, there was no mechanism before the Inspector to limit the occupancy or the ownership of the dwelling in that way. The Inspector considered that whilst the proposal would contribute to housing supply, as supported by the Framework, the benefits of one additional dwelling would be limited and therefore attract limited weight.
- 4.3 The Inspector noted that Walditch has very little in the way of services and facilities, as such future occupiers of the proposed dwelling would have to travel to access the facilities needed for day-to-day living such as shops and schools. Services in Bridport are approximately 25 minutes walk from the site

which far exceed the 10 minute walkable distance set out in the National Design Guide. Although within a reasonable cycling distance the routes are narrow, unlit lanes and as such would not provide a safe and attractive option for cyclists outside daylight hours. There is a bus stop 200m from the site but no details of the times or frequency of the service were supplied to the Inspector. Routes to the bus stop would be via a narrow lane or public footpath across fields, both of which are unlit. The footpath is unsurfaced and considered by the Inspector to be unsuitable for everyday use, particularly in poor weather. As such the Inspector considered that the appeal site would not provide occupiers of the dwelling with a genuine choice of transport modes and they would be heavily reliant on the private car to meet their day-to-day needs. The proposal would not accord with Policy SUS2 of the local plan of paragraph 102 of the NPPF which seeks opportunities to promote walking, cycling and public transport use.

- 4.4 The Inspector concluded that whilst the proposal would boost housing supply as supported by the Framework it would not meet the Framework requirements to locate housing where it will enhance or maintain the vitality of rural communities, or limit the need to travel. Consequently, the adverse impacts of granting permission would significantly and demonstrably outweigh the benefits of the proposal when assessed against the policies of the Framework taken as a whole.

5.0 Appeal Decision no. 4

Appeal Reference: APP/D1265/W/20/3255970

Planning Reference: WD/D/19/000628

Proposal: Erection of 6 no. dwellings (outline)

Address: Land at Moreton Road, Owermoigne opposite no. 19 Moreton Road, DT2 8HT

- 5.1 The application was refused under delegated powers in February 2020 for the following reasons:
1. The application site lies outside of any defined development boundary in the adopted Local Plan. The proposed development is in an unsustainable location where occupants would be almost wholly reliant on private car journeys to meet their day-to-day needs and access services and facilities. This would contribute to an unsustainable pattern of development, contrary to the strategic objectives of the Local Plan. The proposed development is therefore contrary to policies SUS2 and INT1 of the adopted West Dorset, Weymouth & Portland Local Plan 2015 and paragraphs 78 and 103 of the National Planning Policy Framework 2019.
 2. A proposed development of 6 dwellings on the site on the northern fringe of Owermoigne would be significantly visually harmful to the rural setting and landscape character of the area by building houses in a prominent location, with the effect of encroaching the urban edge of Owermoigne into the countryside. The proposed development is therefore contrary to policy ENV1 of the adopted West Dorset, Weymouth & Portland Local Plan 2015.

3. The proposed development as is indicated, although in outline form, is considered to result in less than substantial harm to the setting of the adjacent listed building at 12 and 14 Moreton Road and it is considered that the public benefits resulting from an approval of this proposal would not outweigh the identified harm to the setting of the listed buildings. As such the proposed development is therefore contrary to policy ENV4 of the adopted West Dorset, Weymouth & Portland Local Plan 2015 and contrary to paragraph 196 of the National Planning Policy Framework 2019. Section 66 (setting impact) of the Planning (Listed Buildings and Conservation Areas) Act 1990 is not considered to be met.
 4. In the absence of a satisfactory completed Section 106 agreement the scheme fails to ensure provision of the affordable housing on site and any necessary financial contribution for off-site provision, as well as contributions to satisfactorily mitigate and manage the Dorset Heathlands and Poole Harbour Nutrient Catchment Zone. The proposed development is therefore contrary to policies HOUS1 and ENV2 of the adopted West Dorset, Weymouth & Portland Local Plan 2015.
 5. A Biodiversity Mitigation and Enhancement Plan (BMEP) has not been submitted and therefore, in the absence of a BMEP, the Local Planning Authority cannot make an informed assessment of whether development on the land would avoid significant harm to nature conservation interests or be suitably mitigated. The proposed development is therefore contrary to policy ENV2 of the adopted West Dorset, Weymouth & Portland Local Plan 2015 and paragraphs 174 and 175 of the National Planning Policy Framework 2019.
- 5.2 The Inspector considered that in the absence of any completed planning obligation which would provide the necessary security and contributions the development would conflict with Policies HOUS1 and ENV2 of the local plan which requires that the development provide adequate provision of affordable housing and secures effective mitigation against the potential adverse effects of development on the Dorset Heathlands and Poole Harbour Nutrient Catchment Zone.
- 5.3 The Inspector noted that a biodiversity mitigation and enhancement plan had been submitted to the Council but no certificate of approval has been provided which confirmed whether the proposal would avoid significant harm in terms of biodiversity or would provide suitable mitigation. The Inspector said that he was not able to conclude that there would be no adverse impact on biodiversity at the site and that the proposal would conflict with Policy ENV2 of the local plan and would not accord with paragraphs 174 and 175 of the NPPF.
- 5.4 The Inspector concluded that the development would not be in a suitable location for residential development and the proposal would conflict with Policy SUS2 of the local plan. The appeal site is not suitably located with regards to access to services and that future occupants would be likely to be heavily reliant on private motor vehicles to access basic services such as a shop,

school or healthcare facilities. As such the scheme would not accord with the environmental dimension of sustainable development and would also conflict with Policy INT1 of the local plan and fail to accord with paragraphs 78 and 103 of the Framework.

- 5.5 The Inspector considered that as the appeal site was located outside of but adjacent to the periphery of Owermoigne, the proposal would be at odds with the existing pattern of development and would be seen as harmful encroachment into the countryside and would conflict with Policy ENV1 of the local plan.
- 5.6 The Inspector considered that the development would adversely effect the setting of adjacent listed buildings and would lead to less than substantial harm to the heritage assets. Accordingly, this harm has to be weighed against the public benefits of the scheme in line with paragraph 196 of the Framework. There would be public benefit in the dwellings contributing to local housing supply, but the number of homes proposed would be modest and this benefit is of modest weight. The proposal would be of economic benefit in creating employment during the construction phase but it would be limited by the scale of development. The Inspector considered that the modest benefits were not sufficient to outweigh the great weight attached to the identified harm to the setting of the heritage assets and as such the proposal conflicts with Policy ENV4 of the local plan and the relevant paragraphs of the Framework.
- 5.7 The Inspector's conclusion was that whilst there would be some benefits by boosting the supply of open market housing and there would be some economic benefits from the construction stage and future occupants spend within local businesses. However such benefits would be quite limited by reason of the scale of the proposed development.
- 5.8 The harm to the setting of the listed buildings, that the dwellings would not be suitably located with regards to services and facilities and that significant harm would be caused to the character and appearance of the area significantly and demonstrably outweigh the benefits mentioned above in the view of the Inspector.

6.0 Appeal Decision no. 5

Appeal Reference: APP/D1265/W/20/3256414

Planning Reference: WD/D/19/001897

Proposal: Demolition of double garage and erection of 1 no. dwelling and associated infrastructure

Address: Land off Garden Close, Litton Cheney

- 6.1 The application was refused under delegated powers in March 2020 for the following reasons:
1. The proposed development for a new open-market dwelling, by reason of its location outside of a Defined Development Boundary, away from essential facilities and services, is unsustainable, with any future occupiers

being reliant on a car to access wider services and facilities. The proposed development fails to meet the social, economic and environmental strands of sustainability as set out within the National Planning Policy Framework and is contrary to Paragraph 78 of the Framework. The resulting benefit of the proposal [a net increase of 1 dwelling] in the light of the Council currently not being able to demonstrate a 5 year housing land supply does not outweigh the harm caused by the unsustainable location. The proposal would therefore be contrary to the Council's spatial strategy for housing and contrary to policies INT1 and SUS2 of the West Dorset, Weymouth and Portland Local Plan (2015) and the provisions of the National Planning Policy Framework 2019.

2. The proposed development represents an uncharacteristic form of backland development at odds to the surrounding pattern of development as such the proposal would be contrary to policies ENV10 and ENV12 of the West Dorset, Weymouth and Portland Local Plan (2015) and the thrust of design guidance as set out Section 12 of the National Planning Policy Framework 2019.
- 6.2 The Inspector found the development to be in conflict with Policy SUS2 of the local plan, insofar as it acts to restrict new housing outside development boundaries. However the Inspector noted that the Council could not currently demonstrate a five-year supply of deliverable housing sites, so the policy is out of date. The Inspector then referred to paragraph 11 of the NPPF.
 - 6.3 The Inspector concluded that there would be no harm to the significance of the Conservation Area, the setting of the listed building or the scenic beauty of the AONB and that it was therefore necessary to assess whether the adverse impacts of the development would significantly and demonstrably outweigh the benefits.
 - 6.4 The Inspector found that occupants of the dwelling would be reliant on private vehicles to access some essential facilities and services, so there would be modest increase in the use of non-sustainable transport modes. The Inspector said this would conflict with the environmental objective of the Framework to promote sustainable transport.
 - 6.5 The Inspector considered that the development would deliver social benefit through the provision of an additional dwelling and that this would accord with the Framework's objective of significantly boosting the supply of homes. Future occupants would support existing village services which the Inspector said would accord with the Framework's aim to promote healthy and safe communities. There would be economic benefits through employment during the construction phase, which the Inspector said would accord with the Framework's aim to build a strong, competitive economy.
 - 6.6 The Inspector concluded that in view of the small scale of the proposal, the social and economic benefits would be modest. Nevertheless, the adverse impact of additional private vehicle journeys was also considered to be small and so when assessed against the policies in the Framework taken as a whole, the Inspector said it would not significantly and demonstrably outweigh

the benefits. Consequently the Inspector concluded that the presumption in favour of sustainable development applies, and the proposal accords with Policy INT1 of the local plan.

7.0 Appeal Decision no. 6

Appeal Reference: APP/D1265/W/20/3255712

Planning Reference: WP/20/00027/FUL

Proposal: Demolition of the existing dwelling and erection of a 7 unit residential flatted building with associated access and parking

Address: 56 Preston Road, Weymouth, DT3 6QA

7.1 The application was considered by the Western and Southern Area Planning Committee in June 2020. The case officer for the application recommended to the committee that the application be approved. The committee decision was to refuse planning permission for the following reasons:

1. The proposed development by reason of its layout, mass, scale and bulk would have an unduly dominating and overbearing impact on each of the side neighbouring properties at nos 54, & 58 Preston Road and 4 Furzy Close at the rear, that as a result would sit uncomfortably in relation to those neighbouring occupiers and would be detrimental to their amenity in respect of overshadowing and loss of light. Its mass, scale and bulk would be detrimental to the character and appearance of the area. As such the proposed development would be contrary to Policies ENV10; ENV12 & ENV16 of the adopted Weymouth & Portland and West Dorset Local Plan (2015); and Section 12 of the National Planning Policy Framework (2019) and in particular paragraph 127 which states amongst other things that decisions should ensure that developments provide a high standard of amenity for existing and future users.

7.2 The appeal proceeded by means of written representations. The Inspector considered that the first main issue was in respect of living conditions.

7.3 In respect of the side windows in no. 58 the Inspector considered that whilst there would be some reduction in light, it would not be to a significant extent that he would regard it as harmful to living conditions as a result. The overshadowing of the neighbour's amenity space was not considered by the Inspector as significant in its impacts to the living conditions of these neighbours.

7.4 The Inspector noted that there were no side elevation windows in no. 54 and as it is to the south of the appeal site its plot generally would not be overshadowed to any substantial degree.

7.5 The Inspector went on to say that as there was already a degree of overlooking of garden between properties he did not consider the overlooking that would result to be harmful in terms of loss of privacy to the occupants of nos 54 and 58.

- 7.6 Whilst the proposed development would have much more of a visual impact than the existing low profile bungalow the proposed development is not significantly taller than the houses either side and it is also set in from the side boundaries and as such the Inspector didn't regard it to have a dominating or overbearing impact to the neighbours in either of these properties.
- 7.7 The Inspector didn't consider the development to be overbearing or result in a significant reduction in outlook quality for the occupants at no. 4. The separation distance is also considered sufficient to ensure that the overlooking from rear windows in the development would not result in significantly harmful impacts to the privacy levels of no. 4. There may be some of loss light to no. 4 at certain times of the day but considering its higher ground level and the substantial separation distance the Inspector didn't consider this impact to be significantly adverse.
- 7.8 In respect of this first issue the Inspector concluded that whilst there would be some impact to the living conditions of neighbours they would not be a significant degree that they would be regarded as inappropriate and the proposal accords with Policy ENV16 of the local plan and paragraph 127 of the NPPF.
- 7.9 The second issue the Inspector considered was the impact on character and appearance. The Inspector noted that whilst the development would result in a large building it is set within a spacious plot and it would not appear cramped. The building would not be overly prominent within the street scene. The design of the front elevation, whilst differing from the houses to the side would not be overly prominent within the setting. There are a mix of house types and sizes within the street and other flat developments too. The Inspector regarded the context of the development to be the wider street scene and that the development accords with Policies ENV10 and ENV12 of the local plan.
- 7.10 The Inspector allowed the appeal subject to a number of planning conditions.