

## **Appeal Decisions**

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### **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/20/3257683**

**Planning Reference: WP/19/00516**

**Proposal: Erection of 13 No. houses and 6 No. flats**

**Address: Land off Roman Road and Spa Road, Weymouth, DT3 5JH**

- 2.1 The planning application was considered by the Western and Southern Area Planning Committee in May 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:

The site is outside of the defined development boundary and the Council has declared a climate emergency, as such the development is therefore contrary to Policy SUS2 of the West Dorset, Weymouth and Portland Local Plan (2015). The site is a currently undeveloped green space with a copse and is within the Conservation Area. The site is considered to make a positive contribution to the character of the Conservation Area by virtue of its openness, trees and copse and the development would neither preserve or enhance the character of the Conservation Area contrary to Policies ENV2 and ENV4 of the West Dorset, Weymouth and Portland Local Plan (2015) and the National Planning Policy Framework (2019).

In the absence of a completed planning obligation the scheme would not ensure the affordable housing and affordable housing financial contribution are provided, nor the ecological financial contribution and nor would the replacement public footpath be provided and maintained. As such the development is contrary to Policies HOUS1, ENV2 and ENV11 of the West

Dorset, Weymouth and Portland Local Plan (2015) and 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 As part of the appeal submissions the appellant provided a planning obligation that makes contributions to the enhancement of the Weymouth Way Ecological Corridor, affordable housing, and secures delivery of a footpath through the site together with its futures maintenance. The Inspector was satisfied that the provision of the obligation addressed the second reason for refusal.
- 2.4 The Inspector considered that the main issues were the effect on the character and appearance of the Conservation Area and whether the site is in an appropriate location for the development with regard to accessibility and development plan policy.

Character and appearance:

- 2.5 The Inspector considered that given the physical severance of this site from the surrounding undeveloped landscape there would be only localised harm to the character and appearance of a very small part of the conservation area. He considered that it would result in the loss of only a small sliver of land on the opposite side of Weymouth Way to buildings within the conservation area, which would still retain a distinctly rural setting. As such, the Inspector concluded that there would be very low level, less than substantial harm to the significance of the heritage asset as a lightly developed historic settlement within a rural landscape.
- 2.6 The Inspector considered that due to the presence of Weymouth Way the proposal's strong relationship to the existing built form on Roman Road and Spa Road, the shortcomings in detailed design would not harm the significance of the conservation area nor the setting of listed buildings within it. The limited harm to the character and appearance of the conservation area and less than substantial harm to its significance, in the Inspector's view, arose solely from the placing of buildings on the hitherto undeveloped land.
- 2.7 In accordance with Paragraph 196 of the NPPF the Inspector had to weigh the harm identified against the public benefits of the proposal. The Inspector noted that the Council is unable to demonstrate a 5 year supply of deliverable housing land and that whilst the shortfall is not large, a development of the scale proposed, including a contribution to affordable housing, would be of substantial benefit. In light of the land supply situation and with regard to the very low level of harm, the Inspector found that the substantial benefits outweigh the harm to the heritage asset in this case.

Location

- 2.8 The Inspector states that the site is well related to existing built form within the defined development boundary. Whether or not the journey times cited by the

appellant are accurate, a number of local services on Dorchester Road are within walking distance. Supermarket provision is not much further. Therefore the site is in an accessible location and future residents would not be dependent on private motor vehicles to meet their day to day needs. Notwithstanding the accessible location, the proposal is contrary to Policy SUS2.

#### Planning Balance

- 2.9 The Inspector states that as the Council cannot demonstrate a 5 year supply of deliverable housing land, NPPF paragraph 11(d) must be considered. I have found that the benefits of providing housing at the site would outweigh the harm to the conservation area, so there are no policies in the NPPF that protect areas or assets of particular importance and provide a clear reason for refusing the development. The NPPF seeks to boost significantly the supply of housing. The proposal is in accessible location, well related to a large urban area. The Inspector attached significant weight to the benefits associated with the provision of housing at the site and found that the adverse impacts of granting permission would not significantly and demonstrably outweigh the benefits when assessed against the policies in the NPPF taken as a whole.
- 2.10 The Inspector noted that the Council had declared a climate emergency and that he understood that some of the response will include the creation of high value ecological areas and planting trees to capture carbon. The loss of trees at the site conflicts with these aims and biodiversity impacts would be mitigated rather than existing habitats fully preserved in situ. However the Inspector considered that they must be balanced against the need to provide housing and the environmental and social benefits of doing so in a location where residents would not be wholly reliant on private motor transport. The Inspector's conclusion was that the Council's declaration is therefore a neutral consideration in his decision.
- 2.11 The Inspector noted that the proposal conflicts with the development plan as it is outside the defined development boundary. However he attached limited weight to that given the lack of ability to deliver sufficient housing within the defined development boundaries. Against that he attributed substantial weight to the benefits arising from the delivery of housing and the presumption in favour of sustainable development and concluded that he found that material considerations in this case indicated a decision otherwise than in accordance with the development plan.

### **3.0 Appeal Decision no. 2**

**Appeal Reference: APP/D1265/W/20/3257790**

**Planning Reference: WP/19/00851/FUL**

**Proposal: Replace all existing double glazed timber sash windows with double glazed PVC-u. Over-face all timber fascias, barge boards and box ends with white pvc**

**Address: Melcombe Court, 2 Melcombe Avenue, Weymouth**

- 3.1 The application was refused under delegated powers for the following reasons:

The proposed replacement windows are harmful to the Greenhill Conservation Area through a loss of quality timber sashes and other features that contribute to the quality of the conservation area. The loss of such features is considered to add to the cumulative harm to the conservation area, contrary to policy ENV4 of the adopted West Dorset and Weymouth Local Plan (2015) and part 16 of the NPPF that seeks to protect heritage assets.

The submitted plans show insufficient and unacceptable detailing, and therefore there is uncertainty as to exactly what is proposed in terms of the replacement fenestration and bargeboards; it therefore cannot be concluded that the proposal would preserve or enhance the conservation area. The proposal would therefore be detrimental to policy ENV4 of the adopted Local Plan and part 16 of the NPPF.

- 3.2 The appeal was considered by means of written representations. The Inspector dismissed the appeal.
- 3.3 The Inspector noted that whilst a modern building the design of the building includes some traditional detailing, aided by its window design. It also sits opposite some older properties that retain timber sliding sash windows. Its corner location in close view from the footway means that it is seen in context with these, complementing their detail and architectural style that informs the conservation area's character and appearance.
- 3.4 The Inspector noted that whilst the replacement windows had been described in the application no detailed drawings had been provided. The Inspector noted that face planted glazing bars could appear as poor quality artificial additions and there was no substantive evidence that comparable mouldings, glazing bar profiles and the like can be replicated or improved upon in a non-timber material.
- 3.5 The Inspector said that whilst a condition could be imposed to secure final details he could not be certain that a suitable solution was available that would preserve or enhance the character and appearance of the conservation area. Although harm to the area's significance may be less than substantial, and toward the lower end of this category, the NPPF indicates that the Inspector must give great weight to the conservation of the heritage asset.
- 3.6 The Inspector noted that the benefits of the proposal would be largely private and therefore the proposal would conflict with Policy ENV4 of the local plan which seeks to conserve and enhance the significance of heritage assets, weighing any harm against public benefits.