



Appeal Decision

Site visit made on 7 May 2019

by S Edwards MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 11 June 2019

Appeal Ref: APP/P1235/W/18/3215730 53 Rodwell Road, Weymouth DT4 8QX

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission.
 - The appeal is made by Mr Chris Wearing against the decision of Weymouth & Portland Borough Council.
 - The application Ref WP/18/00503/FUL, dated 26 June 2019, was refused by notice dated 25 September 2018.
 - The development proposed is demolition of existing dwelling and erection of a replacement residential building of 6 apartments with associated landscaping works and parking.
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Decision

1. The appeal is dismissed.

Application for costs

2. An application for costs was made by Mr Chris Wearing against Weymouth and Portland Borough Council. This application is the subject of a separate Decision.

Main Issues

3. The main issues are the effect of the proposal on:
 - The living conditions of the occupiers of no 31 Rodwell Avenue, having particular regard to outlook, light and privacy; and
 - The character and appearance of the area.

Reasons

4. The appeal site comprises a two-storey detached property set within a large corner plot at the junction between Rodwell Road and Rodwell Avenue. The proposal is a revised scheme, following a previous appeal¹ which was dismissed by reason of the effect of the development on the living conditions of the occupiers of no 31 Rodwell Avenue (no 31).

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

¹ APP/P1235/W/17/3190036.

- 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.
 11. For the reasons detailed above, I conclude that the proposal would cause unacceptable harm to the living conditions of the occupiers of no 31, with particular regard to privacy. It would therefore not accord with Policy ENV16 of the West Dorset, Weymouth and Portland Local Plan – 2015 (WDWP), which notably requires development proposals not to have a significant adverse effect on the living conditions of occupiers of residential properties through loss of privacy. There would also be conflict with paragraph 127 of the National Planning Policy Framework (the Framework), which requires a high standard of amenity for existing and future users.

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.

Other Matters

13. 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.
14. The Council is currently unable to demonstrate a five-year supply of deliverable housing sites. In accordance with paragraph 11 d) of the Framework, as directed by Footnote 7, policies which are most important for determining the application are considered out-of-date, and subsequently planning permission should be granted unless any adverse impacts would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole.
15. The Framework 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 appeal scheme 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. However, the benefits resulting from the proposal would remain relatively limited. In addition, it would adversely affect the living conditions of neighbouring residents. This weighs against the proposal. I consider that the adverse impacts of granting planning permission would significantly and demonstrably outweigh the relatively limited benefits resulting from the proposal when assessed against the Framework as a whole. There are no other material considerations which indicate that the proposal should be determined other than in accordance with the development plan, which I have already found conflict with.

Conclusion

17. Whilst I have found that the proposal would not harm the character and appearance of the area, it would adversely affect the living conditions of the

occupiers of no 31 Rodwell Avenue. I conclude that the appeal should not succeed.

S Edwards
INSPECTOR