

## **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

### **3.0 APPEAL DECISIONS**

**Appeal Reference: APP/D1265/W/20/3251442**

**Planning Reference: WP/19/00501/FUL**

**Proposal: Conversion/alterations of shop and building back to 2 dwellings and erection of 3 houses to the rear**

**Address: 73-75 Portland Road, Weymouth, Dorset, DT4 9BE**

- 3.1 The planning 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 reason:

*The proposed development of a total of 5 dwellings would have an unduly cramped form of development with small external amenity areas for future occupiers and would result in an overdevelopment of the site. As such it would be contrary to Policies ENV10 and ENV12 of the adopted West Dorset, Weymouth and Portland Local Plan, and contrary to good design as is set out in Section 12 of the National Planning Policy Framework and in particular para 127 which encourages a good standard of amenity for existing and future occupiers.*

- 3.2 The applicant subsequently appealed the refusal of planning permission and the Council in September 2020 received the appeal decision. The appeal was allowed and planning permission was granted for the development.

- 3.3 The Planning Inspector in his decision accepted that the dwellings would have notably smaller garden spaces than those associated with most other nearby dwellings but went on to state:

“Nevertheless, the garden spaces would provide sufficient space for sitting outside and there is a large amount of public open space in close proximity to the site that could supplement the on-site provision for children’s play and the like. While the houses could accommodate families, the proposed garden provision would be adequate in response to this context.”

- 3.4 The Inspector considered that the proposal with the aims of Policies ENV10 and ENV12 of the local plan which require development to be informed by its context, the character of the site and its surroundings.
- 3.5 Officers in the appeal statement referred to Policy ENV16 of the local plan and the requirement for development to be designed to minimise the impact on the amenity of future residents. The Inspector also highlighted that Para 127 (f) of the NPPF also required a high standard of amenity for future users and that given the adequacy of garden space proposed the Inspector considered these aims were met.
- 3.6 The Inspector concluded that the proposal would provide acceptable living conditions for future occupiers of the site and accordingly it would not be cramped or represent an inappropriate amount of development on the site.
- 3.7 The applicant as part of the appeal process also made a costs application to the Planning Inspectorate. The costs appeal was also allowed and the Planning Inspectorate considered a full award of costs was justified. The planning Inspector in the costs decision stated

*“The Council’s reason for refusal indicated that the proposed garden would be small. The minutes of the Planning Committee meeting explain that these gardens would be smaller than others nearby leading to a significantly different living experience in the proposed homes. However, there is no subsequent substantive explanation as to why this different living experience would be harmful.*

*Moreover, whilst suggesting that the gardens would not reflect the type of housing proposed, the Council’s appeal statement provides no substantive evidence to the site of garden space that should be provided, or why those proposed are inadequate. Nor is there any detailed rebuttal of the appellant’s arguments surrounding the site’s context, including the proximity of public open space.*

*I, therefore, find the Council’s reason for refusal is based upon vague and generalised assertions of harm. In accordance with the Planning Practice Guidance such is unreasonable behaviour. In the absence of demonstrable harm, specific consideration of this site’s context could have resulted in the appeal being avoided and, therefore, wasted expense in the appeal process as resulted.”*