



**STATEMENT OF CASE**

**Land to rear of 156-172 South Street, Bridport, DT6 3NP**

**CHURCHILL LIVING**

**CHURCHILL HOUSE  
PARKSIDE  
RINGWOOD  
BH24 3SG**

**SEPTEMBER 2025**

**TOWN & COUNTRY PLANNING ACT 1990**

**APPEAL BY CHURCHILL LIVING LTD AGAINST DORSET COUNCIL'S REFUSAL OF AN APPLICATION FOR REDEVELOPMENT FOR ERECTION OF RETIREMENT LIVING ACCOMMODATION COMPRISING 48 APARTMENTS, 25 COTTAGES, COMMUNAL FACILITIES, ACCESS, CAR PARKING AND LANDSCAPING TO CREATE AN INTEGRATED RETIREMENT COMMUNITY.**

**SITE AT: LAND TO REAR OF 156-172 SOUTH STREET, BRIDPORT, DT6 3NP**

**LPA REF: P/FUL/2024/04613**

**PLANNING INSPECTORATE REF: APP/TBC  
PLANNING INQUIRY DATE: TBC**

## **CONTENTS**

- 1.0 INTRODUCTION
- 2.0 APPEAL PROPOSAL
- 3.0 PLANNING APPLICATION PROCESS
- 4.0 DEVELOPMENT PLAN POLICY
- 5.0 APPELLANT'S CASE
- 6.0 WITNESSES
- 7.0 CONCLUSION

## **APPENDICES**

**Appendix A** - Revised site layout plan (10128BP-PA01 Rev C) with increased width pavements and access gate.

## **1.0 INTRODUCTION**

- 1.1 This statement has been prepared by Planning Issues Ltd. to support an appeal by Churchill Living Ltd against Dorset Council's refusal of an application for redevelopment to form 48 no. Retirement Living apartments and 25 Retirement Living cottages with associated communal facilities, vehicular access, car parking and landscaping. This document should be read in conjunction with the Draft Statement of Common Ground (SoCG).
- 1.2 Planning Issues is a subsidiary company of the Appellant. Planning Issues has provided planning advice to the Appellant on the proposed redevelopment of the appeal site since January 2024 and has acted as agent on behalf of the Appellant in submitting and pursuing the planning application that is now subject to this appeal
- 1.3 This Statement provides a summary of the site and its surroundings, relevant planning policy considerations and planning history, a statement of the Appellant's case, and documentation which will be referred to in evidence along with anticipated witnesses.

## **2.0 APPEAL PROPOSAL**

### **Appeal Site Description**

- 2.1 The site is located in Bridport to the south of the town centre. The site is an irregular plot of land of circa 1.05 hectares. The site is in use as a building supplier merchant and considered to be in a sui generis use. The site contains existing buildings which currently provide storage for building materials and accommodation for ancillary office and staff facilities. The site provides open storage for aggregates and various stone and building materials.
- 2.2 The site is bounded by South Street to the east of the site, with Dr Roberts Close and a number of residential properties to the north. The River Brit is present along the western and southern site boundaries, with a tributary, the River Asker, immediately to the southeast. Beyond the River Asker, a brewery is situated approximately 25m south of the site. The site contains a flood wall on the southern and western boundary.
- 2.3 The site is well located within an easy walking distance of shopping and other social facilities, with Bridport town centre being approximately 600m away, where there are local bus and coach connections to nearby towns and villages, and to the nearby city of Dorchester, whose centre is around 15 miles to the east.

### **Proposed Appeal Scheme**

- 2.4 The scheme the subject of this appeal is for the redevelopment of the site to form 48 no. Retirement Living apartments and 25 retirement living cottages with associated communal facilities, vehicular access, car parking and landscaping.
- 2.5 The Appellant has specialised in the provision of purpose-built apartments designed specifically for the elderly since 1998 and has provided development proposals throughout England and Wales. The accommodation proposed is specifically designed to meet the needs of independent retired people and provides self-contained apartments for sale contained within a single block. The planning statement submitted with the application provides more information on the nature of the accommodation proposed and the benefits of specialised accommodation for older persons.

### **Relevant Site Planning History**

- 2.6 It is considered that there is no relevant planning history relating to the appeal site itself.

### 3.0 PLANNING APPLICATION PROCESS

3.1 The planning application subject of this appeal was submitted on the 9<sup>th</sup> August 2024 and was validated by the authority on the 27<sup>th</sup> September 2024.

3.2 The application was submitted with the following plans:

Details	Plan Number	Scale
Site Location Plan	10128BP_PA00	1:1250 @ A3
Site Layout Plan	10128BP_PA01 B	1:200 @ A1
Ground Floor Plan	10128BP_PA02 A	1:100 @ A1
First Floor Plan	10128BP_PA03 A	1:100 @ A1
Second Floor Plan	10128BP_PA04 A	1:100 @ A1
Roof Plan	10128BP_PA05 A	1:100 @ A1
Apartment Elevation Sheet 1	10128BP_PA06 A	1:100 @ A1
Apartment Elevation Sheet 2	10128BP_PA07 A	1:100 @ A1
Apartment Elevation Sheet 3	10128BP_PA08 A	1:100 @ A1
Apartment Elevation Sheet 4	10128BP_PA09 A	1:100 @ A1
Cottage Block 1 & 2	10128BP_PA10 A	1:100 @ A1
Cottage Block 3 & 4	10128BP_PA11 A	1:100 @ A1
Cottage Block 5	10128BP_PA12 A	1:100 @ A1
Cottage Block 6	10128BP_PA13 A	1:100 @ A1
Cottage Block 6	10128BP_PA14 A	1:100 @ A1
Mobility Scooter & Bins	10128BP_PA15	1:50 @ A1
Site Gate	10128BP_PA16	1:100 @ A1
Existing Buildings	10128BP_PA101	1:100 @ A1

3.3 The application was also submitted with the following accompanying statements and information:

- Planning Statement by Planning Issues;
- Affordable Housing and Viability Appraisal by Planning Issues Ltd;
- Design and Access Statement by Planning Issues Ltd
- Archaeological Desk Based Assessment by Ecus Consultants;
- Ecological Appraisal; Biodiversity Net Gain Assessment (July 2024) and Reptile Survey Report by Tetra Tech;
- Flood Risk and Drainage Assessment by Awcock Ward Partnership;
- Landscaping Strategy by James Blake Associates;

- Statement of Community Engagement by DevComm;
  - Transport Statement by Awcock Ward Partnership;
  - Tree Protection Plan, Arboricultural Method Statement and Manual for Managing Trees on Development Sites by Barrell Tree Care;
  - Housing Need Assessment by ThreeDragons
  - Energy Statement by FOCUS Consultants & Dorset Sustainability Checklist
  - Sequential Test by Planning Issues Ltd
  - Heritage Assessment by Ecus Consultants
  - Covering letter
  - CIL forms
- 3.4 During the course of the application the Appellant submitted the following amended documents on the 20<sup>th</sup> December 2024;
- Flood Risk Assessment (Rev A)
  - Biodiversity Net Gain Report (December 2024)
  - Landscape Strategy Plan Rev G
  - Landscape Planting Palette Rev G
- 3.5 The application was refused under delegated powers on the 21st March 2025 for the following 4 reasons:
1. **By reason of the layout and design, and in particular the lack of 2m footways and conveniently located ramped entrances, and having regard to the Public Sector Equalities Duty as set out in the Equalities Act 2010, the proposed scheme fails to provide an inclusive, safe and accessible pedestrian environment for all, fails to minimise disadvantage and conflict within the highway through good design, and fails to prioritise the pedestrian, contrary to the aims of paragraphs 115-117 and 135 of the National Planning Policy Framework (NPPF), the Department of Transport’s Inclusive Mobility guidance, the provisions set out within the National Design Guide, BS8300: Design of an accessible and inclusive built environment (Buildings - Code of Practice), policy AM1 and D12 of the Bridport Neighbourhood Plan, and Policy ENV12 of the West Dorset Weymouth and Portland Local Plan (2015). Furthermore, in the absence of details relating to the positioning of gates across the highway, which could impede Page 2 of 6 traffic, junction radii and swept path analysis to demonstrate safe vehicular access and egress, and details relating to the highway improvements to South Street, it has not been demonstrated that safe and suitable vehicular access to the site could be achieved without detrimental effect on highway safety. Further, owing to the narrow highway widths and ability for vehicles to access and egress the site via the secondary access opposite Jewsons, the safety of road users would be compromised owing to its positioning, width and poor sight lines. The implications to highway safety fall contrary to the provisions set out at paragraphs 115-117 and 135 of the NPPF (2024), Policy AM2 of the Bridport Neighbourhood Plan, and policy COM7 of the West Dorset Weymouth and Portland Local Plan (2015).**
  2. In the absence of a full Ecological Impact Assessment evidencing the application of the biodiversity mitigation hierarchy (which seeks avoidance, mitigation, and then

compensation as a last resort), and which fully assesses the significance of impacts on protected species, and in particular reptiles; which explores the possibility of securing a north-south connection across the site for reptiles; and which fully explores mitigation measures ahead of translocation, but as a last resort identifies a suitable receptor site to enable translocation of reptiles; it has not been demonstrated that protected species would be appropriately safeguarded from significant harm. Translocation of reptiles should be the last resort, as specified by Natural England's Standing Advice for reptiles, and it has not been demonstrated through the application of the biodiversity mitigation hierarchy that harm cannot first be avoided and, if not, mitigated in line with the biodiversity mitigation hierarchy, ahead of translocation and consideration of compensation being considered. As such, the proposed development fails to comply with the provisions set out in paragraph 193(a) of the NPPF (2024) and criteria (iv) of Policy ENV2 of the West Dorset, Weymouth and Portland Local Plan (2015) and criteria 2 of Policy L2 of the Bridport Neighbourhood Plan.

3. The submitted viability assessment does not adequately demonstrate that the scheme would be unviable with the inclusion of affordable housing provision; and insufficient justification has been provided to demonstrate good reason for bringing forward the proposed development devoid of any affordable housing provision, such that the associated benefits of the scheme do not outweigh the need for affordable housing. Further, the proposed scheme fails to provide a balanced development containing a mix of housing, such that it inadequately addresses the range of identified local need. Consequently, the proposed development fails to accord with the provisions set out within paragraph 66 of the National Planning Policy Framework (2024), Policy HOUS1 and HOUS3 of the West Dorset, Weymouth and Portland Local Plan (2015), and policy H1, H4 and H6 of the Neighbourhood Plan (2019).

4. The application site is located in an area at risk now and in the future from fluvial flooding, being located within flood zone 2 and 3, triggering the policy requirement to apply the sequential test. Having regard to the narrow application of the 'area of search' and the restricted scope of that search, excluding potential available sites, the sequential test is not considered to have been passed; and it has not consequently been demonstrated that there are no reasonably alternative sites at lower risk of flooding that could accommodate the proposed scheme, in line with the requirements of Policy ENV5 of the West Dorset Weymouth and Portland Local Plan (2015) and section 14 (and in particular paragraphs 173-176) of the National Planning Policy Framework (NPPF). Furthermore, had the sequential test been passed, and the exception test applied, the proposed scheme fails to demonstrate, through the submission of an Emergency Plan, that safe access and egress can be achieved during a flood event, having regard to all sources of flooding, and the known risk of surface water flooding within South Street during the 1 in 100 year and 1 in 1000 year event, plus the 1 in 100 year event applying a 20% and 40% climate change allowance. Furthermore, it has not been demonstrated that ongoing maintenance of the flood wall can be effectively achieved such that the Flood Management Plan for Bridport would not be compromised. The application subsequently fails to meet the requirements of Local Plan policy ENV5 and paragraph 181 of the NPPF. Further, having regard to the potential flood risk implications, together with impacts on housing need, highways and impacts on ecology, it is not considered that the wider sustainability benefits of the proposal would in this instance outweigh flood risk. Consequently, the exception test (though not applicable due to the sequential test having been first failed), cannot be considered to have been passed, and the development would fall contrary to the provisions set out in Local Plan policy ENV5 and Section 14 (and in particular paragraphs 177-179) of the NPPF (2024).

## **4.0 DEVELOPMENT PLAN POLICY**

- 4.1 This section of the SoC identifies the relevant national, and local planning policies considered to be of relevance to the determination of the Appeal. It is anticipated that the applicable adopted and emerging national and local planning policy will be agreed with the Council through the Statement of Common Ground (SoCG). If certain matters cannot be agreed, evidence will be presented in relation to adopted and emerging national and local planning policy.
- 4.2 Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires applications for planning permission to be determined in accordance with the development plan unless material considerations indicate otherwise.
- 4.3 The development plan comprises of the West Dorset, Weymouth and Portland Local Plan adopted October 2015 and the Bridport Neighbourhood Plan.
- 4.4 The following policies of the West Dorset, Weymouth and Portland Local Plan are relevant to the determination of this appeal.

### West Dorset, Weymouth and Portland Local Plan (2015)

INT1 – Presumption in Favour of Sustainable Development

ENV1 – Landscape, Seascape and Sites of Geological Interest

ENV2 – Wildlife and Habitats

ENV4 – Heritage Assets

ENV5 – Flood Risk

ENV9 – Pollution and Contaminated Land

ENV10 – The Landscape and Townscape Setting

ENV11 – The Pattern of Streets and Spaces

ENV12 – The Design and Positioning of Buildings

ENV15 – Efficient and Appropriate Use of Land

ENV16 – Amenity

ECON3 – Protection of other Employment Sites

HOUS1 - Affordable Housing

HOUS3 – Open Market Housing Mix

SUS1 – The Level of Economic and Housing Growth

SUS2 – Distribution of Development

COM7 – Creating a Safe and Efficient Transport Network

COM9 – Parking Standards in New Development

### Bridport Neighbourhood Plan (2019)

CC1 – Publicising Carbon Footprint

CC2 – Energy and Carbon Emissions

CC3 – Energy Generation to Offset Predicted Carbon Emissions

AM1 – Promotion of Active Travel Modes

AM2 – Managing Vehicular Traffic

AM5 – Connections to Sustainable Transport

H1 – General Affordable Housing Policy

H2 – Placement of Affordable Housing

H4 – Housing Mix & Balanced Community

H5 – Retirement Living Development

HT1 – Non-Designated Heritage Assets

HT2 – Public Realm

L1 – Green Corridors, Footpaths, Surrounding Hills & Skylines

L2 – Biodiversity

L5 – Enhancement of the Environment

COB1 – Development in the Centre of Bridport

D1 – Harmonising with the Site

D2 – Programme of Consultation

D3 – Internal Transport Links

D4 – Mix of Uses

D5 – Efficient use of Land

D6 – Definition of Streets and Spaces

D7 – Creation of Secure Areas

D11 – Building for Life

D12 – HAPPI (Housing or Ageing Population: Panel for Innovation) Principles

### **National Planning Policy**

4.5 The National Planning Policy Framework (December 2024) (NPPF) sets out the Government's planning policies for England, and how these are expected to be applied, and is a material consideration in the determination of the Appeal.

4.6 The following sections are considered to be relevant to this appeal:

- Section 2 - Achieving Sustainable Development

- Section 4 - Decision-making
- Section 5 - Delivering a sufficient supply of homes
- Section 6 - Building a strong, competitive economy
- Section 7 – Ensuring the Vitality of Town Centres
- Section 8 - Promoting healthy and safe communities
- Section 9 - Promoting Sustainable Transport
- Section 11 - Making Effective use of Land
- Section 12 - Achieving well-designed and beautiful places
- Section 14 – Meeting the Challenge of Climate Change, Flooding and Coastal Change
- Section 15 – Conserving and Enhancing the Natural Environment
- Section 16 – Conserving and Enhancing the Historic Environment

4.7 In addition, the **National Planning Practice Guidance** (PPG), launched on 6th March 2014, also contains relevant advice on the determination of planning applications and plan making. It is considered that the following sections are relevant to this appeal:

- Design
- Biodiversity net gain
- Effective Use of Land
- Flood Risk and Coastal Change
- Housing for Older and Disabled People
- Town Centres and Retail
- Viability

4.8 The Government has also produced the **National Design Guide** (2021) which illustrates how well-designed and beautiful places can be achieved.

### **Material Planning Considerations**

4.9 In addition to the above the Council have the following supplementary planning documents;

- Planning Obligations SPD (2010)
- Design & Sustainable Development Planning Guidelines (2009)
- Affordable Housing HOUS 1 – Position Statement

## **5.0 APPELLANT'S CASE**

5.1 The following section of the Statement of Case summarises the Appellant's evidence in relation to the proposed development at the Appeal site, prior to a full submission of the Appellant's evidence.

5.2 The Appellant's case focuses on compliance of the scheme with the development plan and national planning policy, and the material planning benefits to be accrued by the proposed scheme. The Appellant's evidence will demonstrate that the scheme makes a significant contribution to housing and specialist housing need in a sustainable location and incorporates good-quality design appropriate to the local townscape. The Appellant will provide evidence on the four cited reasons for refusal.

### **Housing Land Supply**

5.3 Paragraph 78 of the NPPF (December 2024) requires the Council to demonstrate a minimum of 5 years worth of housing land supply against their housing requirement set out in adopted strategic policies, or against their local housing need where the strategic policies are more than five years old.

5.4 Dorset Council submitted an annual position statement to the Planning Inspectorate in July 2024. A Planning Inspector's Report on the annual position statement which confirms that the Council can demonstrate a housing land supply of 5.02 years (October 2024). The Council are entitled to rely on the supply stated in the annual position statement until the 31<sup>st</sup> October 2025.

5.5 The new standard method for calculating housing need set out by the December 2024 version of the NPPF sets the annual housing need at 3,219 dwellings for the unitary authority. The Council's housing land supply position will change from the 1<sup>st</sup> November 2025 and will be reported to the appeal. It is anticipated that the Council will no longer be able to demonstrate a 5 year housing land supply and Paragraph 11(d) of the NPPF will be engaged subject to consideration of footnote 7.

### **Principle of Development**

5.6 The site falls within a defined development boundary for Bridport where development is supported by Policy SUS2 of the Local Plan. Bridport is identified in the second tier of the settlement hierarchy as a market town that will be a focus for future development. The site is underused previously developed land within a settlement which Para 125(c) of the NPPF places substantial weight on its redevelopment for homes.

5.7 It is agreed that the proposed development complies with Policy ECON3 on the protection of other employment sites. The policy is permissive of redevelopment of existing employment sites that in accordance with other planning policies where it will not prejudice the efficient and effective use the remainder of the employment site. The proposed development utilises the

entirety of the appeal site making efficient use of the land in line with the objectives of the NPPF and policies ENV15 of the Local Plan and Policy D5 of the Neighbourhood Plan. The Council acknowledge the potential benefits to the community of enhancing a previously developed contaminated site of poor visual and environmental quality. Subject to consideration of other matters in relation to flood risk, ecology and highway safety the principle of residential development of the site is considered acceptable.

### **Older Persons Housing Need**

- 5.8 The Appellant will say the proposed development would contribute towards the delivery of specialised older persons accommodation for which there is a need for both nationally and locally. Paragraph 63 of the NPPF requires local planning authorities to assess their housing need for retirement housing and reflect that in planning policies. The NPPG identifies that the delivery of specialised forms of accommodation for older persons is *critical*. It also identifies that *'where there is an identified unmet need for specialist housing, local authorities should take a positive approach to schemes that propose to address this need.'*
- 5.9 Policy HOUS3 of the Local Plan on open market housing mix seeks residential development to have regard to the current range of house types and sizes and likely demand in view of the changing demographics in that locality. Policy H5 of the Bridport Neighbourhood Plan supports Retirement Living development where there is a proven need for the development in the neighbourhood plan area, located within a defined development boundary and located so as to afford reasonably level and easy access to shopping and social facilities on foot or by use of mobility scooter.
- 5.10 The application was submitted with an assessment of housing need for retirement living accommodation in Bridport produced by Three Dragon, which identified a need of between 303-430 units of retirement living accommodation within Bridport and its surrounding wards.

### **Highway Safety**

- 5.11 The Council's first reason of refusal alleges harm to highway safety contrary to Paragraphs 115-117 and 135 of the NPPF, Policy COM7 of the West Dorset and Weymouth and Portland Local Plan, and Policy AM2 of the Bridport Neighbourhood Plan.
- 5.12 The Council's allegation of harm to highway safety is in respect to not demonstrating a safe and suitable vehicular highways access could be achieved and a failure to prioritise pedestrian movements through the site.
- 5.13 Paragraph 116 advises 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, following mitigation, would be severe, taking into account all reasonable future scenarios. Paragraph 115(c) of the NPPF advises for specific applications, it

should be ensured that the design of streets, parking areas, other transport elements and the content of associated standards reflects current national guidance, including the National Design Guide and the National Model Design Code. Local Plan policy COM7 referenced in the refusal reason reflects national policy in criteria (iv) advising that development will not be permitted unless it can be demonstrated that it would not have a severe detrimental effect on road safety, or measures can be introduced to reasonably mitigate potentially dangerous conditions. Policy AM2 of the Neighbourhood Plan seeks new development proposals which are likely to generate increased vehicular movement should provide convenient and safe access onto the adjacent roads and should not affect pedestrian movement. Policy AM1 of the Neighbourhood Plan seeks development proposals to prioritise pedestrian movement.

- 5.14 In respect to vehicular access the Council's concerns are expressed two-fold. Firstly, the use of the existing access opposite Jewson being controlled to limit access to only the existing buildings on South Street; and secondly, further information required on the positioning of electric gate at the entrance of the development site on to Dr. Roberts Close and junction radii and swept path analysis for the site entrance with Dr. Roberts Close.
- 5.15 In respect to the Council's first vehicular access issue the Appellant considers that controls to permit access and egress into the development could be controlled through condition. However, in the interests of trying to reduce matters at this appeal between the parties the Appellant has included a revised site layout plan (10128BP-PA01 Rev C) at **Appendix A** showing the inclusion of a controlled gate access to the development. The existing access needs to be maintained as the existing properties along South Street have a right of access to a parking area to the rear of the buildings. Access is also required solely for use by the Environment Agency maintenance vehicles if maintenance work is required on the river defences. The access is also proposed to be signage control with 'no entry' signs again details of which can be subject to control by condition.
- 5.16 In respect to the Council's second vehicular access point the Transport Statement produced by AWP included at Appendix A swept path analysis for refuse and lorries from South Street entering Dr. Roberts Close and entering the site and visibility splay details. The Appellant considers that sufficient information was submitted on the acceptability of the vehicular access but will engage with County Highways to try to reduce matters at this appeal if there is further detail they are seeking. The application was also submitted with plan 10128BP-PA16 which shows position and details of proposed telescopic sliding gates. The Appellant considers that sufficient information was provided with the application in respect to the proposed telescopic access gate but again will engage with County Highways to try to reduce matters at this appeal if there is further detail they are seeking.
- 5.17 In respect to prioritisation of pedestrian movement the Council allege that this has not been achieved as designed pedestrian routes are not the most direct, that footpaths within the site

are not 2m in width, position of proposed access ramps unacceptable and further details required for pedestrian improvement works along South Street.

- 5.18 The Appellant will demonstrate that the proposed scheme has provided the most logical and direct pedestrian routes mindful of constraints to allow prospective residents to safely access the town centre to the north of the site and to the existing informal crossing point over South Street to enable residents to access Morrison's supermarket. The Appellant considers the proposal complies with local plan policy COM7 and policies AM1 and AM2 of the Neighbourhood Plan and would not cause unacceptable impact on highway safety.
- 5.19 The proposed development provides internal pedestrian footpaths which provide links to the public realm. The proposed footpaths measures between 1.2-1.5m but the Council are seeking these be widened to 2m based on mobility guidance. This is a matter that could reasonably be dealt with by condition with no impact on the proposed layout. Notwithstanding this and to seek to reduce matters between the parties the revised site layout plan 10128BP-PA01 Rev C at **Appendix A** has increased the width of internal footpaths to 2m. It is considered in this respect the proposal complies with Para 115 of the NPPF and policies AM1 and AM2 of the Neighbourhood Plan.
- 5.20 The Appellant will identify that the site is within Floodzones 2 and 3 which requires any finished floor levels to be raised by 300mm for the cottages and 600mm for the apartments. The consequence of this is that both ambulant steps and ramps need to be provided for access to the development. The gradients required by building regulations Part M for access by ramps dictate design and positioning of ramps. The positioning of ramped access is considered to be acceptable for the development having regard to the constraints of the site and would certainly not result in unacceptable highway issues and would comply with Paragraph 115(b) of the NPPF by providing safe and suitable access to the site for all users.
- 5.21 The application was submitted with a Transport Statement by AWP which includes details on widening the existing footway on South Street between 156a South Street and Dr. Roberts Close. Appendix A of the Transport Statement provided detail plans of the proposed footway widening. The Appellant considers sufficient information was provided to demonstrate the acceptability of the footway widening works. However, in the interest of reducing matters between the parties the Appellant will engage with the Council if further information is required.
- 5.22 The Appellant will demonstrate that sufficient information was provided with the application to address the Council's and Highway Authority's concerns or could be satisfactorily addressed by condition. The Appellant will engage with the Council to see if the Council's concerns are capable of being resolved in advance of the appeal inquiry. If they are not considered addressed the Appellant will provide evidence through expert highways witness to demonstrate that the proposal complies with Paragraphs 115 and 116 of the NPPF and development plan

policies COM7 of the local plan, and AM1 and AM2 of the Neighbourhood Plan. The Appellant will say that the proposal would not result in an unacceptable impact on highway safety.

### **Impact on Protected Species - Reptiles**

- 5.23 The Council's second reason for refusal relates to further information required in respect to mitigation relating to reptiles, and if translocation is proposed, full details of a translocation site in line with the requirements of Natural England standing advice. Paragraph 193(a) of the NPPF advises that planning permission should be refused if significant harm to biodiversity resulting from the development cannot be avoided, adequately mitigated or as a last resort compensated for. Criteria (iv) of Policy ENV2 of the Local Plan also references the same mitigation hierarchy.
- 5.24 The application was submitted with a Preliminary Ecological Appraisal and Reptile Survey Report carried out by Tetra Tech Limited. Surveys were undertaken in accordance with the Herpetofauna Workers' Manual (Gent & Gibson, 2003) and Advice Sheet 10 – Reptile Survey (Froglife, 1999) and comprised the use of two complimentary methods – direct observation and artificial refuge checks. The two methods were applied over seven visits from 8<sup>th</sup> April 2024 to 8<sup>th</sup> May 2024.
- 5.25 The surveys identified suitable habitat for reptiles and the presence/likely absence surveys recorded a 'good' breeding population of slow worms. The recommendation of the survey is for translocation and identification of a suitable receptor site as the river and surrounding residential land does not allow slow worms to migrate. The Appellant will provide details that the proposed scheme has followed the mitigation hierarchy and will identify that a suitable local translocation site has been identified at Slape Hill, Netherbury, Bridport and secured with the landowner. The Appellant considers that the development proposals can demonstrate that it would not cause significant harm to protected species and complies with Paragraph 193(a) of the NPPF and criteria (iv) of Local Plan policy ENV2.

### **Affordable Housing Provision and Housing Mix.**

- 5.26 The Council's third reason for refusal relates to the proposals absence of affordable housing provision having regard to development viability and the proposed housing mix not adequately address a range of local needs.
- 5.27 Local Plan policy HOUS1 on affordable housing seeks 35% provision of affordable housing in Weymouth and West Dorset from all open market housing schemes. The age of the policy is such that it needs to read in conjunction with the latest version of the NPPF which restricts the provision of affordable housing from major residential development (Paragraph 65). Criteria (iii) of the policy would permit a lower level of provision if there are good reasons to bring the development forward and an economic viability assessment shows that it is not economically

viable to deliver the policy target level of affordable housing. Neighbourhood Plan policy H1 seeks affordable housing provision in accordance with the Local Plan policy.

- 5.28 Policy HOUS3 on open market housing mix advises that the mix of dwellings proposed should take into account the current range of house types and sizes and likely demand in view of the changing demographics in that locality. Policy H4 of the Neighbourhood Plan seeks to ensure balanced communities that housing developments contain a mix of housing types and sizes to meet a range of needs guided by the latest Bridport Area Housing Needs Assessment and any subsequent changes in trends to household composition by the local planning authority.
- 5.29 The Appellant submitted a viability assessment with the application demonstrating that the target policy level of affordable housing would render the proposed development unviable. The viability assessment's outcome is consistent with the typology testing for older people's housing set out within the plan wide Viability Assessment (2022) which acknowledges that the viability of housing older people is constrained. The Appellant's viability assessment was independently assessed by the District Valuation Service (DVS) with many of the inputs and conclusions submitted by the Appellant being considered sound by the DVS. However, there were some inputs relating to market values, build costs, abnormal costs and professional fees that remained in dispute. No further discussions were held between the parties to discuss the points in dispute. The Appellant would seek to engage with the local planning authority and its representatives to try to reduce the issues between the parties on the viability assessment. In the event that dispute still exists on the schemes viability the Appellant will provide expert advice and witness(es) to the inquiry.
- 5.30 In respect to housing mix and meeting local housing needs the Appellant provided a report assessing retirement housing needs in Bridport and its environs to demonstrate the local need for such housing. This is supported by the Council's own housing needs assessments and latest census data on demographic projections. The officer's report to the decision does not appear to dispute the need for such accommodation locally or the benefit of providing accommodation to allow downsizing by older persons and freeing up under occupied larger family housing. However, the Appellant's evidence will demonstrate housing needs for older persons nationally, at an authority level and at local level to Bridport and its environs.
- 5.31 The Council's concerns reflected in the officer report would appear to be centred on the absence of smaller open market units and the need for affordable housing. The Appellant will evidence that the development plan policies HOUS3 and H4 are not prescriptive in respect to the housing mix to be provided and meeting an identified local need for a specific type of housing for which national policy has identified as critical to be delivered is sufficient to comply with both Policies HOUS3 and H4. The Appellant will identify that policy H6 of the Neighbourhood Plan is not applicable to the proposed development. The Appellant will also identify the policy constraints provided by Policy H5 of the Neighbourhood Plan that confines and limits the deliverability of retirement living development in Bridport and its environs.

## **Flood Risk**

- 5.32 The Council's fourth reason for refusal cites concerns with potential flood risk and breach of Policy ENV5 of the Local Plan and Paragraphs 177-179 & 181 of the NPPF on two accounts – (i) failure to pass the sequential test, (ii) failure to pass the exception test through not demonstrating safe access and egress during a flood event, and providing effective access to the flood defences for ongoing maintenance and to ensure the Flood Management Plan for Bridport is not compromised. The Council considered because of the outstanding concerns over affordable housing and housing need, ecology and highways that the wider sustainability benefits of the proposed scheme would not outweigh the flood risk.
- 5.33 Paragraph 173 of the NPPF requires sequential tests to be carried out on individual applications in areas known to be at risk now or in the future from any form of flooding. Having applied the sequential test and passed the exception test may need to be applied. Paragraph 178 of the NPPF advises that to pass the exception test it should be demonstrated that the development would provide wider sustainability benefits to the community that outweigh the flood risk; and the development will be safe for its lifetime taking into account the vulnerability of its users, without increasing flood risk elsewhere, and, where possible, will reduce flood risk overall. Policy ENV5 of the Local Plan needs to be read in conjunction with national planning policy. Criteria (ii) of the policy references the requirement for safe access and escape routes.
- 5.34 The site falls within the extent of flood zone 2 and 3. Those parts of the site falling within flood zone 3 are identified by the Strategic Flood Risk Assessment as falling within flood zone 3a. The application was submitted with a Flood Risk Assessment (FRA) produced by AWP.
- 5.35 The Council refused the application on its consideration that the sequential test has not been passed. Paragraph 027 ID ref: 7-027-20220825 for determining individual applications advises that the area to apply the test will be defined by local circumstances relating to the catchment area for the type of development proposed. It identifies for some types of development like schools the catchment area may be clear for others it may be identified from plan policies.
- 5.36 The Council's refusal of the application on the failure to pass the sequential test is believe to be on the premise that the sequential test should apply to a catchment area for all defined development boundaries from the former West Dorset, Weymouth and Portland Local Plan area. The Appellant considers the Council's suggested catchment area is too broad and will point to both its evidence of retirement housing need for Bridport and its environs and the Council's own housing needs assessments including the Bridport Housing Needs Assessment which identifies local housing need for retirement living accommodation that could not be met in other wider located settlements of the area. The Appellant will have regard to the PPG on Housing for Older and Disabled People, development plan policies including H5 of the neighbourhood plan and its own extensive experience of delivering retirement living accommodation. The Appellant will also consider the successfulness of the development plan

in meeting its identifying need for specialised accommodation for older persons. Given the passage of time since the application submission and the sequential test submitted with the application (June 2024), the Appellant will review and update the sequential test as part of its evidence base to this appeal. The Appellant will demonstrate that its proposed catchment area for the sequential test is appropriate and development of the type proposed is needed to sustain the existing community and that sites in other settlements are unlikely to provide reasonable alternatives. The Appellant will where relevant provide recent appeal decisions in support of its sequential test evidence.

- 5.37 In respect to part (a) of the exception test the Appellant will demonstrate that the wider sustainability benefits of the proposal outweigh the flood risk. The Appellant will have regard to and demonstrate compliance with the objectives of the Local Plan's sustainability appraisal in identifying and weighing the wider sustainability benefits of the proposed scheme.
- 5.38 In respect to part (b) of the exception test and criteria (iv) of Policy ENV5 which references adverse impact on the future maintenance, upgrading or replacement of a flood defence scheme the Council's concerns flow from an Environment Agency objection to the use of grasscrete to provide access to the flood defence wall and southern flood defence gate by its maintenance vehicles. The Appellant considers that grasscrete is appropriate for the anticipated low level of access by the Environment Agency during the lifespan of the development.
- 5.39 The second concern in respect to part (b) of the exception test is addressing safe pedestrian access and egress from the development in the 1 in 100 year event plus climate change within a flood warning and emergency plan. The submitted FRA identified the measures and processes to be included within the flood warning and emergency plan. The Appellant will provide further detail on safe pedestrian access and egress that would provide sufficient information to condition a detailed flood warning and emergency plan.
- 5.40 The Appellant considers that the proposed development complies with both parts of the exception test and is passed.

#### **Planning Balance and Material Planning Benefits**

- 5.41 It is necessary for the decision maker to carry out a planning balance exercise in respect to the application including consideration of the policy compliance of the application, its planning merits in meeting planning objectives and the consideration of other planning benefits. Evidence

will be presented to demonstrate that in line with the social, economic, and environmental objectives of Paragraph 8 of the Framework, the scheme presents the following benefits:

- Development of previously developed land;
- Development would be of land in a sustainable location
- Making optimum use of a previously developed site
- The delivery of much needed specialist housing for older people
- Development would provide 73 market dwellings and would contribute to the delivery of housing.
- Releasing under-occupied housing stock
- Economic benefits through job creation through construction and operational phases, and through residents spending locally
- Social benefits of specialised accommodation for older persons
- Environmental benefits.

5.42 The Appellant will provide recent appeal decisions at Fleet (APP/N1730/W/20/3261194), Wigginton (APP/C2741/W/23/3314331) and Shaftesbury (APP/D1265/W/24/3337301) do demonstrate the substantial weight that should be afforded to the planning benefits of the proposed scheme.

## **6.0 WITNESSES**

6.1 At this stage, we anticipate presenting evidence and witnesses to address the reasons for refusal which currently will be;

- Planning Witness addressing planning policy, planning obligations and planning balance
- Development Viability Witness(es)
- Drainage Witness
- Transport Witness
- Ecological Witness

6.2 We will seek to reduce the evidence required through the production of additional information to the Council and through an agreed Statement of Common Ground (SoCG), as indicated above and will continue to work with the Council to minimise dispute between parties in advance of the appeal event.

### **Planning Conditions**

6.3 A list of Planning Conditions will be discussed and agreed with the Local Planning Authority and will be included within the final agreed SoCG.

## 7.0 CONCLUSION

7.1 The Appellant's case clearly sets out that the Appeal Site is located in a sustainable location in Bridport, within reasonable walking distance of key local services and facilities, is in accordance with the development plan for new development, and will deliver significant and tangible benefits to the new and existing community, including:

- The site is in a highly accessible location, making it suitable for older persons housing;
- The location of the development will make a positive and sustainable contribution to the local economy in terms of placing development where it is needed in an accessible location ensuring there is no undue reliance on use of the private car for future occupants;
- The proposal contributes to a local need for older persons housing and to the Council's housing policy objectives;
- The proposed scheme would deliver 73 residential C3 dwellings to count towards overall housing delivery;
- The Appeal proposal would assist in releasing and freeing up under-occupied houses elsewhere in the county back into the housing market;
- The development would allow independent living, reducing security worries for older people, reducing loneliness and isolation for older people by creating a community and having someone who can be called upon in an emergency;
- The use of the site for a retirement housing development is wholly appropriate at this location and the design of the proposal will make a positive contribution to the character of the area.
- The proposal will provide economic benefits to Bridport by regenerating an underused site and from the future occupants themselves.
- Environmental benefits from land remediation and biodiversity net gain.

7.2 On the basis of the above, we consider that the proposals accord with national and local planning policy, and in line with the presumption in favour of sustainable development and Paragraph 11 of the Framework, should be approved without delay.