

# **Position paper – Planning and flooding matters for the Council**

Section 78, Town and Country Planning Act 1990 (as amended)

**Appeal by:** Churchill Living Ltd

**Site Address:** Land to Rear of 156-172 South Street, Bridport, Dorset DT6 3NP

**Description of development:**

Redevelopment to form retirement living accommodation for older people comprising 48 retirement living apartments and 25 retirement living cottages including communal facilities, access, car parking and landscaping to create an integrated retirement community.

**PINS appeal ref:** APP/D1265/W/25/3372602

**Dorset Council planning application ref:** P/FUL/2024/04613

On behalf of Dorset Council

December 2025

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## 1.0 Summary

- 1.1 Using the 'standard methodology' set out in the government's Planning Practice Guidance (PPG), Dorset Council cannot demonstrate a five year supply of deliverable housing sites. As of October 2025, there was a 2.53 years supply of deliverable sites (CD 5.5). This shortfall in housing sites means that the housing related policies which are most important for determining the application are out-of-date and that the tilted balance in paragraph 11(d) of the Framework applies.
- 1.2 Paragraph 66 of the Framework states in part that where major development involving the provision of housing is proposed, policies and decisions should expect that the mix of affordable housing required meets identified local needs (CD5.25A). Local Plan Policy allows applicants an opportunity to justify a lower level of affordable housing than the minimum level proscribed in policy through submission of a viability assessment.
- 1.3 The appellant has recently made an offer of £500,000 toward the provision of off-site affordable housing, whereas at the time of the planning application no affordable housing contribution was proposed. This will go some way towards addressing identified local need and creating a balanced community. The Council considers this offer to be acceptable in planning terms to justify the grant of planning permission, subject to securing this contribution in a Section 106 legal agreement, and imposition of suitable planning conditions.
- 1.4 The existing policies of the West Dorset, Weymouth and Portland Local Plan (adopted 2015) related to flood risk have a high degree of consistency with the Framework. As such, LP policy Env5 referenced in the fourth reason for refusal should not be discounted.
- 1.5 The proposed development, in terms of flood risk, could be made safe for its lifetime and no objections are raised by either the Lead Local Flood Authority or the Environment Agency. In light of recent changes to the Planning Practice Guidance (17 September 2025, updates to paragraphs 23, 27, 28,

and the addition of paragraph 27a.) (CD5.26) and the High Court judgment in *Mead Realisations Ltd v SSLUHC* [2024] EWHC 279 (Admin) which makes it clear that a failure to comply with the sequential test is not automatically fatal, the fourth reason for refusal is not considered to be a strong reason for refusal on its own that disapplies the tilted balance.

- 1.6 At the case management conference, the Inspector set out four likely issues to be discussed:
  - a) whether the proposal would make appropriate provision for affordable housing;
  - b) whether the proposal would contribute to the achievement of a balanced community;
  - c) the effect of the proposal on flood risk; and
  - d) the nature and extent of any economic, social and environmental benefits.
- 1.7 On issue a), the Council's independent viability expert has concluded that it would be viable for the appellant to contribute £700,000. The £500k offer of affordable housing is not therefore considered to be policy compliant, although it represents a significant improvement compared to the planning application stage, where no affordable housing contribution was offered.
- 1.8 On issue b), the achievement of a balanced community will be aided by the financial contributions towards Off-Site Affordable Housing, and will be defined in the S106 legal agreement as follows: *'social rented, affordable rented and intermediate housing, provided to eligible households whose needs are not met by the market and as defined in the National Planning Policy Framework December 2024 or any such successor national planning policy.'* As for issue a) (and for the same reasons), the £500k provision of affordable housing is not considered policy-compliant but is a significant improvement in the overall housing mix compared to the planning application stage.
- 1.9 On issue c), it is considered that the proposed development would be safe for its lifetime and the LLFA and EA have raised no objections to the proposed

development subject to conditions. However, it is considered that the appellant has not passed the flooding sequential test.

- 1.10 On issue d), the proposed development would provide jobs during the construction period, and economic benefits from spending in the local area. There would be social benefits from the provision of open market housing and the provision of affordable housing in the form of a commuted sum. There would be environmental benefits from ecological enhancements and the efficient use of brownfield land in a sustainable location. The failure to provide a full policy-compliant level of affordable housing, the failure to provide a balanced development containing a mix of housing that accords with LP – Policy, and the failure to pass the flooding sequential test remain planning harms. Overall, applying the tilted balance, it is not considered that the adverse impacts of granting permission would significantly and demonstrably outweigh the benefits, and the Council therefore no longer opposes the grant of permission.

## **2.0 Experience and qualifications**

- 2.1 My name is Robert John Lennis Jr. I hold a BSc degree in Geography and Earth Science from the Central Michigan University, and a master's degree in Urban and Regional Planning from the University of Colorado Denver.
- 2.2 I am a member of the Royal Town Planning Institute with more than twenty-four years of professional experience in town and country planning. Currently, I fill the role of Lead Project Officer for major applications and in the recent past I was the Team Leader for major projects in Dorset Council Partnership.
- 2.3 The evidence which I have prepared is true and has been prepared and is given in accordance with the guidance of my professional institution and I confirm that the opinions expressed are my true and professional opinions.

### **3.0 Introduction**

3.1 This position paper has been prepared for Dorset Council (LPA) and relates to a planning appeal submitted pursuant to Section 78 of the Town and Country Planning Act 1990 (as amended).

3.2 This appeal follows the decision of the LPA to refuse the planning application ref: P/FUL/2024/04613. The proposed development was described as:

*“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.”*

3.3 The appellant is Chruchill Living Ltd.

3.4 Pre-application advice was sought for this development.

3.5 The Council sought to work positively with the applicant by allowing extensions of time to address consultee responses during the application process.

3.6 The application was recommended for refusal under the Council’s scheme of delegation and the decision notice was issued on 21 March 2025. This decision notice pre-dates the revised Planning Practice Guidance updates on flood risk and the sequential test (17 September 2025, updates to paragraphs 23, 27 and 28. Addition of paragraph 27a).

3.7 The reasons for refusal are set out in the Council’s Statement of Case. The Council’s Statement of Case confirmed that following the provision of further information, the Council no longer sought to defend reasons for refusal 1 and 2, subject to the imposition of appropriate conditions.

3.8 Since the preparation of the Council’s Statement of Case, the appellant has made an offer of £500,000 toward off-site provision of affordable housing.

Subject to securing planning obligations in a Section 106 legal agreement and appropriate conditions, the Council would not seek to defend reasons for refusal 3 or 4, as it is considered that the adverse impacts of granting permission would not significantly and demonstrably outweigh the benefits.

#### **4.0 Council's position on reason for refusal 3 and 4**

##### *Reason for refusal 3: viability, affordable housing, and mix of housing*

- 4.1 With regard to the third reason for refusal, the appellant's financial contribution towards affordable housing needs to be considered in the context of this appeal, in particular, the Council's inability to demonstrate a five-year housing land supply.
- 4.2 LP Policy HOUS1 (iii) would allow applicants to justify a lower level of affordable housing provision with the submission of a viability assessment. However, the Council does not consider the £500,000 contribution to be compliant with policies HOUS1 and HOUS3 of the West Dorset, Weymouth & Portland Local Plan (adopted 2015) or policies H1 and H4 of the Bridport Area Neighbourhood Plan (made 2019), as the Council's independent viability consultant has concluded that the appellant could viably provide more than £500,000 as a commuted sum in lieu.
- 4.3 However, this sum is significantly higher than the affordable housing contribution offered with the appellant's appeal submission. It is considered by the Council's Housing and Enabling Team (CD6.10) that this contribution would provide for approximately 10no. affordable dwellings (depending on the amount of government grant that could be secured alongside of this), or approximately 14% of the total number of units proposed(72no).
- 4.4 Given the design and nature of this development, it is acknowledged by the Council's Housing and Enabling Team (CD6.10) that delivering on-site affordable housing would be challenging. The proposed mix of tenures,

combined with the associated service charges, is likely to create complexities that may deter a Registered Provider from acquiring affordable units on this site. In light of these constraints, it would be reasonable to accept a financial contribution towards the delivery of affordable housing on alternative sites, thereby helping to meet the identified local need.

- 4.5 LP Policy HOUS3 seeks “Wherever possible...” a mix of the size, type and affordability of dwellings proposed taking into account the current range of house types and sizes and likely demand in view of changing demographics in the locality. According to the BANP Housing Needs Assessment Supplement (August 2025) section 5.3(CD5.7) the preferred new home sizes has not changed from the last survey in 2019. It remains split between 1, 2, and 3 bedroom dwellings, 29%, 37%, and 34% respectively. The proposal is for a mix of 1-bed and 2-bed dwellings. It could be said that the provision of 3-bed dwellings is addressed indirectly as Inspector Bore opined in his decision at paragraph 12 (CD 10.3) “...the retirement aspect...would be likely to release larger under-occupied homes on to the market...” As such, the proposal is considered to now comply with Policy HOUS3 in terms of size and type, having due regard for BANP Policy H4 and the latest HNA. As the proposal does not include a policy-compliant level of affordable housing to meet the identified local need for affordable housing, the affordable housing aspects of Policy HOUS3 and BANP Policy H4 are not met. However, the shortfall in the affordable housing contribution is significantly less than it was at the planning application stage, where no affordable housing contribution was offered.
- 4.6 BANP Policy H6 seeks to address outline applications, phased development, and reserved matters applications. However, this is a full application with all details provided and there is no phasing plan as far as I am aware. Policy H6 1.a would require proposed development to integrate and connect with neighbouring communities. However, considering the fact that two sides of the site are boundary by the River Brit, and another by a terrace such that there is no road frontage to the site the ability to integrate is not practicable. The vehicular access to the site is proposed to be gated however this will not

be readily visible within the local street scene of South Street. Hence, there would not be any seriously detrimental harm to the proposed layout not fully integrating in this particular case. The other criteria of this Policy are not considered to be relevant, apart from Policy H6 1b, which refers to Policy H4 (addressed above).

*Reason for refusal 4: flood risk and the sequential test*

4.7 The Council considers that the appellant's catchment area of search for the sequential test should be wider than simply Bridport and neighbouring parishes. The planning practice guidance (CD5.26) on 'How should the area of search for the sequential test be identified?' states in part:

"For individual planning applications subject to the sequential test, the area to which the test needs to be applied will be governed by local circumstances relating to the catchment area for the type of development proposed and the needs it is proposing to address. The catchment area should always be appropriate to the nature and scale of the proposal and the settlement it is proposed for. For some developments this may be clear, for example, the catchment area for a school. For a non-major housing development, it would not usually be appropriate for the area of search to extend beyond the specific area of a town or city in which the proposal is located, or beyond an individual village and its immediate neighbouring settlements... The sequential test should be applied proportionately, focusing on realistic alternatives in areas of lower flood risk that could meet the same development need."

4.8 The type of development proposed is 'retirement living'. This is a specialised form of residential development, but it is residential development nonetheless and it is a type of development that needs to be addressed throughout the district (as was West Dorset DC), and Dorset Council. Indeed, the latest over-55's housing needs data on the Council's Housing Register for Bridport and surrounding areas shows that the demand for 'retirement living' is relatively small in relation to the rest of Dorset Council:

<b>Bridport &amp; Surrounding Area Housing Needs Data</b>	
<b>18/11/2025</b>	
<b>Area</b>	<b>Over-55s with a Local Connection</b>
Bridport CP	106
Symondsbury CP	2
Netherbury CP	3
Powerstock CP	1
Shipton Gorge CP	1
Burton Bradstock CP	6
Beaminster CP	28
Rest of Dorset	2332
<b>Total</b>	<b>2479</b>

- 4.9 The appellant's 'Assessment of need' submitted with the planning application acknowledges at paragraph 1.3 that there is an under-supply of open market (leasehold) retirement accommodation in the district (CD1.34). If it were a unique need of the Bridport area, then one might expect the proposed development to be available only to Bridport residents, but it is not intended to be. These dwellings will be on the open market available to anyone that can afford them.
- 4.10 The nature of the development is residential housing, and the scale is major development as defined in the Framework Annex 2. In this case the PPG indicates (as this is not a non-major housing scheme) that it would be appropriate for the area of search to extend beyond the Bridport area particularly as the proposed development would meet a need that is present across the entire district and not specific to Bridport. The Council accepts that it would be appropriate for the area of search across the district to focus on town centre locations that would be appropriate for retirement living

accommodation. It is on this basis that the catchment area of the appellant's Sequential Test Statement is considered to be too narrowly focused and does not pass the sequential test.

- 4.11 Without prejudice to the fact that it is for the appellant to carry-out the sequential test, the Council in the flood risk topic paper suggested six sites listed in the 2024 SHLAA that might be considered.
- 4.12 In selecting the sites in the flood risk topic paper the Council has had some regard for the appellant's four points for a successful retirement living development (CD2.1 paragraph 4.6).
- A high profile location, on active roads with good transport links;
  - Within 0.5 miles of town or local centres and amenities;
  - On brownfield land;
  - 0.4 to 1.5 acres

However, the necessity for the potential site to be in 'a high-profile location' and 'on brownfield land' is not fully appreciated.

- 4.13 Notwithstanding that it is for the appellant to demonstrate that the sequential test has been passed, the Council has sought to confirm whether any of these sites are reasonably available for the proposed development. It has not been possible to confirm the availability of these sites ahead of the submission of this position statement. Given that the Council no longer opposes the grant of permission for the proposed development, this evidence on the sequential test will focus on the catchment area and one alternative site in Bridport which the appellant has discounted.
- 4.13 There is a site within the appellant's updated sequential test (CD2.1) which the Council believes should not be discounted; that is SHLAA reference: LA/SYMO/008, Land west of Coronation Road. The SHLAA site details and flood mapping are attached at Appendix A. The appellant has discounted this site on grounds of townscape character. However, this reasoning lacks flexibility in terms of design. Two-storey development to provide for flatted development need not be excessively tall and thereby out of character. The Pine View development immediately to the north of the site consists of 66no.

two-storey terraced dwelling on 1.78ha, as such it is considered that the proposed site which is 2.7ha could comfortably accommodate 73no. dwellings. The site is within walking distance of the town centre, and the flood risk identified on the site is a small area of surface water flooding in the northwest corner. Access could be gained from a public right of way along the eastern boundary or from Pine View to the north.

4.14 The Framework states that the exception test may have to be applied where the sequential test is passed. PPG states that the exception test is not a tool to justify development where there are reasonably available lower risk sites. However, it is clear that the matters set out in paragraph 178 of the Framework are important material considerations in the planning balance particularly in light of *Mead's* direction for flexibility and realism. Those matters are:

- whether the development would provide wider sustainability benefits to the community that outweigh the flood risk; and
- whether the development would be safe for its lifetime, taking account of the vulnerability of its users, without increasing flood risk elsewhere, and, where possible, would reduce flood risk overall.

4.14 In terms of safety, the LLFA and the EA accept that subject to conditions that the proposed development would be safe for its lifetime, taking account of the vulnerability of its users, without increasing flood risk elsewhere. The Council therefore considers that the exception test is passed.

4.15 The Council considers that the appellant has failed to pass the flooding sequential test contrary to LP Policy ENV5 and NPPF paragraph 174. However, other material considerations, including housing need, may outweigh such a failure having regard to *Mead* which clarifies that a failure of the sequential test is not automatically fatal to a planning application and clarifies that any such failure does not obviate the need to weigh this in a planning balance.

## **5.0 Planning balance**

### *Harms*

- 5.1 In respect of flood risk, the proposal fails the sequential test and does not fully accord with LP Policy ENV5.
  
- 5.2 The lower level of affordable housing provision has not been justified contrary to the development plan. Due to the failure to provide a policy-compliant level of affordable housing, the mix of housing type proposed would also not ensure a balanced community, contrary to the development plan.

### *Benefits*

- 5.3 The Council is unable to demonstrate a 5-year HLS with the current figure standing at 2.53 years worth supply (CD5.5). This represents a substantial shortfall of 8,401 dwellings. In this context, the provision of 72no. dwellings should be weighted as a significant benefit.
  
- 5.4 Furthermore, on the topic of housing, although the affordable housing contribution is not policy-compliant, the proposed off-site contribution towards affordable housing would provide approximately 10no. more units for which there is a very high need. That represents a very significant benefit.
  
- 5.5 The Council acknowledges benefits to the community of enhancing a previously developed contaminated site of poor visual and environmental quality.
  
- 5.6 The proposed location, layout, and density of the development can be seen as a benefit in terms of being in a sustainable location and efficient use of land which accord with the aims sustainable development as set out in the Framework.
  
- 5.7 The proposed development would also be likely to generate moderate economic benefits during the construction phase, including through

providing direct and indirect jobs, and after occupation increased spending locally.

- 5.8 The intended provision for biodiversity net gain would provide a moderate benefit by compensating for losses of artificial, unvegetated, unsealed surface and buildings by providing habitat of higher quality that delivers greater benefits for nature conservation such as modified grassland, other neutral grassland, native hedgerows and individual trees.

### *Balancing*

- 5.9 There is a conflict with the development plan as a whole by failing the sequential test, inadequate affordable housing provision, and not ensuring a balanced community. It follows that, in the context of our plan-led system, that the application should be refused unless material considerations indicate otherwise.
- 5.10 The Framework is a material consideration and applying the presumption in favour of sustainable development under paragraph 11(d) the shortfall in the 5-year housing land supply renders the development plan policies which are most important for determining the application out-of-date.
- 5.11 Then following paragraph 11(d)(i) of the Framework it is considered that the failure of the sequential test in this case does not provide a strong reason for refusal as the proposed development can be made safe for its lifetime, nor do the other policies in the Framework that protect areas at risk of flooding provide a strong reason for refusal.
- 5.12 In light of the above, the titled balance exercise of paragraph 11(d)(ii) of the Framework is therefore engaged. That is, to consider whether any adverse impacts of granting permission would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole, having particular regard to key policies for directing development to sustainable locations, making effective use of

land, securing well-designed places and providing affordable homes, individually or in combination.

- 5.13 The adverse impacts in this case are the failure to carry out an appropriate sequential test and provide a policy compliant level of affordable housing and ensure a balanced community. However, in the context of the Council's lack of 5-year HLS and the great need for affordable housing plus the other above-mentioned benefits the merits of this case are weighty. On balance, it is considered that the adverse impacts would not significantly and demonstrably outweigh the benefits, having regard to paragraph 11(d)(ii) of the Framework. This is considered to outweigh the conflicts identified with the development plan, and the Council therefore no longer opposes the grant of permission.