

LAND TO REAR OF 156-172 SOUTH STREET, BRIDPORT, DT6 3NP

APPEAL REFERENCE:

APP/D1265/W/25/3372602

**OPENING STATEMENT
ON BEHALF OF DORSET COUNCIL**

Introduction

1. On 25 March 2025, the Council refused planning permission for *'Redevelopment for erection of retirement living accommodation comprising 48 apartments, 28 cottages, communal facilities, access, car parking and landscaping to create an integrated retirement community'* ("the **Proposed Development**") for the following four reasons¹:
 - a) 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 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

¹ CD5.3, Delegated Officer's Report.

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).

- b) 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.
- c) 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).

- d) 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).

Developments Since the Decision to Refuse Permission

2. Since the decision to refuse permission, there have been five main developments which explain why the Council no longer opposes the grant of planning permission for the Proposed Development.
3. First, in relation to RfR1, the Appellant provided a revised site layout plan addressing the Council's concerns.²
4. Second, in relation to RfR2, the Appellant provided an updated Reptile Survey Report with details of a secured translocation site, again addressing the Council's concerns.³
5. Third, in November 2025, the Appellant provided a Flood Warning Emergency Plan ("FWEP"), and the Council accepts in light of the FWEP that the Proposed Development could be made safe from flooding for the lifetime of the development.⁴ The Lead Local Flood Authority does not object subject to conditions, and the Environment Agency's objections could be adequately addressed through the landscaping conditions.
6. Fourth, at the time when the decision to refuse permission was made, the Council could demonstrate a 5YHLS. That is no longer the case, as the Council's 5YHLS Position Statement in October 2025 concluded that the Council could demonstrate a supply of 2.53 years.⁵ The tilted balance in paragraph 11(d) NPPF is therefore engaged.
7. Fifth, at the time when the decision to refuse permission was made, the Appellant was not offering any affordable housing contribution. In June 2025, the Appellant concluded that an affordable housing contribution of £95,702 would be viable.⁶ In December 2025, the Appellant increased the affordable housing offer considerably, to £500,000. Although the Council's independent viability expert has concluded that it would be viable for the Appellant to contribute £700,000, the offer of £500,000 represents a significant improvement and a substantial benefit of the Proposed Development. The Council has concluded that an off-site contribution is in this case acceptable, as delivering on-site

² CD4.5, Council's SoC, paragraph 5.1.

³ CD4.5, Council's SoC, paragraphs 5.4-5.6.

⁴ CD4.2, Flood Risk Topic Paper, paragraph 6.9.

⁵ CD5.5, Dorset Council 5YHLS Report October 2025.

⁶ CD2.5, Update Report on Affordable Housing and Viability.

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 site.⁷

Remaining Areas of Dispute

8. There remain two main areas of dispute between the Council and the Appellant.
9. First, the Council maintains that the Proposed Development does not comply with policies HOUS1 and HOUS3 of the West Dorset, Weymouth & Portland Plan as well as policies H1 and H4 of the Bridport Neighbourhood Plan, as the Council's independent viability expert has concluded that the Appellant could viably provide more than £500,000 as a commuted sum in lieu. The viability position is addressed in the evidence of Cecilia Reed, who is in attendance to answer any questions the Inspector may have.
10. Second, the Council maintains that the Appellant has not passed the flooding sequential test, contrary to national and local policy. The Council in the Flood Risk Topic Paper identified potential sites that it considered to be at a lower risk of flooding and appropriate for the proposed development, stating that it would attempt to confirm ahead of the inquiry whether they were 'reasonably available'.⁸ The Council has not been able to confirm these sites are reasonably available, and as a result the Council does not rely on any of these sites at this inquiry. The sole remaining area of dispute in respect of flooding therefore relates to the catchment area, ie the area of search undertaken by the Appellant.
11. For the reasons given in Robert Lennis's statement, the Council's position (having considered the updated PPG on Flood Risk) is that the appropriate and proportionate catchment area for a search for sequentially preferable sites is across the Council area, focusing on town centre locations that would be appropriate for retirement living accommodation. The six sites identified by the Council was based on a review of the SHLAA; however, this review of the SHLAA did not consider other potential sources of sites, such as the Emerging Dorset Local Plan Evidence Base, the Council's Brownfield Register, the Council's planning register for sites with planning permission for residential

⁷ CD6.10, comments from Housing Enabling Officer.

⁸ CD4.2, paragraph 6.6.

development within the last five years and sites currently on the market.⁹ It remains for the Appellant to pass the sequential test and demonstrate that all potential sites within the catchment area have been considered. The Appellant has not carried out any such search across the appropriate catchment area and so the Appellant has failed to pass the flooding sequential test. For the reasons given in the Council's Statement of Case, this failure is not considered to amount to a 'strong' reason for refusal disapplying the tilted balance, but it remains a planning harm to be weighed in the balance.¹⁰

Conclusion

12. Despite the two main remaining areas of dispute, in light of the developments since the decision to refuse permission and for the reasons given in the statement of Robert Lennis, the Council no longer opposes the grant of permission for the Proposed Development; it is not considered that the harms of the Proposed Development significantly and demonstrably outweigh the benefits. Although the Council no longer opposes the grant of permission, the Inspector will (having regard to the representations made by the interested parties) need to reach his own conclusions on the remaining areas of dispute and on the overall planning balance.

Michael Feeney
Francis Taylor Building
Inner Temple
13 January 2026

⁹ These were the resources used by the Appellant to identify potential sites in its Sequential Test Statement, CD2.1.

¹⁰ CD4.5, paragraph 6.2.