

Application Number:	P/PIP/2021/03739
Webpage:	https://planning.dorsetcouncil.gov.uk/
Site address:	LAND SOUTH EAST OF SOUTHWELL BUSINESS PARK SWEET HILL ROAD PORTLAND
Proposal:	Erection of up to 2.no dwellings
Applicant name:	Compass Point Estates
Case Officer:	Thomas Whild
Ward Member(s):	Cllr Susan Cocking, Cllr Rob Hughes, Cllr Paul Kimber

1.0 This application is brought to the Planning Committee for determination as a result of a contrary view from the Town Council in accordance with the Council's Constitution and Scheme of Delegation.

2.0 Summary of recommendation: GRANT subject to conditions

3.0 Reason for the recommendation: as set out in para 16.1

- Absence of 5 year housing land supply.
- Para 11d of the National Planning Policy Framework (NPPF) sets out that permission should be granted for sustainable development unless specific policies in the NPPF indicate otherwise.
- Notwithstanding the location just outside the defined development boundary, the location is considered to be sustainable.
- There are no material considerations which would warrant refusal of this application.

4.0 Key planning issues

Issue	Conclusion
Principle of development	Although the development is situated outside of the defined development boundary and therefore contrary to policy SUS2, the Council's inability to demonstrate a 5-year supply of deliverable housing sites means that that the titled balance in favour of granting planning permission is engaged and that this policy must be given reduced weight. There are no other material considerations which would indicate that the development site is unsustainable.

5.0 Description of Site

- 5.1 The site comprises a triangular parcel of land measuring 0.06 hectares on the southern side of Sweet Hill Road. The site is currently undeveloped and is bounded to the east and west by open land (albeit where planning permission or permission in principle has previously been granted for the construction of new dwellings).
- 5.2 There is residential development located immediately to the north of the site, and the land to the south is open countryside. The Southwell Business Park is located to the west.

6.0 Description of Development

- 6.1 The application is seeking permission in principle for the construction of up to 2 dwellings on the site. As the application is for permission in principle only, no details have been provided in respect of access, scale, layout, design or landscaping.

7.0 Relevant Planning History

- 7.1 There is no relevant planning history that applies directly to the site. Permission in Principle has previously been granted for the construction of up to 8 units on land immediately to the west of the site (ref WP/19/00457/PIP). That permission in principle remains extant.

8.0 List of Constraints

- Outside Defined Development Boundary
- RoW: Footpath S3/61; (on site boundary)

9.0 Consultations

- 9.1 All consultee responses can be viewed in full on the website.

Consultees

- 1. Rights of Way Officer** – The site is crossed by a public right of way as shown on the definitive map. Condition recommended to require the footpath to be diverted before any works obstructing the path are commenced.
- 2. Highways** – No objection.
- 3. Portland TC** – Portland Town Council objects to this application for the following reasons: We consider this application presents overdevelopment of the site. The development site sits outside the development boundary. We note the site is adjacent to a SNCI and we request that an archaeological survey should be carried out prior to the determination of the application. We note that the corner location makes this a dangerous development in relation to vehicular movement. We draw attention also to the loss of landscape and note there has been no consultation over mineral rights. We have significant concerns over the aggregate effect of multiple developments in this general area which will greatly impact on traffic densities.

4. **Portland Ward** – Comments not received.
5. **Building Control Weymouth Team** - No comment at present
6. **Dorset Wildlife Trust** – Comments not received.
7. **Ministry of Defence** – The MOD has no safeguarding objections to this proposal.
8. **Minerals Safeguarding** – The Mineral Planning authority can confirm that in this case, on the site identified for the proposal, the mineral safeguarding requirement is waived and there is no objection to the proposal on safeguarding grounds as the site is not within any land permitted for mineral extraction and the proposal would not prevent underground access (mining) to additional resources
9. **Archaeologist** – The Dorset HER identifies three burials from the Roman period very close to the site. There is a possibility that more burials may exist in the area which would be appropriate to consider at the technical details consent stage. Considers that the site is too small to warrant pre-determination archaeological evaluation but a condition requiring this may be appropriate.

Representations received

- 9.2 In addition to the above-mentioned comments from consultees, comments have also been received from a neighbouring resident on Sweethill Road in objection to the proposals. Points raised in the objection are:
- Site is outside the settlement boundary.
 - Biodiversity impacts from the loss of the hedgerow on the site.

10.0 Relevant Policies

- 10.1 s38(6) of the Planning and Compulsory Purchase Act 2004 requires that the determination of planning applications must be in accordance with the development plan unless material circumstances indicate otherwise.

Adopted West Dorset and Weymouth & Portland Local Plan:

- 10.2 The following policies are considered to be relevant to this proposal:
- INT1 - Presumption in favour of Sustainable Development
 - ENV1 - Landscape, seascape & sites of other geological interest
 - ENV2 - Wildlife and habitats
 - ENV4 - Heritage assets
 - SUS2 - Distribution of development

Neighbourhood Plans

10.3 Portland Neighbourhood Plan 2017 to 2031 (made 22/06/2021). The following policies and sections are considered to be relevant:

- Port/EN6 - Defined development boundaries

Other Material Considerations

Weymouth & Portland Urban Design (2002)

Landscape Character Assessment (Weymouth & Portland)

10.4 National Planning Policy Framework:

Paragraph 11 sets out the presumption in favour of sustainable development. Development plan proposals that accord with the development plan should be approved without delay. Where the development plan is absent, silent or relevant policies are out-of-date then permission should be granted unless any adverse impacts of approval would significantly and demonstrably outweigh the benefits when assessed against the NPPF or specific policies in the NPPF indicate development should be restricted. Footnote 8 of paragraph 11d provides that for applications involving the provision of housing, housing policies should be considered out of date where the authority cannot demonstrate a five-year supply of deliverable housing site or where the Housing Delivery test indicates that the delivery of housing was substantially below (less than 75% of) the housing requirements over the previous three year

10.5 Relevant NPPF sections include:

- Section 4. Decision taking: Para 38 - Local planning authorities should approach decisions on proposed development in a positive and creative way. They should use the full range of planning tools available...and work proactively with applicants to secure developments that will improve the economic, social and environmental conditions of the area. Decision-makers at every level should seek to approve applications for sustainable development where possible.
- Section 5 'Delivering a sufficient supply of homes' outlines the government's objective in respect of land supply with subsection 'Rural housing' at paragraphs 78-79 reflecting the requirement for development in rural areas.
- Section 11 'Making effective use of land'
- Section 12 'Achieving well designed places indicates that all development to be of a high quality in design, and the relationship and visual impact of it to be compatible with the surroundings. In particular, and amongst other things, Paragraphs 126 – 136 advise that:

- The Government attaches great importance to the design of the built environment. Good design is a key aspect of sustainable development, is indivisible from good planning, and should contribute positively to making places better for people.
- It is important to plan positively for the achievement of high quality and inclusive design for all development, including individual buildings, public and private spaces and wider area development schemes.
- Development that is not well designed should be refused, especially where it fails to reflect local design policies and government guidance on design.
- Section 14 'Meeting the challenges of climate change, flooding and coastal change'
- Section 15 'Conserving and Enhancing the Natural Environment'- In Areas of Outstanding Natural Beauty great weight should be given to conserving and enhancing the landscape and scenic beauty (para 176). Decisions in Heritage Coast areas should be consistent with the special character of the area and the importance of its conservation (para 178). Paragraphs 179-182 set out how biodiversity is to be protected and encourage net gains for biodiversity.
- Section 16 'Conserving and Enhancing the Historic Environment'- When considering designated heritage assets, great weight should be given to the asset's conservation, irrespective of whether any potential harm amounts to substantial harm, total loss or less than substantial harm to its significance (para 199). The effect of an application on the significance of non-designated heritage assets should also be taken into account (para 203).

10.6 National Planning Practice Guidance

10.7 The Planning (Listed Buildings and Conservation Areas) Act 1990- section 66 includes a general duty to have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses. Section 72 of the same Act requires that special attention shall be paid to the desirability of preserving or enhancing the character or appearance of conservation areas.

11.0 Human rights

- Article 6 - Right to a fair trial.
- Article 8 - Right to respect for private and family life and home.
- The first protocol of Article 1 Protection of property.

11.1 This recommendation is based on adopted Development Plan policies, the application of which is not considered to prejudice the Human Rights of the applicant or any third party.

12.0 Public Sector Equalities Duty

12.1 As set out in the Equalities Act 2010, all public bodies, in discharging their functions must have “due regard” to this duty. There are 3 main aims:-

- Removing or minimising disadvantages suffered by people due to their protected characteristics
- Taking steps to meet the needs of people with certain protected characteristics where these are different from the needs of other people
- Encouraging people with certain protected characteristics to participate in public life or in other activities where participation is disproportionately low.

12.2 Whilst there is no absolute requirement to fully remove any disadvantage the Duty is to have “regard to” and remove or minimise disadvantage and in considering the merits of this planning application the planning authority has taken into consideration the requirements of the Public Sector Equalities Duty. It is considered that the statutory aims of the public sector equalities duty have been met.

13.0 Financial benefits

What	Amount / value
Material Considerations	
None	
Non Material Considerations	
Cil Contributions	Cannot currently be quantified

14.0 Climate Implications

14.1 The proposal will lead to additional CO2 emissions from construction of the dwellings and from the activities of future residents.

15.0 Planning Assessment

15.1 As the application is for permission in principle, only the principle of the proposed residential development and the overall number of units proposed is being considered.

15.2 The application site is located outside of the defined development boundary which is drawn tightly to the established boundaries of Southwell and in the vicinity of the site runs along Sweet Hill Road. Policy SUS2 indicates that development should be strictly controlled. However, the council is currently unable to demonstrate a 5 year housing land supply, with the current housing supply position standing at 4.97 years.

This means that policies for the delivery of housing are considered out of date and the presumption in favour of sustainable development applies.

- 15.3 Paragraph 11 of the National Planning Policy Framework indicates that for decision making this means granting planning permission unless that would conflict with specific policies of the framework which indicate that development should be restricted, or where doing so would lead to significant and demonstrable harm to outweigh the benefits of the scheme.
- 15.4 Paragraph 14 of the framework states that the adverse impact of allowing development which conflicts with a neighbourhood plan is likely to significantly and demonstrably outweigh the benefits where the plan became part of the development plan within two years of the decision date; the plan contains policies and allocations to meet its housing requirement; the local planning authority has at least a three year housing supply; and the local planning authority's housing delivery was at least 45% of that required over the previous three years. In this instance while three of those four criteria are met, the Portland Neighbourhood Plan does not include specific policies to allocate land for housing delivery. Therefore, while there is conflict with the policies of the neighbourhood plan, the adverse impact of granting permission would not significantly and demonstrably outweigh the benefits of the scheme.
- 15.5 Although the site is located outside of the defined development boundary of the site and within a defined important open gap, that is due to the boundary having been drawn tightly around the existing development at Southwell. There are however existing dwellings immediately to the east and permission in principle exists for the construction of up to 8 dwellings immediately to the west of the site. Once that site is brought forward the application site would therefore be the only gap in a built up edge on the southern side of Sweet Hill Road. Therefore, the site's location is such that there would remain potential for the development to integrate well with the overall form of the development so will not result in a particular incursion into the open countryside or an uncharacteristic extension of the settlement.
- 15.6 In its response, Portland Town Council has referred to potential archaeological investigation and the lack of consultation over mineral rights. Subsequent consultation has taken place with both the minerals safeguarding team and the County Archaeologist, neither of whom have raised an objection at this stage.
- 15.7 The Town Council also refers to highway safety concerns and the contribution to impact on traffic densities. The highways authority has not raised an objection in respect of highway safety and it is noted that the site's location on the outside of a curve in the road would afford good visibility from any future access. In respect of traffic movements more generally it is not considered that the increase in traffic arising from a development of two dwellings would significantly affect traffic levels.

15.8 The comments from third parties have also raised concern in respect of the loss of an existing hedgerow. It is considered that the impacts of any development on biodiversity interests and any requirements which may exist for mitigation may be adequately addressed at the Technical Details Consent Stage.

15.9 The site is located within 5km of the Chesil and the Fleet European habitats sites. Natural England have advised that development which results in an increase in population within 5km of the Chesil Beach and the Fleet European site may contribute to an unacceptable increase in recreational pressures on the features of the designated area. An Appropriate Assessment has been completed and concluded that mitigation, funded from the council's CIL pot, can be put in place to avoid unacceptable impacts.

15.10 A footpath runs along the south western boundary of the site. Comments have been received from the countryside team advising that if any works are to be carried out which would obstruct the path, a legal order must be confirmed prior to those works commencing. Although it cannot be confirmed that proposals would not obstruct the footpath at this stage, as the footpath sits on the site boundary it is likely that the development can be accommodated without any obstruction.

16.0 Conclusion

16.1 Although outside of the defined development boundary the site is considered to be sustainably located and is in a location where the development may be accommodated without significant incursion into the countryside or harmful impacts upon townscape. In light of the council's current 5 year housing land supply position and the application of the presumption in favour of sustainable development the principle of development is considered acceptable as there are no specific policies in NPPF which would provide a clear reason for refusal and the benefits of the application are considered to outweigh the adverse impacts.

17.0 Recommendation

Recommendation: Grant subject to the following conditions:

1. The development to which this permission relates must be begun not later than the expiration of three years beginning with the date of this permission.

Reason: This condition is required to be imposed by Section 91 of the Town and Country Planning Act 1990 (as amended).

2. The development hereby permitted shall be carried out in accordance with the following approved plans:

Location Plan - LPC 2522 EX 301

Reason: For the avoidance of doubt and in the interests of proper planning.

3. Technical detail consent shall be applied for and approved within the three year time limit of this permission in principle consent.

Reason: As directed by the Town and Country Planning (Permission in Principle) (Amendment) Order 2017.

4. The minimum number of residential dwellings permitted by this permission in principle is 1 and maximum number of residential dwellings permitted by this permission in principle is 2.

Reason: As required by The Town and Country Planning (Permission in Principle) (Amendment) Order 2017.

Informative Notes:

1. Informative: National Planning Policy Framework Statement

In accordance with paragraph 38 of the NPPF the council, as local planning authority, takes a positive approach to development proposals and is focused on providing sustainable development.

The council works with applicants/agents in a positive and proactive manner by:

- offering a pre-application advice service, and
- as appropriate updating applications/agents of any issues that may arise in the processing of their application and where possible suggesting solutions.

In this case:

-The application was acceptable as submitted and no further assistance was required.