

<b>Application Number:</b>	P/PIP/2021/03738
<b>Webpage:</b>	<a href="https://planning.dorsetcouncil.gov.uk/">https://planning.dorsetcouncil.gov.uk/</a>
<b>Site address:</b>	LAND NORTH OF 69-72 REAP LANE PORTLAND
<b>Proposal:</b>	Erection of up to 2.no dwellings
<b>Applicant name:</b>	Mr Simon Chambers
<b>Case Officer:</b>	Thomas Whild
<b>Ward Member(s):</b>	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 below

- 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 site's location 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**

<b>Issue</b>	<b>Conclusion</b>
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 rectangular parcel of undeveloped open grassland measuring just below 500 square metres in area, to the western side of Reap Lane in the

Southwell area of Portland. The site is bounded to the north by a terrace of houses, 73-78 reape lane, which face toward the site, with a cycle path running from Reape Lane to a footpath to the west. The western boundary is defined by a footpath, with open fields beyond and the southern boundary is defined by a parking area serving a terrace of houses which face on to the site further to the south. The ground levels rise from the southern boundary to a high point centrally within the site before falling away again to the north.

- 5.2 The surrounding area is comprised of relatively modern residential development at two storeys and predominantly terraced housing in the immediate vicinity. There is a stone building housing an electrical sub-station to the south west corner of the site.

## **6.0 Description of Development**

- 6.1 The application seeks permission in principle for the construction of up to two dwellings on the site. As the permission in principle procedure is being used, no details are provided in respect of the design, layout, scale, access or landscaping, which would be considered at the Technical Details Consent stage.

## **7.0 Relevant Planning History**

91/00194/FUL Decision: REF Decision Date: 03/07/1991

Erect 70 dwellings

98/00586/FUL Decision: GRA Decision Date: 15/09/1999

Residential development (41 dwellings)

91/00201/FUL Decision: REF Decision Date: 03/07/1991

Erect 105 dwellings

WP/18/00607/OUT Decision: GRA Decision Date: 12/12/2018

Erection of 3No. Dwellings with associative parking (land immediately to west of current application site)

## **8.0 List of Constraints**

Land Outside DDBs

Important Open Gaps; Weston and Southwell Portland

Area of Archaeological Potential; Portland

Regionally Important Geological and Geomorphologic site; The Isle of Portland

Landscape Character; Limestone Plateau; Portland

Areas of Local Landscape Importance; Portland Coastline Portland

Minerals and Waste Safeguarding Area

## **9.0 Consultations**

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

### **Consultees**

- 1. Highways** Clarification should be provided as to whether the site access is being formed from the existing private parking area or to the adjacent rights of way.

**2. Minerals & Waste Policy** The site does lie within the Minerals Safeguarding Area (MSA) designated in Policy SG1 of the Bournemouth, Dorset and Poole Minerals Strategy 2014, and is (at the closest point) within approximately 100m of the Stonehill permission to mine Portland Stone.

However, given the location of the proposed housing site the Minerals Planning Authority does not consider that development on this site would affect future access to additional resources of Portland Stone. It is not within an Area of Opportunity for Mining, as identified in the Minerals Strategy 2014, and would not impact or be impacted by the Stonehills mine.

Taking these points into consideration, the Mineral Planning Authority can confirm that in this case, on the site identified for this proposal, the mineral safeguarding requirement is waived and no objection will be raised to this proposal on mineral safeguarding grounds.

**3. Portland Town Council** objects to this application for the following reasons. We consider this application presents overdevelopment of the site. It also contravenes Portland Neighbourhood Plan Policy CR4 Sites of Open Space Value as amenity grass area would be lost. We further object in relation to the risk to utilities as there is a gas main at the site and electrical sub-station. We draw attention to the potential flooding issues. The consultation does not appear to have invited comments from the Rights of Way Officer nor the Minerals Authority. The Council supports the objections from neighbours about loss of privacy and light.

### **Representations received**

<b>Total - Objections</b>	<b>Total - No Objections</b>	<b>Total - Comments</b>
4	0	0

In addition to the consultee comments noted above, four letters of objection have been received from neighbours. Matters raised in objection include:

- There is no access to the land.
- There is a gas main at the edge of the land and drainage for the cycle path.
- Loss of light.
- Additional development planned nearby.
- Sub station on the site.
- Flood risk.
- Loss of privacy.

## 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
- ENV3 - Green Infrastructure network
- 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
- Port/CR4 - Sites of open space value

### **Other Material Considerations**

Weymouth & Portland Urban Design (2002)

Landscape Character Assessment (Weymouth & Portland)

10.4 National Planning Policy Framework (NPPF):

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).
- National Planning Practice Guidance
- 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 and it is considered that the statutory aims have been met.

### 13.0 Financial benefits

What	Amount / value
Material Considerations	
None	
Non Material Considerations	
CIL Contributions	Cannot be quantified at this stage

### 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 can be considered.

15.2 The application site is located outside of the defined development boundary which is drawn tightly to the established boundaries of Southwell. The defined development boundary in this area is also the south eastern boundary of an important open gap which sits between the eastern side of Southwell and the southern side of Weston and extends to the coast. The site is therefore located within this important open gap. 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 4.93 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 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. 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 would not result in a particular incursion into the open countryside or an uncharacteristic extension of the settlement or a significant erosion of the important open gap beyond the building line in this area. It is therefore considered that, notwithstanding the policy designations which the site is subject to, that the site would represent a sustainable location for development.

15.5 In its response, Portland Town Council has referred to conflict with Neighbourhood Plan Policy CR4 – sites of open space value due to the loss of an amenity grass

area. While there would be conflict with that policy it is noted that the site is not identified on the supporting maps for the neighbourhood plan as being a local green space.

- 15.6 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.
- 15.7 Reference is made in the town council comments and third party representations to the presence of medium pressure gas mains in the vicinity of the site. However available records do not show this to be the case.
- 15.8 Concern has also been raised by neighbouring residents in respect of flood risk. The site is in flood zone 1 and is not therefore considered to be at particular risk of flooding and while there are areas identified as being at risk of surface water flooding in the vicinity those do not affect the site itself.
- 15.9 Third party representations have made reference to the impact of the proposal in respect of the potential loss of light and amenity from overlooking. At this stage as detailed design is not a matter for consideration it is not possible to undertake an assessment of those impacts. Such matters would be for consideration during the technical details consent stage. It is not considered that the site is so heavily constrained in this regard as to preclude the principle of development.
- 15.10 In respect of access the Highways Authority has sought to confirm whether access would be from the existing lane or from the public right of way to the west. As the application is for permission in principle only, details of the access are not required at this stage and have not been provided. It is however noted that there are various options to achieve vehicular access and given the context of the site and the scale of development proposed it is not considered reasonable to withhold permission in principle on the basis of highways impacts.
- 15.11 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.



## 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 defined important open gap. In light of the council's current 5 year housing land supply position and the application of the presumption in favour of sustainable development reduced weight is afforded to policy SUS2 and the principle of development is considered acceptable as there are no specific policies in the NPPF which would provide a clear reason for refusal and the public benefits of the proposals, are at this stage, considered to outweigh any adverse impacts.

## 17.0 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 2252 EX 101

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 one and maximum number of residential dwellings permitted by this permission in principle is two.

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.