

Application number:	P/PPRD/2024/07247
Webpage:	https://planning.dorsetcouncil.gov.uk/
Site address:	9 - 11 High Street Fortuneswell Portland DT5 1JQ
Proposal:	Demolition of a pair of semi-detached dwellings Nos 9-11
Applicant name:	Dorset Council
Case officer:	Steve Tapscott
Ward member(s):	Cllr Roper, Cllr Hughes and Cllr Kimber

1. In accordance with the Council's scheme of delegation this application is brought to committee for determination as Dorset Council is the applicant and the landowner.
2. **Summary of recommendation:**
 - 2.1 GRANT, subject to conditions.
3. **Reasons for the recommendation:**
 - There are no relevant heritage concerns.
 - Impacts on biodiversity can be satisfactorily mitigated.
 - There are paths on two sides of the buildings, a dwelling to the east and the highway to the north. There is a risk of uncontrolled collapse within 1-2 years, which is a potential safety issue.
 - There are no material considerations that would warrant refusal of this application.
4. **Key planning issues**

Issue	Conclusion
Principle of development	Acceptable.
Impact on the setting of heritage assets and the character and appearance of the conservation area	Acceptable.
Archaeology	Acceptable.
Impact on the living conditions of the occupants and neighbouring properties	Acceptable, subject to a pre-commencement condition to secure a written management plan relating to noise, vibration and dust. A further condition is required to restrict demolition works to 0800 – 1800 Monday to Friday and no weekends or bank holidays.
Highway impacts, safety, access and parking	Acceptable, subject to a pre-commencement condition to secure a traffic management plan.
Ecology	Acceptable, subject to securing mitigation measures.

Issue	Conclusion
Contaminated land	Acceptable.
Geology	Acceptable.

5. Description of site

- 5.1 The site comprises a pair of four bed, semidetached houses, located on the High Street in Fortuneswell, opposite the junction with Guernsey Street. They are constructed of Portland stone and render, with concrete rooftiles.
- 5.2 The site is within Portland's Defined Development Boundary and Underhill Conservation Area. It is visible within the setting of Nos. 10-12 High Street, which sit directly opposite and are grade II listed, as well as Nos. 59 and 61 Fortuneswell to the east, which the adopted conservation area appraisal identifies as key, grade II listed buildings. The appraisal identifies that the site is part of an important group of buildings, but it is not recorded as individually important. It thus has a degree of significance in terms of its form, scale and contribution towards the rhythm in the street, but it is not considered to be a non-designated heritage asset in its own right.
- 5.3 The dwellings are set back slightly from the pavement behind small pedestrian accesses. To the immediate west is a small area of Dorset Council-owned public open space, which connects the High Street to the Hambro carpark to the rear (south). The combination of this gap and the downward slope of the land makes the semis highly visible in the public domain. In fact, the eastern elevation features within a key view recorded in the conservation area appraisal looking eastwards up the High Street from the junction of Clovens Road and the High Street. Views of the site are also possible further east into Fortuneswell, looking across the carpark.
- 5.4 The gable end of the semis has been supported by scaffolding for many years, since at least March 2009, judging by the earliest Google Street View images. According to the submitted Design and Access Statement, the site has experienced antisocial behaviour and unauthorised entry. No.11 is in a particularly poor condition, with extensive ivy ingress and boarded-up windows. The agent estimates that No.9 has been uninhabited since 2018, while No.11 was last occupied in around 2008.
- 5.5 The structural report provided with the application shows a significant crack and a dip in the roof, as well as cracks elsewhere. The site is in a clear state of advanced disrepair, and whilst the buttress scaffolding is holding it in place, the report concludes there is the potential for collapse within 1-2 years. The Design and Access Statement says that the properties are beyond economic repair.

6. Description of development

- 6.1 The current condition of the buildings presents a health and safety issue and a detrimental impact on local character through their physical appearance, as well as the longstanding supporting scaffolding. This application proposes to demolish the dwellings and clear the site. The supporting Design and Access Statement says that the Portland Community Land Trust intends to submit a future application for the site's redevelopment.

- 6.2 The submitted plans and demolition sequence set out in the structural survey confirm that:
- The site would be secured with an appropriate exclusion zone and highway control measures.
 - The roof would be removed either via installing an external scaffold frame and removing the timber rafters, or via a long-reach machine located in the rear garden (TBC).
 - Masonry and floors would then be removed.
 - Foundations and drainage would either be removed or left in place for the next build.
 - If that is not possible, these would be removed and backfilled/regraded.
 - Post-demolition, the site would be secured with Heras fencing and masonry walls set at a course above ground level would be left fronting the High Street and between Nos. 7 and 9. This is owing to the site levels and to denote landownership.

7. Relevant planning history

- 7.1 In 2013, conservation area consent ref. WP/12/00894/CAC was granted to demolish No.11. Condition 3 of the consent said that demolition works could not take place until a contract for the works was in place and planning permission had been granted for the redevelopment of the site.
- 7.2 The application was determined concurrently alongside WP/12/00893/FUL to *'replace derelict dwelling and erect additional dwelling in part of gap alongside.'*
- 7.3 Both of the above consents lapsed before being implemented.

8. Constraints

- 8.1 The site is Dorset Council-owned land, situated within Portland's Defined Development Boundary. As set out above, it is in the Underhill Conservation Area and within the setting of several listed buildings. This area of Portland is also noted for its archaeological potential. There is a statutory duty to preserve or enhance the significance of heritage assets under the Planning (Listed Buildings & Conservation Areas) Act 1990.
- 8.2 This part of Portland is designated as a geological area in the made neighbourhood plan.
- 8.3 The western and southern boundaries of the site abut a Higher Potential Ecological Network, as identified by the Dorset Environmental Records Centre. The West European hedgehog has previously been discovered at the site.
- 8.4 Constraint mapping indicates the potential for radon at a level of class 3: 3 - 5%.

9. Consultations

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

Consultees

Historic England: no response received.

Dorset Wildlife Trust: no response received.

Dorset Council – Highways: no objection, subject to a pre-commencement condition to secure a Traffic Management Plan. An informative note is also recommended, to ask the applicant to contact Highways before commencing works, to ensure the appropriate licence(s) and/or permission(s) are obtained.

Conservation officer: no objection. Concludes that the removal of the buildings would not have a detrimental impact on the significance and setting of the neighbouring listed building, and it would have a positive impact on the special character and local distinctiveness of the conservation area.

Dorset Council - Building Control: ‘no comments or objections.’

Dorset Council - Natural Environment Team: no objection. A NET certificate has been issued, and NET recommends conditioning the ecological mitigation measures set out in the submitted Ecological Impact Assessment report.

Dorset Council - Env. Services – Protection: notes the potential for disturbance for nearby residents. Requests a pre-commencement condition to secure a written management plan relating to noise, vibration and dust. A further condition is required to restrict demolition works to 0800 – 1800 Monday to Friday and no weekends or bank holidays.

Dorset Council - Asset & Property: no response received.

Dorset Council – Archaeology: no objection.

Portland Town Council: ‘*Portland Town Council are pleased to see action is being taken to demolishing these properties and fully supports the application.*’

Cllr Hughes: comments in support.

Cllr Kimber: no response received.

Cllr Roper: no response received.

Representations received

9.2 One comment from a neighbouring occupier drawing attention to the presence of hedgehogs in the local area, which may be nesting/resting in the site in daytime.

10. Duties

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.

10.2 Section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires that when considering whether to grant planning permission for a development which affects a listed building or its setting, there is 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.

10.3 Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires that special attention shall be paid to the desirability of preserving or enhancing the character or appearance of conservation areas.

11. Relevant policies

Development plan

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
- ENV9: Pollution and Contaminated Land
- ENV10: The Landscape and Townscape Setting
- ENV15: Efficient and Appropriate Use of Land
- ENV16: Amenity
- SUS2: Distribution of Development
- COM7: Creating a Safe and Efficient Transport Network

Portland Neighbourhood Plan (made 2021)

- Port/EN4: Local Heritage Assets.
- Port/EN6: Defined Development Boundaries.

Material considerations

Emerging Dorset Local Plan

11.1 In accordance with paragraph 48 of the NPPF, this emerging plan is at too early a stage to carry any weight in decision making.

National Planning Policy Framework

11.2 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.

11.3 Other relevant NPPF sections include:

- Section 4: 'Decision making.' Paragraph 39 requires local planning authorities to 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 16: 'Conserving and Enhancing the Historic Environment.' Paragraph 212 says that 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. The effect of an application on the significance of non-designated heritage assets should also be taken into account (para 216).

Planning Practice Guidance

11.4 The 'when is permission required' section details when consent is needed for demolition works.

12. 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.

12.1 This recommendation is based on adopted development plan policies, the application of which does not prejudice the Human Rights of the applicant or any third party.

13. Public Sector Equalities Duty

13.1 As set out in the Equalities Act 2010, all public bodies, in discharging their functions must have 'due regard' to this duty. There are three 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.

13.2 Whilst there is no absolute requirement to fully remove any disadvantage, the Duty is to have 'regard to' and remove or minimise disadvantage. In considering the merits of this planning application, the planning authority has taken into consideration the requirements of the Public Sector Equalities Duty.

13.3 In this case, there is potential for impacts on users of the adjacent pavement and footpath, which could affect people with disabilities or mobility impairments or those pushing buggies, for example. This would only be a short-term safety measure during demolition works, however, and the Traffic Management Plan condition suggested by Highways would help to mitigate impacts. The submitted plans and demolition details show that Heras fencing would be installed post-demolition to enclose the site, and there would be no further impediments to paths.

14. Financial benefits

14.1 None identified.

15. Environmental implications

15.1 The demolition works would make way for a future redevelopment proposal for the site, with any future development needing to comply with relevant Building Regulations. The proposed plans show the potential to retain existing foundations, if possible. This would reduce the amount of new concrete needed.

16. Planning assessment

Principle of development

16.1 Part 11 of Schedule 2 to the Town and Country Planning (General Permitted Development) (England) Order 2015 does not allow for the demolition of buildings in a conservation area where they exceed 115m³ in volume. There

are instances where planning permission is not required, if demolition is urgently necessary on health and safety grounds. However, the submitted Design and Access Statement estimates that the buttress scaffolding is currently safe and should be for the next 1-2 years. There is thus no immediate danger, and planning permission is required for the proposed demolition.

- 16.2 There are no specific policies in the local plan, neighbourhood plan or NPPF relating to demolition works. Therefore, subject to satisfying all relevant policies and material considerations, the proposal is acceptable in principle.

Impact on the setting of heritage assets and the character and appearance of the conservation area

- 16.3 As discussed above, the site is not considered to constitute a non-designated heritage asset in its own right, albeit it does hold some group value with other nearby buildings. The adopted conservation area appraisal was last updated in 2017, prior to No.9 being abandoned. Since then, the site has deteriorated even further, to the point where the buildings are clearly negative features in the conservation area.
- 16.4 Paragraph 217 of the NPPF says that councils should not permit the loss of the whole or part of a heritage asset without taking all reasonable steps to ensure the new development will proceed after the loss has occurred. Whilst the buildings are not non-designated heritage assets, the conservation area is a heritage asset, so an assessment needs to be made in the context of this guidance.
- 16.5 Whilst the removal of the buildings would leave an appreciable gap in this locally important group of buildings, this would likely be for the short-term only, as the supporting Design and Access Statement says the Portland Community Land Trust intends to submit plans for a redevelopment scheme. Given residential land values in the local area, there is a reasonable prospect of this happening. It is also important to bear in mind the specific set of circumstances in this case, i.e. the potential danger to human life from collapse in the next 1-2 years.
- 16.6 Therefore, whilst it is unusual for a council to grant consent for the removal of the buildings without any firm plans for replacements, the likelihood of replacements is high. There is also clear and persuasive justification for demolition on grounds of visual amenity and public safety.
- 16.7 In light of these factors, no material harm would arise to the setting of nearby listed and locally important buildings, nor the character and appearance of the conservation area. No objections are raised by the Council's conservation officer.
- 16.8 The proposal therefore accords with Policy ENV4 of the local plan and Policy Port/EN4 of the neighbourhood plan.

Archaeology

- 16.9 Whilst this part of Portland is identified as having archaeological potential, any deposits would likely have been disturbed when the dwellings were first built. No objections are raised by the Council's archaeologist, and the proposal accords with Policy ENV4 and Policy Port/EN4 of the neighbourhood plan.

Impact on the living conditions of the occupants and neighbouring properties

16.10 The current state of the building presents a potential threat to health and safety in the next 1-2 years. Its safe removal would therefore remove this threat. Whilst demolition works would lead to impacts for neighbours in terms of noise, dust and vibrations, these would be temporary, and working hours can be controlled by planning conditions. The Local Highway Authority has also suggested a condition requiring a Traffic Management Plan, which should help mitigate traffic congestion for local residents.

16.11 The proposal therefore accords with Policy ENV16 of the local plan.

Highway impacts, safety, access and parking

16.12 The supporting structural survey discusses securing an appropriate exclusion zone and highway control measures, albeit there is no further information in respect of either. The agent has since confirmed that:

'The exclusion zone will include closing the section of pavement directly outside the properties with pedestrians redirected to the opposite pavement, this zone will also include the diagonal white lines (hatched markings) on the road and the possibility of suspending one on-street parking bay. The road which is one way leading down to Chiswell will remain in use at all times. Contractors site access, route for disposal of material will be to the rear of the properties via Hambro carpark.'

16.13 The agent estimates that works would take approximately six weeks.

16.14 Highways has raised no objections to the proposal, subject to a pre-commencement condition to secure a traffic management plan. This would need to include:

- demolition working hours
- contractors' arrangements (compound, storage, parking, turning, surfacing and drainage)
- a route plan to site access for all contractors to be advised on
- temporary traffic management measures where necessary
- a framework for managing abnormal loads

16.15 In light of the above, no adverse highway-related impacts are identified, and the proposal is in accordance with Policy COM7 of the local plan.

Ecology and Biodiversity Net Gain

16.16 This application is supported by an Ecological Impact Assessment (EclA), which concludes that there are no bat roosts present at the site, but light sensitive bats have been recorded in the vicinity. Birds are using the interior of No.11, and there is nesting potential within the overgrown vegetation at the site. No evidence of badgers was found, but they could commute through the site. Measures to mitigate against these impacts are set out in section 7 of the EclA, which the Natural Environment Team is content can be conditioned in any grant of planning permission.

16.17 The neighbour's comment in respect of the potential for hedgehogs is noted; however, the EclA says that the site contains no suitable habitat for hedgehogs, such as hedgerow or compost heaps. The Natural Environment Team has raised no concerns in this respect.

16.18 The proposal therefore accords with Policy ENV2 of the local plan.

16.19 Having regard to Biodiversity Net Gain (BNG), each dwelling has a small rear courtyard in the region of 16sqm apiece. Aerial photographs, both historic and recent, show what appears to be hard surfacing with no vegetation in either area. Around the front of each dwelling is a small overgrown area, but these do not cumulatively breach the 25sqm required in order for BNG to apply.

Contaminated land

16.20 Constraints mapping indicates radon may be present at a level of class 3: 3 - 5%. The application was referred to the Council's Environmental Protection team, which raises no objections.

16.21 The proposal therefore complies with Policy ENV9 of the local plan.

Geology

16.22 Policy ENV1 of the local plan requires development to avoid significant adverse effects on geological features and much of Portland is recorded in the neighbourhood plan as a geological area. In this case, the site is within a built-up area, so any geological interest would have been disturbed when the dwellings were first built. It is thus reasonable to conclude that the demolition would not result in any significant adverse effects on geology, and the proposal complies with Policy ENV1.

17. Conclusion

17.1 The proposed development is acceptable, and it is recommended for approval, subject to conditions.

18. Recommendation

18.1 **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:

24/33/2 location and block plan.

24/31/S1 existing site plan, floorplans and elevations.

24/033/1 rev. A proposed site plan and elevations.

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

3. The demolition works hereby approved shall not commence until a detailed management plan relating to noise, vibration and dust has been submitted to and approved in writing by the Local Planning Authority. The demolition works shall thereafter be undertaken in full accordance with the approved details.

Reason: to protect the character and amenity of the area and the quiet enjoyment of nearby residential properties

4. Before the development hereby approved commences a Traffic Management Plan (TMP) must be submitted to and approved in writing by the Planning Authority. The TMP must include:

- demolition working hours
- contractors' arrangements (compound, storage, parking, turning, surfacing and drainage)
- a route plan to site access for all contractors to be advised on
- temporary traffic management measures where necessary
- a framework for managing abnormal loads

The approved TMP shall be adhered to throughout the period of the demolition.

Reason: to minimise the likely impact of demolition traffic on the surrounding highway network.

5. Unless otherwise agreed in writing with the Local Planning Authority, the demolition works shall be carried out in accordance with the demolition sequence detailed under section 4.6 of the submitted structural survey ref. 24468-GAP-V1-ZZ-RP-S-0001-S2-A and the approved site plan ref. 24/033/1a.

Reason: to ensure demolition works are undertaken in an acceptable manner.

6. Demolition works shall be restricted to the following hours only:

- 0800 – 1800 Monday to Friday.

There shall be no works during weekends or bank/public holidays.

Reason: in the interests of neighbour amenity.

7. Unless otherwise agreed in writing with the Local Planning Authority, the development hereby approved shall be undertaken in strict accordance with the ecological mitigation measures set out in section 7 of the submitted Ecological Impact Assessment ref. 5873.

Reason: to ensure the delivery of ecological mitigation measures.

Informative: National Planning Policy Framework Statement

In accordance with paragraph 39 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 applicants/agents of any issues that may arise in the processing of their application and where possible suggesting solutions.

In this case:

- The applicant/agent was updated of any issues and provided with the opportunity to address issues identified by the case officer.

Informative: contact Dorset Highways

The applicant should contact Dorset Highways by telephone at 01305 221020, by email at dorsethighways@dorsetcouncil.gov.uk, or in writing at Dorset Highways, Dorset Council, County Hall, Dorchester, DT1 1XJ, before the commencement of

any works on or adjacent to the public highway, to ensure that the appropriate licence(s) and or permission(s) are obtained.

Informative: Biodiversity Net Gain

The effect of paragraph 13 of Schedule 7A to the Town and Country Planning Act 1990 is that planning permission granted for development of land in England is deemed to have been granted subject to the condition (biodiversity gain condition) that development may not begin unless:

- (a) a Biodiversity Gain Plan has been submitted to the planning authority, and
- (b) the planning authority has approved the plan.

The planning authority, for the purposes of determining whether to approve a Biodiversity Gain Plan, if one is required in respect of this permission would be Dorset Council.

There are statutory exemptions and transitional arrangements which mean that the biodiversity gain condition does not always apply. These are listed below.

Based on the information available this permission is considered to be one which will not require the approval of a biodiversity gain plan before development is begun because one or more of the statutory exemptions or transitional arrangements in the list below is/are considered to apply.

The permission which has been granted is for development which is exempt being:

- Development below the de minimis threshold, meaning development which:
 - i) does not impact an onsite priority habitat (a habitat specified in a list published under section 41 of the Natural Environment and Rural Communities Act 2006); and
 - ii) impacts less than 25 square metres of onsite habitat that has biodiversity value greater than zero and less than 5 metres in length of onsite linear habitat (as defined in the statutory metric).

Read more about Biodiversity Net Gain at

<https://www.dorsetcouncil.gov.uk/w/biodiversity-net-gain>