



Appeal Decision

Site visit made on 11 April 2025

by **H Nicholls MSc MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 01 May 2025

Appeal Ref: APP/D1265/W/24/3350604

Land East of Mandeville Road, Weymouth DT4 9HW

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant outline planning permission.
 - The appeal is made by Mr JB George against the decision of Dorset Council.
 - The application Ref is P/OUT/2023/05811.
 - The development proposed is erect up to 32 affordable dwellings (outline application with all matters reserved).
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The application was made in outline form with all matters save for access reserved for future consideration. In this context, I have treated the submitted plans showing the layout of a scheme of up to 32 dwellings as broadly indicative in nature.
3. The Council's Statement confirms that, following the submission of further information and subject to relevant planning conditions, the fourth reason for refusal, relating to the ecological effects of the proposal, has been overcome. I find no reason to reach an alternative conclusion in this regard.

Main Issues

4. The main issues in the appeal are:
 - whether the development would conform to the development plan in terms of scale and location;
 - the effects of the proposal on the character and visual amenities of the area, including on the Heritage Coast;
 - proposal would adequately secure the affordable housing;
 - whether the proposal would be served by an adequate means of surface water drainage;
 - the effects of the proposal on the Chesil and Fleet Special Protection Area, Special Area of Conservation and Ramsar Sites (the Protected Sites); and
 - the effects of the proposal on highway safety.

Reasons

Scale and Location

5. Policy SUS2 of the *West Dorset, Weymouth and Portland Local Plan* (adopted 2015) (Local Plan) indicates that residential development *within* the defined settlement boundaries will normally be permitted. The site falls outside of, but adjoining the defined settlement boundary. The Policy goes on to state that outside of the defined settlement boundaries, development will be restricted to the listed forms of development, which includes affordable housing.
6. Policy HOUS2 of the Local Plan states that small scale sites for affordable housing adjoining settlements may be permitted subject to certain criteria. The first criteria in respect of there being a need for affordable housing does not appear to be in dispute. The issue of its acceptability in character and appearance terms and whether there is an adequate mechanism to secure the affordable housing are addressed in the separate main issues below. There can be no dispute about the adjacency of the site to the settlement, and thus, the point in dispute is whether the proposal is small scale.
7. Neither the Policy nor pre-amble text give any definition as to what constitutes a small exceptions scheme. My view is that a number around the higher end of the spectrum of up to 32 dwellings would be a large exceptions scheme, but it would not take to reduce this amount by around 7 dwellings to become a sufficiently small scale exceptions scheme, the principle of which could be supported under Local Plan Policy HOUS2. In any event, I have to assess the scheme on the basis applied for, which at up to 32 dwellings, conflicts with the expectations of Policy HOUS2.

Character and appearance

8. The appeal site is situated within a high value landscape designated as a Heritage Coast and views are available to and from the coast from the site and its surroundings. The site and adjoining land in the appellant's ownership are areas of rough pastureland.
9. The area indicatively shown as being developed is located to the southernmost extent of the site, bound by dwellings on Mandeville Close on its southern side and by dwellings in North Road on its eastern side. The site is at the highest where it adjoins North Road. The land drops away again in a northerly direction such that the built extent of Lanehouse is not particularly visible from the site. However, the public right of way (PROW) network which adjoins the two respective areas of the settlement allows the short distance to be traversed in minimal walking time and allows an appreciation of how close these built extents are from one another in a spatial sense.
10. The former military camp to the west on land that broadly slopes away to the coast has a sense of being neglected with largely unused remnant buildings and infrastructure. Though it detracts to a degree from the rural qualities of this part of the landscape, it is relatively unobtrusive, with low lying buildings, visually permeable fencing and large extents of rough vegetation. Its character and appearance are such that it does not consolidate with the built form around Mandeville Road.

11. A development has been recently completed a short distance from the appeal site to the north. Now known as 'Sea Clover Road', the scheme of around 37 dwellings has created a satellite pocket of urban development set away from the built edge of the Camp Road and Mandeville Close developments which appears to have been a result of the redevelopment of previously developed land. Whilst a high quality development in and of itself, its addition to the area has resulted in some lack of cohesion with the form and extent of this part of the settlement.
12. The *Dorset Coast Landscape and Seascape Character Assessment* (LDA, 2010) places the site as straddling between two landscape character types: the *Urban character type* (LCT) and the *Ridge and Vale* LCT. The relationship between the urban character type is self-evident but there are elements of the Ridge and Vale LCT that the site shares, including its elevated position and way it affords some open views along the coast. It is open without having significant locally distinctive rural or wild characteristics. Overall, in my view, the site is a part of a tract of land that contributes positively to the LCT and Heritage Coast designation, despite the negative influences of the settlement edge. The area is of at least medium sensitivity to change, a point corroborated by the *West Dorset, Weymouth and Portland Strategic Landscape and Heritage Study* (2018) which found the wider Chickerell 3 parcel of land within which the site sits to be of medium to high sensitivity.
13. As an outline proposal with all matters save for access reserved, it is challenging to reach conclusions on unfixed elements of the scheme, particularly given that the red line site area extends to a larger area than what is indicatively shown as being developed. For the purposes of my assessment, I have treated the extent of built edge as being inset from the red line and no further north than the pumping station and edge of dwellings at North Road. Reference to the appeal site should therefore be taken as the indicative built extent. Whilst I make comment on the indicative layout further below, I am mindful that this aspect could be more readily changed.
14. The relatively insubstantial nature of the boundaries on these two edges and the density and arrangement of housing on North Road and Mandeville Close influences the site with a degree of urban character. It is suggested that the development would infill or 'square off' the settlement edge and create a better defined transition than the existing abrupt settlement edge. A softer, more vegetated transition on the site's boundary would not, in itself, be a harmful addition to the area. But abrupt transitions between the settlement edges and surroundings would remain for many areas of adjoining existing development, meaning the effect of such would be relatively modest considered in a wider context. Furthermore, the effect of such a boundary would be undermined if the development were to come forward as indicatively shown, as a blocky, overly dense form of development; a point to which I return below. The other outcome would be that the gap between the new settlement edge and Sea Clover Road would be reduced, such as to be relatively meaningless, in both spatial and visual terms. Taking the proposal in the context of this recent development gives rise to a greater cumulative harm than has been acknowledged in the appellant's Landscape and Visual Statement of Case¹.
15. I accept that any development of the site in longer range views from Chesil Bank and the South West Coast Path would be of the development in context with other skyline development such that its additional harm would be relatively modest. In

¹ David Wilson Partnership, Aug 2024

closer range views from the local PROW network, the development would be more perceptible as a closer part of the built settlement with some buildings on an elevated position. Through the addition of built development over part of a currently open area, there would also be some diminution of the views available to the coast from certain positions along the PROW network. The effect of the development of the site would give rise to visual harm, though of a predominantly localised nature and tempered by the existence of the urban edge it would adjoin.

16. In terms of the merging of the settlement edge of Wyke Regis with Lanehouse, it is evident that a gap would remain between the built edge of the site and the closest part of Lanehouse. However, the extent of consolidation of the development with Sea Clover Lane would close up some of the perception of openness and gaps between the respective built areas.
17. Turning briefly to the form of development indicatively shown, my view is that it would be too high a number of dwellings to assimilate well with its surroundings. If the purpose of the scheme were to create a softer transition to the settlement edge and lessen the urban influence of the settlement edge on adjoining land, the intense form of development shown would appear to be at odds with that purpose, with reliance being placed almost entirely on the establishment of a robust tree belt to diminish the intensity of the development that would sit behind it.
18. Overall, my view is that the development would erode the site's current openness and lead to a greater consolidation of built form around Mandeville Road, which whilst not specifically merging with Lanehouse, would harm the landscape character and visual amenities of the area and the wider Heritage Coast designation. These factors bring the scheme into conflict with Policies ENV1 and ENV10 of the Local Plan and Policies CP9 and CP11 of the Chickerell Neighbourhood Plan (2019-2036) (adopted 2021) (NP). Collectively, these policies seek for development to avoid harm to the heritage coast and seek to ensure that development positively maintains and enhances local identity and distinctiveness.
19. Whilst the Council refers to Local Plan Policy ENV12, compliance with this policy would be better adjudged at a reserved matters stage. Similarly, whilst it has been put to me that the current scheme is less harmful as it omits development with a more extensive frontage along Mandeville Road, I have no detail of any previous schemes on which to base a comparison. My consideration is on the proposal before me on its own individual merits.

Affordable Housing

20. The description of the proposal indicates that the scheme is intended to be for solely affordable housing, in relation to which the evidence details the tenure split of 70% social/affordable rent and 30% intermediate affordable housing. The appellant opines that any planning obligation would need to reflect that the scheme is an 'up to 32 unit' scheme with a possibility of single storey or varied unit sizes coming forward. If appropriately drafted, a S106 agreement or unilateral undertaking can afford such flexibility. However, no such mechanism has been submitted to secure the affordable housing or eligibility clauses in relation to occupation of the same.

21. The contingent position of the appellant is that the matter could be left to a planning condition. The Planning Practice Guidance (PPG) states² that a negatively worded condition limiting the development that can take place until a planning obligation or other agreement has been entered into is unlikely to be appropriate in the majority of cases. Only in exceptional circumstances is it likely to be appropriate to impose a negatively worded condition requiring a planning obligation to be entered into before development commences.
22. In this case, no exceptional circumstances have been advanced that would justify a departure from the typical approach of securing the planning obligation rather than through imposing a negatively worded condition. As such, even if it is the appellant's intention to deliver a housing scheme exclusively comprising affordable housing, in the absence of an appropriately robust mechanism, the proposal fails to adequately secure such, contrary to Policy HOUS2 of the Local Plan.

Surface Water Drainage

23. The Flood Risk Assessment (FRA) submitted with the appeal indicates that soakaways have been used for nearby developments and so given the ground conditions will be the same, then they should be an appropriate method to attenuate surface water on the appeal site too. I have no detail of the surface water arrangements for nearby developments or of the comparability of the ground conditions on the appeal site compared with those to reach such a definitive conclusion.
24. The FRA outlines little else in terms of the intended means of surface water drainage save to outline a suggested condition which could be imposed in the event planning permission were granted to seek details prior to commencement of the development. Limited detail is available to support the suggestion that a connection for mains sewerage could be used to take surface water flows as well.
25. Policy ENV5 of the Local Plan states that in the case of major development on unallocated sites, wider sustainability benefits should not remove the need to consider flood risk or surface water management, or the need to mitigate accordingly. In this case, a major development is proposed on an unallocated site and there is insufficient consideration of the management of surface water management methods that would be appropriate to the site based on related ground conditions which should not be entirely left to be addressed by planning conditions.
26. Thus, in the absence of sufficient evidence to the contrary, the development would not be served by an adequate means of surface water drainage and therefore conflicts with, in particular, Local Plan Policy ENV5.

Protected Sites

27. The site is within around 750m of the Protected Sites which are designated for features including the saltmarshes and reedbeds that support over wintering bird species such as the Dark Bellied Brent Goose *Branta bernicla*. In Spring and Summer, the area is also an important breeding ground for the Little Tern *Sterna albifrons* which feed in the shallow waters of the lagoon. The site also provides a habitat for bird species which breed elsewhere, such as Wigeon *Mareca Penelope*.

² In Paragraph: 010 Reference ID: 21a-010-20190723

28. Natural England have advised that development which results in an increase in population within 5km of the European Sites may contribute to an unacceptable increase in recreational pressures on the features of the designated area. Natural England have provided a series of interim measures which they consider likely to provide the mitigation necessary to avoid the unacceptable impacts upon the European Sites, including the employment of wardens, fencing off protected areas and reviewing the watercraft permit system. These measures are covered by payments collected through the Community Infrastructure Levy (CIL) tariff system so as to avoid adverse effects on integrity.
29. The other potential means by which adverse effects on the integrity of the European sites may arise is through the discharge of additional nutrients through increased wastewater generated by the development. The additional wastewater would be processed at the Weymouth Wastewater Treatment Works (WwTW) which discharges to the European Sites.
30. The submitted Nutrient Neutrality Assessment and Mitigation Strategy³ outlines the additional nutrient burden from a scheme of 32 dwellings using an occupancy rate of 2.4 persons per household and 120 litres of water usage per person per day. Taking into account the changes in land use of the site with the additional nitrogen and phosphorous loadings from wastewater, results in the need to mitigate a surplus of nutrients. The use of a Sustainable Urban Drainage System (SUDs) could process some of the nutrient burden, but not all. Therefore, other offsetting means available have been put forward as potential options, such as through the purchasing of credits, retrofitting SUDs elsewhere, or the provision of an interceptor wetland.
31. As the scheme is in outline form with the number of dwellings unknown at this stage, the precise nutrient burden is an unknown quantity. The appellant has confirmed a commitment to securing a proportionate nutrient neutrality scheme through a negatively worded planning condition. However, as the appeal is failing for other reasons, the absence of a secured mitigation scheme is not a determinative factor in the overall outcome.

Highway Safety

32. The access to the site is the only detailed matter as part of the outline application. However, there are no details of the access beyond a notional point shown on the indicative layout plan (Ref 001 D). The appeal was submitted with a Transport Statement⁴ with some detail, essentially outlining that the surrounding highway network is soundly constructed without any recorded accidents and that a bell mouth junction would be provided and an estate road suitable to allow entry and manoeuvring of a refuse vehicle.
33. Given the absence of relevant detail of the specific access to the site, I question whether the appeal proposal would have been more appropriately considered as an outline with all matters reserved for future consideration. In terms of the wider highway safety implications, despite my view that adverse effects seem unlikely, there is insufficient detail to support a robust conclusion in the light of Policy COM7 of the Local Plan which prohibits development unless it can be demonstrated that

³ Water Design Engineers, dated 18/01/23

⁴ JPC Highway Consultants dated April 2021

it would not have a severe detrimental effect on road safety. However, as the appeal is failing for other reasons, this issue is not determinative.

Other Matters

34. The appellant indicates that the Council were uncooperative in respect of matters such as the surface water drainage, where better communication and extended timescales may have allowed for resolution of the issues. Whilst this may be so, it has not affected my consideration of the appeal on its own merits.
35. An Annual Position Statement (APS) was published in October 2024 which concludes that Dorset Council has a 5.02-year supply of deliverable housing sites. The concept of an APS was removed from the National Planning Policy Framework (the Framework) in December 2024. However, transitional arrangements apply where a council has already confirmed its housing land supply position with a published APS. Given such, the Council's figure of 5.02 holds firm until the APS expires in October 2025.

Planning Balance and Conclusion

36. In respect of its scale, location and nature, absent of any mechanism to secure affordable housing, and overall effects on the character and appearance of the area, including the Heritage Coast designation, the scheme conflicts with the development plan when taken as a whole.
37. Where either further information or planning conditions could be used to mitigate adverse effects, the avoidance of further harms would not weigh in favour of the scheme.
38. The appellant advocates that the tilted balance set out in paragraph 11 d) of the Framework should be applied on the basis that the housing land supply position will materially change on the expiration of the APS. I have no cogent evidence to be certain of such a change or the anticipated scale of any alleged shortfall. As such, I do not consider the tilted balance under paragraph 11 d) of the Framework to be engaged.
39. Whilst the delivery of up to 36 dwellings would be a benefit in the context of a currently established adequate housing land supply and attracts moderate weight in my overall balance in any event, it does not outweigh the conflict with the development plan when taken as a whole. I do not reach an alternative conclusion even when taking into account the construction phase economic benefits and other considerations advanced in favour of the scheme.
40. For the reasons given above the appeal should be dismissed.

H Nicholls

INSPECTOR