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## Appeal Decision

Site visit made on 21 May 2025

by **E Worley BA (Hons) Dip EP MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 1<sup>st</sup> August 2025

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**Appeal Ref: APP/D1265/W/24/3350621**

**Land adjacent to 362 Bournemouth Road, Charlton Marshall, Dorset DT11 9NL**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission.
  - The appeal is made by Mr and Mrs Adcock against the decision of Dorset Council.
  - The application Ref is P/FUL/2022/07733.
  - The development proposed is the erection of 6 detached dwelling houses, with associated vehicular and pedestrian access.
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### Decision

1. The appeal is allowed and planning permission is granted for the erection of 6 detached dwelling houses, with associated vehicular and pedestrian access at Land adjacent to 362 Bournemouth Road, Charlton Marshall, Dorset DT11 9NL in accordance with the terms of the application, Ref P/FUL/2022/07733, and the plans submitted with it, subject to the conditions in the attached schedule.

### Preliminary Matter

2. In response to the third refusal reason a signed Unilateral Undertaking (UU), pursuant to Section 106 of the Town and Country Planning Act 1990, has been submitted during the appeal. The UU, which would take effect should planning permission be granted, would secure a financial contribution to mitigate for the loss of habitat on site. The Council has confirmed that in light of this the third refusal reason has therefore fallen away. As such, the absence of a legal agreement should not form a main issue in the determination of the appeal.

### Main Issues

3. The main issues are:
  - whether the proposed development would be in a suitable location having regard to the development strategy; and
  - whether the proposal would include suitable arrangements for surface water drainage.

### Reasons

#### *Suitability of location*

4. The appeal site comprises a paddock to the rear of 362 Bournemouth Road, a detached dwelling which fronts the highway. The ground levels rise from the road to the front of the site to the rear boundary. The appeal proposal would see the erection of 6 detached dwellings, access to which would be via an existing

vehicular access to the site, which is to be widened, with a new internal driveway layout.

5. The site is located beyond the settlement boundary for Charlton Marshall and is therefore in the countryside in planning policy terms. Policy 2 of the North Dorset Local Plan Part 1, adopted January 2016 (the LP) sets out that, outside of the defined settlement boundaries of the main towns and large villages, which includes Charlton Marshall, the remainder of the district will be subject to countryside policies where development will be strictly controlled, unless it is required to enable essential rural needs to be met. Policy 20 of the LP states that development will only be permitted in the countryside outside defined development boundaries providing it is of a type appropriate to the countryside, or there is an overriding need for it to be located there.
6. The proposal for market housing outside the settlement boundary would be contrary to Policies 2 and 20 of the LP and would therefore not be in a suitable location having regard to the development strategy.

### *Drainage*

7. The site lies within Flood Zone 1 and is at low risk of flooding. The Council's main concern is that, in the absence of groundwater monitoring, it has not been demonstrated that the required 1m clearance between the base of a soakaway and the maximum groundwater level, which its mapping system indicates may be between 0.5m and 5m below the ground surface, could be achieved. Consequently, it is the Council's position that, without a conceptual model at this stage, to show that the use of soakaways as a means of surface water attenuation would be feasible, it cannot be certain that the proposal would not exacerbate flood risk elsewhere.
8. A Soakaway Investigation Report<sup>1</sup> submitted as part of the appeal concluded that, soakaways would be viable at the site for the discharge of surface water. While the report does acknowledge that soakaways would only be effective above the level of groundwater, no groundwater was encountered during the investigation. While I am mindful that the investigation took place at a time of year when groundwater levels may not be at their highest, the report sets out that, given the underlying geology of the site it is likely that the depth of groundwater will not influence any proposed soakaways.
9. The appellant is confident that surface water attenuation by means of infiltration is possible. However, in the event that this is not the case, it is suggested that alternative technical solutions including rain (sunken) gardens, inset permeable parking areas, and attenuation tanks below ground, could be incorporated to achieve appropriate surface water attenuation within the site, should this be required. Consequently, while full details of a conceptual model for surface water drainage of the site have not yet been forthcoming, taking account of the above considerations, there is no substantive evidence that a satisfactory drainage scheme would not be achievable. Details of such could be secured by a suitable planning condition to agree a scheme of surface water attenuation, prior to the commencement of the development, to ensure that the proposal would not give rise to increased flood risk elsewhere.

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<sup>1</sup> Soakaway Investigation Report by Terra Firma dated August 2024

10. For the foregoing reasons, subject to a planning condition to agree a practicable drainage scheme, the proposal would include suitable arrangements for surface water drainage. Accordingly, it would not conflict with Policy 3 of the LP which sets out that development should seek to minimise the impacts of climate change overall through, among other things, the avoidance of areas at risk of flooding from all sources and the incorporation of measures to reduce flood risk overall.

### **Other Matters**

11. The Highway Authority is satisfied that the proposal would include appropriate access and egress arrangements to and from the site by both vehicles and pedestrians and has raised no objection to the proposal on highway safety grounds. Moreover, it confirms that the geometry and alignment of the proposed access road is such that it would enable access by refuse vehicles and other larger delivery vehicles. There is no substantive evidence to draw me to reach an alternative conclusion, or to demonstrate that traffic generated by the proposal would lead to harmful levels of pollution.
12. Despite the elevated position of the site at the entrance to the village, given the modest scale of the development and close relationship with the existing built form, together with a degree of containment in the wider landscape by virtue of the surrounding mature planting, the proposal is unlikely to have any significant adverse effects on the character or appearance of the area. Nor would it detract from the enjoyment of users of the nearby railway. While the proposed dwellings may not be suitable for first time buyers having regard to their size and affordability, my attention has not been drawn to any specific policy requirement in that regard.
13. Interested parties have raised concern regarding the effect of the development on the living conditions of the occupiers of neighbouring properties in terms of noise, outlook and privacy. However, given the design, height, scale and separation distance between the proposed dwellings and the adjoining properties, subject to the provision of appropriate boundary treatment, there is no compelling evidence that the development would give rise to harm to the living conditions of the occupiers of the neighbouring properties through loss of privacy or harm to outlook. Furthermore, given the residential nature of the proposal, there is no clear reason as to why activity associated with the use would lead to unusual levels or types of light or noise to the detriment of the occupiers of neighbouring properties. While the construction process is likely to be disruptive it would be short-term and is not a reason to withhold permission. Furthermore, any effects in that regard could be controlled through the imposition of a suitable planning condition to require details of a construction management plan.
14. Subject to planning conditions to secure the implementation of the submitted Ecological Assessment Report, which includes a detailed mitigation, compensation and enhancement strategy, the Council is satisfied that the proposal would not have an adverse impact upon wildlife, including protected species, and would provide suitable biodiversity enhancements. In addition, a UU is submitted to secure a financial contribution towards measures to mitigate the loss of habitat on site. Based on the evidence before me, I have no reason to reach a different conclusion. While the appellant's Biodiversity Plan was approved by the Council some time ago, given the site characteristics and condition remains largely

unchanged, it is unlikely that the findings of an updated survey would be materially different to that of the earlier survey.

15. My attention has been drawn to the removal of trees from the site prior to the commissioning of an arboriculture impact assessment by the appellant. However, there is nothing before me to suggest the trees were protected or the works to remove them were unauthorised.
16. Whilst I appreciate the alleged lack of engagement by the appellant with the Parish Council and occupiers of neighbouring properties may be frustrating, my decision focusses on the planning merits of the scheme. Furthermore, while planning permission was previously refused by the Council for residential development on the site, I have assessed the appeal proposal on its own merits, based on the evidence before me.

### **Planning Balance**

17. A Report on the Council's 5 Year Housing Land Supply Annual Position Statement dated 26 September 2024 (APS) by an Inspector appointed by the Secretary of State, confirms that the Council can demonstrate a 5.02 year housing land supply. While I note the appellant's contention that the Council cannot demonstrate an adequate supply of housing land, particularly in North Dorset, the Framework is clear that, where a local planning authority has confirmed its housing land supply position for a year through a published APS that has been examined by the Planning Inspectorate against the previous version of the National Planning Policy Framework (the Framework), this position will stand until the APS expires, which in this case is 31 October 2025.
18. The proposed development would not be in a suitable location having regard to the relevant development plan policies which set out the settlement strategy, because the site is beyond the settlement boundary for Charlton Marshall. This results in conflict with the development plan, when read as a whole. However, the Council has not articulated any specific harm that would arise in that regard. Moreover, considering my findings in relation to surface water drainage of the site, the proposal would not result in policy conflict in relation to increased flood risk.
19. By virtue of the close relationship of the site with Charlton Marshall, future occupiers of the dwellings would benefit from accessibility to services and facilities within the settlement by means other than the private car. In addition, irrespective of the Council being able to demonstrate a 5 year supply of housing land, the proposal would offer benefits in terms of housing supply, which is a key objective of the Framework, which seeks to significantly boost the supply of housing. It would also give rise to economic benefits during construction, and upon occupation through local expenditure, and would reflect the aims of the Framework which encourage housing where it would enhance or maintain the vitality of rural communities.
20. Thus, in this particular case, the benefits that would arise in terms of the delivery of housing, when taken together with the compliance with policies in the Framework as a whole, indicate that the determination of the appeal should be made otherwise than in accordance with the development plan. Therefore, having regard to all other relevant material considerations, I conclude that planning permission should be granted.

## Conditions

21. The conditions set out in the accompanying schedule are based on those suggested by the Council in their appeal statement should the appeal be allowed. Where I agree the conditions are necessary, I have amended the wording, in the interests of precision and clarity, and to comply with advice in the Planning Practice Guidance. In addition to the standard condition controlling the timescale within which the development must commence, a condition is required to specify the relevant plans, in the interests of certainty.
22. As discussed above, a condition to secure details of surface water drainage is necessary to ensure the development does not exacerbate the risk of flooding. This is a pre-commencement condition as drainage is an integral part of the development that may affect how it is constructed. In the interest of the character and appearance of the area, conditions are necessary to agree details of the external materials to be used in the construction of the dwellings and hard and soft landscaping of the site.
23. To conserve and enhance protected and priority species and allow the local planning authority to discharge its duties under the Conservation of Habitats and Species Regulations 2017 (as amended), the Wildlife & Countryside Act 1981 as amended and s40 of the NERC Act 2006 (Priority habitats & species) and in accordance with the Framework, a condition is necessary to ensure the development is carried out in accordance with the details contained in the submitted Biodiversity Plan. However, as the Biodiversity Plan is based on surveys from 2021, I have included a requirement for updated surveys to be carried out. Details pursuant to the latter part of the condition are required prior to the commencement of the development to ensure any necessary protection measures are in place before work on site begins.
24. Conditions relating to the construction of the vehicular access, provision of visibility spays, closure of the existing access and to prevent the installation of any gates, and to a secure a Construction Method Statement are necessary in the interest of highway safety.
25. The Council's Tree Officer has suggested a condition to agree an Arboricultural Method Statement (AMS), which is necessary to ensure the appropriate protection of retained trees during construction work. This is a pre-commencement condition so that measures are in place to protect the trees prior to the commencement of any work on site. Subject to the implementation of measures within the AMS a separate condition pertaining to tree protection measures and their inspection by the Council is not necessary. The officer report also indicates that the site is within an area known to have been a Roman settlement. Given the potential for archaeology within the site, a condition to secure a watching brief is therefore necessary. This is a pre-commencement condition so as to ensure any features of archaeological importance are appropriately identified before any development takes place.

## Conclusion

26. For the reasons given above the appeal should be allowed.

*E Worley* INSPECTOR

### **Schedule of Conditions**

- 1) The development hereby permitted shall begin not later than three years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with drawing nos:  
  
P010 Rev G Location & Site Plan  
P020 Elevations and Floor Plans House Type 1 - Plots 1 & 2  
P021 Elevations and Floor Plans House Type 2 - Plot 3,4 & 6  
P022 Elevations and Floor Plans House Type 3 - Plot 5  
PL30 Rev A Sections  
300 Rev A General Arrangement  
400 Rev P2 and P3 General Arrangement
- 3) Prior to the commencement of the development hereby approved, a detailed surface water management scheme for the site, based upon the hydrological and hydrogeological context of the development, and providing clarification of how drainage is to be managed during construction and a timetable for implementation of the scheme shall be submitted to and approved in writing by the Local Planning Authority. The surface water scheme shall be implemented in accordance with the approved details including the timetable for implementation.
- 4) Prior to development above damp-proof course level, details (including colour photographs) of all external facing materials for the wall(s) and roof(s) of the dwellings hereby approved, shall be submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved details and retained as such thereafter in perpetuity.
- 5) All biodiversity mitigation and enhancement measures and/or works shall be carried out in accordance with the details contained in the Biodiversity Plan certified by the Council on 26 June 2021. Prior to the commencement of the development updated ecological surveys for relevant habitats and species shall be carried out and the Biodiversity Plan updated accordingly if necessary.
- 6) Prior to any development above damp course level, a soft landscaping and planting scheme shall be submitted to, and approved in writing, by the Local Planning Authority. All planting, seeding or turfing comprised in the approved details of landscaping shall be carried out in the first planting and seeding seasons following the commencement of the development or within a timescale to be agreed in writing with the Local Planning Authority. Any trees or plants which within a period of 5 years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species.
- 7) Prior to any development above damp course level, full details of hard landscape proposals shall be submitted to and approved in writing by the Local Planning Authority. These details shall include where appropriate: proposed finished levels or contours, means of enclosure, car parking layout, other vehicular and pedestrian access and circulation areas, hard surfacing materials, minor artefacts and



structures (eg; refuse or other storage units, proposed and existing functional services above and below ground (eg; drainage, power, communication cables, pipelines, etc, indicating lines, manholes, supports etc). The development shall be carried out in accordance with the approved details, prior to the first occupation of the dwellings.

- 8) Before the development hereby permitted is occupied the first 10 metres of the vehicle access, measured from the rear edge of the highway (excluding the vehicle crossing, must be laid out and constructed to a specification submitted to and approved in writing by the Local Planning Authority and shall be retained as such thereafter in perpetuity.
- 9) Before the development hereby permitted is occupied a scheme showing precise details of how the northern access to the site will be altered to prevent access by motor vehicles must be submitted to and approved in writing by the Local Planning Authority. The approved scheme must be fully implemented before the development is occupied and retained thereafter in perpetuity.
- 10) The development hereby permitted shall not be occupied until the means of access, geometric highway layout, turning and parking areas shown on Drawing Number VD22683-VECXXX- XXX-DR-ZL-400 Rev P2 and Drawing Number P010 has been constructed. Thereafter, these must be maintained, kept free from obstruction and available for the purposes specified.
- 11) There must be no gates hung so as to form obstruction to the vehicular access serving the site.
- 12) The development hereby permitted shall not be occupied the visibility splays shown on drawing number VD22683-VEC-XXX-XXX-DR-ZL-400 Rev P2 are provided free of any obstruction exceeding 0.6m in height. The visibility spays shall be retained as such thereafter in perpetuity.
- 13) Prior to the commencement of the development hereby approved a Construction Method Statement (CMS) must be submitted to and approved in writing by the Planning Authority. The CMS must include:
  - the parking of vehicles of site operatives and visitors
  - loading and unloading of plant and materials
  - storage of plant and materials used in constructing the development
  - delivery, demolition and construction working hours

The approved CMS shall be adhered to throughout the construction period for the development.

- 14) No site clearance, preparatory work or development shall take place until an Arboricultural Method Statement (AMS) prepared by a qualified tree specialist providing comprehensive details of construction works in relation to trees that have the potential to be affected by the development must be submitted to and approved in writing by the Council. All works must be carried out in accordance with the approved details. In particular, the method statement must provide the following:

- a) a specification for protective fencing to trees and hedges during both demolition and construction phases which complies with BS5837 (2012) and a plan indicating the alignment of the protective fencing;
  - b) a specification for scaffolding of building works and ground protection within the tree protection zones in accordance with BS5837 (2012);
  - c) a schedule of tree work conforming to BS3998;
  - d) details of the area for storage of materials, concrete mixing and any bonfires;
  - e) plans and particulars showing proposed cables, pipes and ducts above and below ground as well as the location of any soakaway or water or sewerage storage facility;
  - f) details of any no-dig specification for all works within the root protection area for retained trees; and
  - g) Arboricultural Supervision and inspection by a suitably qualified tree specialist.
- 15) No development shall take place until an archaeological Written Scheme of Investigation (WSI) for an archaeological watching brief has been submitted to and approved in writing by the local planning authority and any necessary safeguarding measures to ensure the preservation in situ of important archaeological remains and/or further archaeological investigation and recording identified in the WSI have been undertaken in accordance with a specification and timetable that shall first have been submitted to and approved in writing by the local planning authority. The development should be carried out in full accordance with the approved details within the WSI.

**\*\*\*\*\*end of conditions\*\*\*\*\***