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## Appeal Decision

Site visit made on 30 September 2025

by **C Rose BA (Hons) BTP MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 31 October 2025

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**Appeal Ref: APP/D1265/W/25/3370052**

**11 Sweethill Lane, Portland, Dorset DT5 2DT**

- 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 Whyton against the decision of Dorset Council.
  - The application Ref is P/FUL/2024/03099.
  - The development proposed is erection of new dwelling and alterations to garage to facilitate vehicular access to rear.
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### Decision

1. The appeal is allowed, and planning permission is granted for erection of new dwelling and alterations to garage to facilitate vehicular access to rear at 11 Sweethill Lane, Portland, Dorset DT5 2DT in accordance with the terms of the application, Ref P/FUL/2024/03099, subject to the conditions in the attached schedule.

### Preliminary Matters

2. During the course of the appeal, the Planning Practice Guidance (PPG) was updated in relation to flood risk. The updated PPG states that where a site-specific flood risk assessment demonstrates clearly that the proposal would ensure that occupiers and users would remain safe from surface water flood risk without increasing flood risk elsewhere, there is no longer a need to carry out the sequential test. The need for a sequential test formed the Councils only reason for refusal. As a result of the update to the PPG, both main parties were given the opportunity to provide further comments in relation to this matter. As part of its response, the Council confirmed that it considers the need for a sequential test at the site to no longer be relevant. Given this and given the submission of a site-specific flood risk assessment with the application that clearly demonstrates that the proposal would not increase flood risk, I have no reason to disagree with the Council. I do not therefore need to deal with this matter as a Main Issue. However, I will return to this matter below in relation to conditions.
3. The appeal site falls within the catchment of the Chesil Beach and the Fleet RAMSAR and Special Protection Area and Chesil and the Fleet Special Area of Conservation (the Protected Sites). Although the Council have raised no concerns with regard to this matter, as the competent authority in relation to this appeal, I am required to consider this matter and the related duties under the Conservation of Habitats and Species Regulations 2017. As a result, I will deal with this as a main issue.

## Main Issue

4. In light of the above, the main issue is the effect of the proposal on the integrity of the Protected Sites.

## Reasons

5. The appeal site falls within the catchment zone of the Protected Sites which are designated for features including the coastal lagoon, scrubs, stoney banks, vegetation drift lines, saltmarshes and reedbeds that support wildlife with outstanding numbers and diversity of aquatic plants and animals. The area also supports the most extensive occurrences of rare sea-kale *Crambe maritima* and sea pea *Lathyrus japonicas* in the UK, sea beet *Beta vulgaris maritima*, orache *Atriplex*, Dark Bellied Brent Goose *Branta bernicla*. In Spring and Summer, it is 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*.
6. Natural England have advised that development which results in an increase in population within the catchment of the Protected Sites may contribute to an unacceptable increase in recreational pressures on the features of the designated area. Natural England, alongside Dorset Council have provided a series of costed interim measures which they consider likely to provide the mitigation necessary to avoid the unacceptable impacts upon the Protected Sites. These measures include the employment of wardens, provision of alternative strategic green space, signage and leaflets, car park spaces and charged review and reviewing the watercraft permit system and access points. The measures are covered by payments collected through the Community Infrastructure Levy (CIL) tariff system so as to avoid adverse effects on the integrity of the Protected Sites.
7. The securing of the mitigation measures in relation to this development via payments collected through CIL has been agreed in writing with Natural England.
8. On this basis, adverse effects of the development on the integrity of the Protected Sites would be avoided. As such, the development complies with Policy ENV2 of the West Dorset, Weymouth & Portland Local Plan 2015 which, amongst other things, safeguards internationally designated wildlife sites from development that could adversely affect them.

## Other Considerations

9. I have had regard to the comments from interested parties raising concerns with regard to subsidence as a result of the dwelling and construction, and impact on the living conditions of the occupiers of No. 9 Sweethill Lane (No.9) with regard to noise, disturbance and privacy from future occupiers.
10. With regard to subsidence, I have no substantive evidence that the construction of the dwelling, that will be required to comply with Building Regulations, would contribute to any subsidence issues. It is noteworthy in relation to this that the interested party has subsequently been reassured that special footings/foundations will be employed.
11. With regard to living conditions, No.9 is constructed close to the boundary with the appeal site. As such, there is already a level of overlooking to the ground floor side windows of No.9. Furthermore, No.9 is positioned adjacent to an existing

pedestrian access and through-garage serving the appeal property and other gardens. In light of this, given that the revised access and adjacent garden would only serve one dwelling, with the raised path set in from the boundary and the proposed plans detailing new boundary planting, subject to conditions to secure the new planting, I find no greater harm to the living conditions of the occupiers of No.9. It is noteworthy that the Council came to a similar conclusion in this regard.

### **Conditions**

12. A number of conditions have been suggested by the Council in the event of the appeal being allowed, which I have assessed and, where necessary, amended wording with regard to the advice provided in the PPG. In addition to the standard time condition, it is necessary for a condition to confirm the approved plans in the interests of certainty.
13. As part of the correspondence from the Council stating that the need for a sequential test at the site is no longer required, the Lead Local Flood Authority suggested a condition to ensure that construction details of the raised footpath leading to the dwelling be submitted and approved by the Council. This is to ensure that water can flow freely from one side of the path to the other without causing any damming effect. Given that the PPG and National Planning Policy Framework require development at risk of flooding to demonstrate that access and escape routes are not vulnerable to flooding or cause flooding elsewhere, and given that the submitted plans do not provide details of the paths construction, I find the suggested pre-commencement condition, and a further condition to ensure compliance with the submitted STM Environmental Flood Risk Assessment dated 10/02/25, both reasonable and necessary.
14. Conditions requiring the submission and approval of material samples and soft landscaping are necessary in order to protect the character and appearance of the area and living conditions of neighbouring occupiers.
15. Further conditions are necessary to ensure that the access/turning/manoeuvring and parking spaces are provided prior to first occupation in the interests of protecting highway safety.
16. Finally, in the interests of the protection and enhancement of biodiversity, a condition is necessary to ensure that the development is carried out in accordance with the biodiversity mitigation and enhancement measures detailed in sections 6, 7 and 8 of the Abbas Ecology report dated April 2024.

### **Conclusion**

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

*C Rose*

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:  
2904:439/001 Revision C Existing  
2904:439/002 Revision B Works to existing property  
2904:439/003 Revision F Proposed dwelling  
2904:439/004 Revision B Sections/details  
2904:439/005 Revision D Flood drawing.
- 3) Prior to the commencement of the development hereby approved, the detailed design of the raised footway shall be submitted to and approved in writing by the Local Planning Authority. The design shall include measures to ensure that water can flow freely from one side of the path to the other without causing a damming effect. The approved footway design shall be implemented in accordance with the approved details and shall be retained for the lifetime of the development.
- 4) Prior to development above damp-proof course level, a soft landscaping and planting scheme shall be submitted to, and approved in writing, by the Local Planning Authority. The approved scheme shall be implemented in full during the first planting season following commencement of the development or within a timescale to be agreed in writing with the Local Planning Authority. The scheme shall include provision for the maintenance and replacement as necessary of the trees and shrubs for a period of not less than 5 years.
- 5) Prior to development above damp-proof course level, details and samples of all external facing materials for the walls and roof shall be submitted to, and approved in writing by, the Local Planning Authority. Thereafter, the development shall proceed in accordance with the approved details.
- 6) Before the development hereby approved is occupied or utilised the first 5 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 maintained as such thereafter for the lifetime of the development.
- 7) Before the development hereby approved is occupied or utilised the turning/manoeuvring and parking shown on Drawing Number 2904:439/003 Revision F must have been constructed. Thereafter, these areas, must be permanently maintained, kept free from obstruction and available for the purposes specified.
- 8) Prior to first occupation the development hereby approved shall be completed in accordance with the proposed works detailed in the STM Environmental Flood Risk Assessment dated 10/02/25 and maintained as such thereafter for the lifetime of the development.
- 9) The development hereby approved shall be carried out in full compliance with the biodiversity mitigation and enhancement measures detailed in sections 6, 7 and 8 of the Abbas Ecology Ecological Impact Assessment dated April 2024.

No part of the development shall be brought into first use unless and until:

- i) the mitigation, compensation and enhancement measures detailed in the approved Biodiversity Net Gain Statement/Plan have been completed in full, in accordance with any specified timetable, unless any modifications as a result of the requirements of a European Protected Species Licence have first been submitted to and agreed in writing by the Local Planning Authority, and
- ii) evidence of compliance, including photographic evidence, has been supplied to the Local Planning Authority prior to the substantial completion, or the first bringing into use of the development hereby approved, whichever is the sooner. The development shall subsequently be implemented entirely in accordance with the approved Biodiversity Net Gain Statement/Plan and thereafter the approved mitigation, compensation and enhancement/net gain measures must be maintained and retained in accordance with the approved details for the lifetime of the development.

## **END OF SCHEDULE**