



Western and Southern Area Planning Committee

Date: Thursday, 3 December 2020
Time: 10.00 am
Venue: MS Team Live Event This meeting will be held remotely as an MS Teams Live Event [see links below]

Membership: (Quorum 6)

Mike Barron, Dave Bolwell, Kelvin Clayton, Susan Cocking, Jean Dunseith, Nick Ireland, Louie O'Leary, Bill Pipe (Vice-Chairman), David Shortell (Chairman), Sarah Williams, Kate Wheller and John Worth

Chief Executive: Matt Prosser, South Walks House, South Walks Road, Dorchester, Dorset DT1 1UZ (Sat Nav DT1 1EE)

For more information about this agenda please contact Denise Hunt 01305 224878 - denise.hunt@dorsetcouncil.gov.uk



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Members of the public are invited to access this meeting with the exception of any items listed in the exempt part of this agenda.

This meeting will be held remotely as an MS Teams Live Event using the links below:-

[W&S Area Planning Committee - Link to observe morning session starting at 10.00am](#)

[W&S Area Planning Committee - Link to observe afternoon session starting at 2.00pm](#)

Members of the public are invited to make written representations provided that they are submitted to the Democratic Services Officer no later than 8.30am on Tuesday 1 December 2020. This must include your name, together with a summary of your comments and contain no more than 450 words.

If a councillor who is not on the Planning Committee wishes to address the committee, they will be allowed 3 minutes to do so and will be invited to speak before the applicant or their

representative provided that they have notified the Democratic Services Officer by 8.30am on Tuesday 1 December 2020.

Please note that if you submit a representation to be read out on your behalf at the committee meeting, your name and written submission will be published as part of the minutes of the meeting.

Please refer to the guide to public participation at committee meetings for general information about speaking at meetings [Guidance to Public Speaking at a Planning Committee](#) and specifically the "***Covid-19 Pandemic – Addendum to the Guide to Public Speaking Protocol for Planning Committee meetings - effective from 20 July 2020***" included as part of this agenda (see agenda item 4 - Public Participation).

Using social media at virtual meetings

Anyone can use social media such as tweeting and blogging to report the meeting when it is open to the public.

A G E N D A

Page No.

1 APOLOGIES

To receive any apologies for absence

2 DECLARATIONS OF INTEREST

To receive any declarations of interest

3 MINUTES

7 - 16

To confirm the minutes of the meeting held on 5 November 2020.

4 PUBLIC PARTICIPATION

To receive questions or statements on the business of the committee from town and parish councils and members of the public.

Public speaking has been suspended for virtual committee meetings during the Covid-19 crisis and public participation will be dealt with through written submissions only.

Members of the public who live, work or represent an organisation within the Dorset Council area, may submit up to two questions or a statement of up to a maximum of 450 words. All submissions must be sent electronically to denise.hunt@dorsetcouncil.gov.uk by the deadline set out below. When submitting a question please indicate who the question is for and include your name, address and contact details. Questions and statements received in line with the council's rules for public participation will be published as a supplement to the agenda.

Questions will be read out by an officer of the council and a response given by the appropriate Portfolio Holder or officer at the meeting. All questions, statements and responses will be published in full within the minutes of the meeting. **The deadline for submission of the full text of a question or statement is 8.30am on Tuesday 1 December 2020.**

5 PLANNING APPLICATIONS

To consider the applications listed below for planning permission.

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|----------|---|---------|
| a | WP/19/01016/FUL - St Nicholas Church, Buxton Road, Weymouth, DT4 9PJ | 17 - 42 |
| | Demolition of the existing church and erection of 18 flats (including at least 6 affordable units) with associated external amenity space and parking spaces. | |
| b | WD/D/20/002313 - Land at Whites Meadow, Mosterton | 43 - 48 |
| | Modification/discharge of planning obligations on section 106 dated 5th April 2016 (linked to planning application WD/D/14/002887). | |
| c | WD/D/20/001420 - Lyme Regis Harbour, The Cobb, Lyme Regis | 49 - 62 |
| | Extension and repairs to existing slipway and extension of existing boat storage. | |
| d | WD/D/20/001014 - Creek Caravan Park, Fishers Place, Ringstead, Dorchester, DT2 8NG | 63 - 96 |
| | Station 40 caravans - Variation of conditions 1 and 2 and removal of conditions 3 and 4 of planning permission 207358 (extending the season). | |

COMMITTEE BREAKS FOR LUNCH 1.00 - 2.00PM

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|----------|--|-----------|
| e | Update Report - Enforcement Action - Homestead Farm, Main Street, Bothenhampton, Bridport, DT6 4BJ | 97 - 124 |
| | Breach of planning: Demolition of original farmhouse and erection of a dwelling not in accordance with planning approval WD/D/17/002888 as amended via the approved non material amendment approvals WD/D/19/000355/NMA & WD/D/19/000624/NMA. | |
| f | WP/20/00477/FUL - Adult Education Centre, 45 Dorchester Road, Weymouth, DT4 7JT | 125 - 156 |
| | Demolition of existing single storey modular building, glazed link corridor and privacy wall, change of use of existing property from office use to residential use on first and second floors, erect two storey residential children's home, installation of boundary fencing and railings and alterations to vehicle access and gates. | |

6 APPEALS SUMMARY

157 - 168

To inform members of notified appeals and appeal decisions and take them into account as a material consideration in the Area Planning Committee's future decisions.

7 URGENT ITEMS

To consider any items of business which the Chairman has had prior notification and considers to be urgent pursuant to section 100B (4) b) of the Local Government Act 1972. The reason for the urgency shall be recorded in the minutes.

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DORSET COUNCIL - WESTERN AND SOUTHERN AREA PLANNING COMMITTEE

MINUTES OF MEETING HELD ON THURSDAY 5 NOVEMBER 2020

Present: Cllrs Mike Barron, Dave Bolwell, Kelvin Clayton, Susan Cocking, Jean Dunseith, Nick Ireland, Bill Pipe (Vice-Chairman), David Shortell (Chairman), Sarah Williams, Kate Wheller and John Worth.

Also present: Cllr David Walsh (Portfolio Holder - Planning), Cllr Shane Bartlett and Cllr Toni Coombs

Officers present (for all or part of the meeting):

Lara Altree (Senior Lawyer - Regulatory), Bob Burden (Senior Planning Officer), Ann Collins (Area Manager – Western and Southern Team), Colin Graham (Engineer (Development Liaison) Highways), Paul Hopkins (Director of Countryside Access Management Ltd), Carol McKay (Senior Definitive Map Technical Officer), Vanessa Penny (Definitive Map Team Manager), Jo Riley (Senior Planning Officer), Allison Sharpe (Business Support Officer) and Denise Hunt (Democratic Services Officer).

29. Apologies

An apology for absence was received from Cllr Louie O'Leary.

30. Declarations of Interest

No declarations of disclosable pecuniary interests were made at the meeting.

31. Minutes

The minutes of the meeting held on 8 October 2020 were confirmed.

32. Public Participation

Representations by the public to the Committee on individual planning applications are detailed below. There were no questions, petitions or deputations received on other items on this occasion.

33. Application to divert footpaths 24, 160, 161 and 162 and bridleway 21, Weymouth

The Committee considered a report by the Corporate Director for Economic Growth and Infrastructure that considered whether or not to submit a Public Path Diversion Order to the Secretary of State for confirmation further to representations received and also the stance that Dorset Council should take if this were to be submitted.

The application was presented by Mr Paul Hopkins of Countryside Access Management Ltd.

Members were shown a location plan and photographs of the footpaths and bridleway to be diverted, three of which had been dedicated as public rights of way by the developer on the advice of Dorset Council. These paths were the subject of a separate application to add them to the definitive map of public rights of way by means of a modification order under section 53 of the Wildlife and Countryside Act 1981.

The Diversion Order had been made on 26 June 2020 and a notice of the Order advertised in the local press and posted on the site of the footpaths. Six objections had been received, one of which had subsequently been withdrawn. The main issues raised by the outstanding 5 objectors and associated officer comments were outlined below.

- The proposed paths would run on footways within the estate rather than on grass.

Response: the development was taking place on a greenfield site allocated for development in the local plan and therefore this was inevitable, however, the diverted routes of footpaths 160 and 161 would still run through open space.

- Incidences of dog fouling on the proposed footpaths.

Response: The developer had agreed to provide dog bins and associated signage. A management committee set up once the development was completed would maintain and empty dog fouling bins.

- High fences next to paths

Response: It was confirmed that there would be low fences adjacent to the proposed footpath routes with higher fences around the gardens of dwellings that would be set back from the routes.

- The development should have provided for the retention of existing footpaths therefore avoiding need for diversion.

Response: The impact was considered and approved by Dorset Council in the granting of planning permission.

- Detrimental effect on wildlife habitats.

Response: this had been fully addressed in granting of the planning permission.

- Detrimental effect on homes and privacy of occupants of homes adjacent to the footpaths

Response: the impact was mainly to the front of properties where some public activity would be expected.

- Increase in distance of the footpaths

Response: The footpaths were created as alternatives in order to retain the network of paths within the constraints of the development site.

- Work is being carried out to construct the development.

Response: The construction programme takes account of existing rights of way and the developer had sought legal advice that confirmed that the development had not been substantially completed.

Public written submissions received were read out at the meeting and are attached to these minutes.

Members asked questions in relation to the materials to be used and shared use signage in respect of the bridleway, having regard to the safety of users and were advised that these elements could be discussed further with the developer.

It was highlighted that the application related to bridleway 21 as it was referred to as bridleway 24 on the agenda in error.

The Vice-Chairman stated that the issue concerned whether it was necessary to divert the footpaths to enable the development to take place.

Proposed by Councillor Bill Pipe, seconded by Councillor Jean Dunseith.

Decision: That

- (a) the Order be submitted to the Secretary of State for determination; and
- (b) the Council takes a supporting stance in the proceedings.

Reason for Decisions:

(a) As there have been objections to the Order, Dorset Council cannot confirm it itself, but may submit it to the Secretary of State for an Inspector to be appointed to consider confirmation; and

(b) The representations received to the Order oppose the diversion of the paths. The Council has accepted the application and agrees with the proposed effect of the Diversion Order.

34. **Planning Applications**

Members considered written reports submitted on planning applications as set out below.

35. WP/20/00136/FUL - 375 Dorchester Road, Weymouth

The Committee considered a report to demolish an existing dwelling and erect 6 dwellings with associated landscaping and parking.

Members were given a presentation including an aerial plan of the site showing the pattern of housing along that part of Dorchester Road, photos, a site plan, elevations, floor plans and street scene. The proposal included widening of the existing access and 15 parking spaces, some of which were allocated.

The Senior Planning Officer advised that trees on the site had been removed, but as the site was not in a Conservation Area and in the absence of any Tree Preservation Orders, consent for the removal of trees had not been required.

An Historic Plan dated 1937-1961 was also shown further to an objection by the Civic Society who considered the building to be of historic merit known as North Lodge previously serving Corfe Hill Farm. However, members were advised that as the property was not a Listed Building or situated in a Conservation Area it could not be protected in planning terms.

It was confirmed that the public footpath that ran alongside the site would not be affected by the development.

The key issues were outlined including:-

- Within the Defined Development Boundary
- Not in the Conservation Area
- Not a Listed Building
- acceptable design
- no significant harm to neighbours
- added to the housing land supply

A plans list was provided that had not been included in the officer's report.

Public written submissions received in respect of this application were read out at the meeting and are attached to these minutes.

Members were shown a "Swept Path Analysis" diagram in response to concern expressed by members on the acceptability of the road layout for vehicles turning right from or into the development and for vehicles turning right into the petrol station opposite the site.

The Highways Officer explained that any conflict would be minimal due to the number of vehicle movements arising from the development, good visibility, the wide road and presence of a pedestrian refuge. He confirmed that there was adequate parking and vehicle turning within the site.

Members requested additional conditions relating to a construction environmental management plan to protect neighbour amenity during the

construction phase of the development and the provision of electric car charging points.

The Area Manager - Western and Southern advised that in light of the two suggested conditions, the recommendation should be amended to delegate approval of the application to the Head of Planning so that the additional conditions could be drafted in conjunction with the Chairman.

In response to a further question it was confirmed that the existing stone boundary wall would be retained as a result of widening the access.

Proposed by Councillor Kate Wheller, seconded by Councillor Bill Pipe.

Decision: That authority be delegated to the Head of Planning to grant subject to planning conditions outlined in the appendix to these minutes, including a construction environment management plan condition and a condition requiring a scheme for car charging points and implementation of it, with these conditions to be drafted in conjunction with the Chairman of the Area Planning Committee.

NB: Councillor Susan Cocking joined the meeting part-way through consideration of this application and therefore she did not take part in the debate or vote on this application.

36. **WD/D/20/001700/OBL - Land to North and West of Cockroad Lane, Beaminster to the south**

The Committee considered a report concerning the discharge of planning obligations on a Section 52 Agreement dated 10 March 1989 in relation to original planning approval 1/W/88/458.

The Senior Planning Officer showed some location plans and advised that the matter related to a Section 52 Agreement that had accompanied a planning permission granted for industrial development in 1989. This permission had lapsed as no details were submitted within 3 years of approval of the application. The Section 52 Legal Agreement was therefore obsolete and formed an unnecessary legal barrier that could not be applied to future development of the site. The issue of employment use had been explored as part of planning permission granted earlier in 2020 for residential development on this site.

Public written submissions received were read out at the meeting and are attached to these minutes.

Councillor Kate Wheller left the meeting at 11.30am.

In response to public participation, the Senior Planning Officer advised that comments made by Beaminster Town Council could be used to inform the Local Plan review process rather than explored in this application, given that permission for housing on this site had been approved and Clipper Teas had also released an adjacent site for residential use which further weakened the case for the retention of employment land in that area.

Proposed by Councillor Nick Ireland, seconded by Councillor Bill Pipe.

Decision: That subject to the Applicant paying the Council's proper legal costs and indemnifying the Council generally in respect of such action, the Section 52 Agreement be revoked by deed of revocation.

37. **Appeal Decisions**

The report was noted.

38. **Urgent items**

There were no urgent items.

Appendix - Decision List

Duration of meeting: 10.00 - 11.38 am

Chairman

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APPLICATION NUMBER: WP/20/00136/FUL

APPLICATION SITE: 375 Dorchester Road, Weymouth

PROPOSAL: Demolition of existing dwelling & erection of 6 dwellings with associated landscaping & parking.

DECISION: Delegate authority to the Head of Planning to grant subject to planning conditions including a construction environment management plan condition and a condition requiring a scheme for car charging points and implementation of it, with these conditions to be drafted in conjunction with the chair of the planning committee.

- 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 S-1348-01 (received on 18th February 2020)

Site Plan PL-1348-200A (received on 11th March 2020)

Floor Plans and Elevations Plot 1&2 PL-1348-201- REV A (received on 20th October 2020)

Floor Plans and Elevations Plot 2&3 PL-1348-201 – REV A (received on 20th October 2020)

Floor Plans and Elevations Plot 3&4 PL-1348-202 REV A (received on 20th October 2020)

Street Scene PL-1348-204 (received on 4th November 2020)

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

- 3) Before the commencement of development, full details of both hard and soft landscaping works shall be submitted to and approved in writing by the Local Planning Authority. The soft landscaping details to be submitted shall include planting plans, protection measures for existing features, planting maintenance schedules. All hard landscaping works shall be carried out prior to first occupation of the dwellings hereby approved. Planting shall be carried out before the end of the first available planting season following substantial completion of the development. In the five year period following the substantial completion of the development any trees that are removed without the written consent of the Local Planning Authority or which die or become (in the opinion of the Local Planning Authority) seriously diseased or damaged, shall be replaced as soon as reasonably practical and not later than the end of the first available planting season, with specimens of such size and species and in such positions as may be agreed with the Local Planning Authority.

In the event of any disagreement the Local Planning Authority shall conclusively determine when the development has been completed, when site conditions permit, when planting shall be carried out and what specimens, size and species are appropriate for replacement purposes.

Reason: In the interests of continued visual public amenity.

- 4) Before the development hereby approved is occupied or utilised the turning and parking shown on the submitted plan must have been constructed. Thereafter these areas must be permanently maintained, kept free from obstruction and made available for the purposes specified.

Reason: To ensure the proper and appropriate development of the site and to ensure that highway safety is not adversely impacted upon.

- 5) Before the development is occupied or utilised the first 10m 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:

Reason: To ensure that a suitably surfaced and constructed access to the site is provided that prevents loose material being dragged and/or deposited onto the adjacent carriageway causing a safety hazard.

- 6) Before the development is occupied or utilised the existing access point must be permanently closed by extending the adjoining highway boundary and removing any gates. The existing highway vehicular crossing must be expunged and reinstated to a specification which must be submitted to and approved in writing by the Local Planning Authority.

Reason: To ensure the proper and appropriate reinstatement of the adjacent highway.

- 7) Before the commencement of development, details and/or samples of all facing and roofing materials shall be submitted to, and approved in writing by the Local Planning Authority and the development shall be completed in accordance with these details.

Reason: To ensure that the external appearance of the completed development is sympathetic to its locality. The development shall not be occupied until the mitigation measures detailed in the approved mitigation plan dated 11.3.20 have been completed in full, unless any modifications to the agreed mitigation plans as a result of the requirements of a European Protected Species Licence or the results of subsequent bat surveys, have first been submitted to and agreed in writing by the Local Planning Authority. Thereafter approved mitigation measures shall be permanently maintained and retained in accordance with the approved details.

Reason: In the interests of a protected species.

- 8) Before the commencement of development, a plan indicating the positions, design, materials and type of boundary treatment to be erected shall be submitted to and approved in writing by the Local Planning Authority. The boundary treatment shall be carried out in accordance with the approved details and shall be completed before the dwellings are occupied.

Reason: To safeguard the amenities of the locality and the privacy of the occupiers of adjoining premises.

- 9) Notwithstanding the provisions of Schedule 2, Part 1, Classes A and B of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any other Order revoking or re-enacting that Order with or without modification) no enlargements, alterations or modifications in the form of insertion of first floor windows on any elevation shall be carried out to the dwelling without a further application for planning permission being approved by the Local Planning Authority.

Reason: Enlargements and/or windows could potentially be detrimental to the amenity of the locality and neighbouring properties.

- 10) All windows on the proposed development shall be constructed in timber with the windows painted white, unless otherwise agreed and shall be retained in that condition unless a further application for planning permission is received.

Reason: To ensure that this aspect of the design is in keeping with the character and appearance of the building.

Informatives: NPPF, CIL, Section 184 Highways Act.

APPLICATION NUMBER: WD/D/20/001700/OBL

APPLICATION SITE: Land to North and West of Cockroad Lane, Beaminster.

PROPOSAL: Discharge of planning obligations on Section 52 Agreement dated 10 March 1989 (original planning approval 1/W/88/458).

DECISION: That subject to the Applicant paying the Council's proper legal costs, and indemnifying the Council generally in respect of such action, the Section 52 Agreement be revoked by deed of revocation.

[Application Number –WP/19/01016/FUL](#)

Proposal: Demolition of the existing church and erection of 18 flats (including at least 6 affordable units) with associated external amenity space and parking spaces-

Location: St Nicholas Church, Buxton Road, Weymouth DT4 9PJ

Applicant name –Hector Benjamin Ltd

Case Officer – Bob Burden

Ward Member(s) – Cllr B Heatley, Cllr C Sutton, Cllr K Wheller

This application is brought back before the Committee due to a change to the terms of the Section 106 Agreement since the planning committee considered the application in July 2020.

1.0 Summary of Recommendation:

Recommendation A: Delegate authority to the Head of Planning to grant subject to the completion of a Section 106 Agreement to secure provision of 35% affordable housing (6 flats and a financial contribution to off-site affordable housing provision – the latter not being required if more than 6 affordable units are provided on site) and subject to the planning conditions as set out in the previous committee report in July 2020 and appended to this report, with an updated plans list condition to include the following amended plans:

Proposed Block Plan 38A received 10th July 2020

Proposed Plan/ground floor plan 30G received 10th July 2020

Proposed Site Plan/First Floor Plan 31G received 10th July 2020.

Recommendation B: Refuse permission for the reasons set out if the legal agreement under Section 106 of the town and country Planning Act 1990 (as amended) is not completed within 6 months of the date of the committee resolution or such extended time as is agreed by the Head of Planning.

2.0 Reason for the recommendation:

2.1 It is considered that the proposed modification to the wording of the draft S106 would be acceptable because the site lies within the defined development boundary and it is policy-compliant.

3.0 Key planning issue

3.1 Potential reduction of 65% affordable housing on the site. The proposed modification to the S106 agreement (ensuring 35% affordable housing) is considered acceptable.

4.0 Description of Site

4.1 See attached previous committee report from July 2020 which is appended to this report.

5.0 Description of Proposal

5.1 See attached July 2020 report. This application has been brought back to committee due to a proposed change to the draft wording of the S106 agreement. The description of development has been amended since the application was considered in July 2020, with the applicant's agreement, to delete the reference to "18 affordable flats" and instead include "18 flats (including at least 6 affordable units)".

6.0 Relevant Planning History

6.1 None relevant

7.0 Relevant Constraints

Within Defined Development Boundary.
Within Conservation Area.

8.0 Consultations

8.1 See attached July 2020 report.

9.0 Representations

9.1 See attached July 2020 report.

10.0 Relevant Policies

10.1 The following are considered relevant having regard to the proposed changes to the draft S106 agreement:

West Dorset, Weymouth and Portland Local Plan

HOUS1 – Affordable Housing

National Planning Policy Framework

- 4. Decision-making
- 5. Delivering a sufficient supply of homes

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

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.

12.0 Public Sector Equalities Duty

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.

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 PSED.

13.0 Financial benefits

- At least 6 affordable housing flats.
- Spending by occupiers in local shops and facilities.
- Employment created during construction phase.

14.0 Climate Implications

14.1 See attached July 2020 report.

15.0 Planning Assessment

15.1 The Committee will recall considering this application at its meeting on 9th July 2020. The application was for the whole development (100% i.e. all 18 flats) to be affordable housing in perpetuity, secured by a section 106 agreement. Members resolved to delegate authority to approve the application subject to the legal agreement, conditions and a widening of the proposed vehicular access by a further 0.5m . However, it has since become apparent that Homes England will only sanction a maximum of 35% of an affordable housing development using a section 106 agreement.

15.2 The comments of the Housing Enabling Team Leader regarding this situation are set out below:

The Housing Enabling Team are supportive of this application to provide affordable housing at Buxton Road. There are currently around 1900 households on the Weymouth and Portland Housing Register, of these 408 have a need for two bedroom properties.

An all affordable housing scheme on this site in Buxton Road will require funding from Homes England. This would be part of the 2021 – 2026 Affordable Homes Programme. The official guidance from Homes England states that: “the purchase of homes built under Section 106 agreements, where the affordable homes are secured through developer contributions is not funded”.

This would mean that if all the homes were to be provided as affordable through S106 requirements then funding would not be available. This would mean the delivery of affordable housing on the site would be unviable.

The Housing Enabling Team did contact Homes England to see if any flexibility would be given for this site but this is a standard approach from Homes England.

This means that to enable an all affordable scheme to be delivered then only a policy compliant amount of affordable housing should be sought in the S106. Once planning has been granted Sovereign Housing will acquire the site to develop affordable homes. Sovereign are a Strategic Partner of Homes England so have already been awarded a substantial amount of grant to bring forward affordable homes, this will mean they will not have to make a grant application specific to this site.

It should be noted that several other 100% affordable housing sites have been developed by Sovereign, and other RPs, using this funding method. This availability of Homes England grant is helping to increase the delivery of affordable housing in the Dorset Council area.

The affordable housing contribution should be 6 units delivered on site and a financial contribution of £6,935 to ensure it is policy compliant. The financial contribution will not be applied if more than 6 affordable homes are delivered on site.

15.3 The Case Officer would point out that if this application had been originally submitted simply as a scheme for 18 flats it would have been subject to policy HOUS1 which requires 35% affordable housing and the requirements of Homes England are consistent with this. The applicant remains prepared to enter into the s106 to achieve the 35% figure. This means 6 of the total 18 flats (33.33%) can be specified as affordable flats. The shortfall of 1.66% on 35% would be addressed by an affordable housing financial contribution of £6,935 towards off-site provision.

15.4 This leaves the remaining 65% (12 flats). As mentioned above, this would be policy-compliant as open market flats. However, it is the applicant's intention for the whole of the development to be provided as an all-affordable scheme and has provided a letter which states the following:

"The S106 needs to be for a maximum of 6 units. However we are able to confirm that the remaining 12 units will be allocated as affordable housing units, and it is anticipated that these will be Social Rented units."

The reason the S106 needs to be for a maximum of 6 units is due to the structure of Homes England Funding. In essence, Sovereign are unable to secure grant funding to any units that are covered within the Section 106. They have based their financial calculations on the S106 agreement only containing 6 affordable housing units. Therefore the current scheme will fail if the S106 contains more than 6 units. However as outline above, notwithstanding the S106, we are still offering the undertaking that all the units will be allocated as affordable units."

Furthermore, Sovereign Housing are also expected to provide a letter consistent with this outcome and the committee will be updated at the meeting if such a letter has been received.

15.5 Given that the scheme with 35% affordable housing would be policy compliant (Policy HOUS1 of the adopted local plan), it is considered reasonable to support the application in this form. Nevertheless, and whilst it cannot be guaranteed, it is clear that the intention is to provide all 18 flats as affordable. If more than 6 affordable flats were delivered on site the financial contribution would not be required.

15.6 Since the committee meeting in July 2020 the applicant has submitted amended plans in respect of the access which are considered to be satisfactory by the planning officer, as per the committee resolution. Therefore it is proposed that condition no. 1 be updated to supersede the previous plans (those that have been subsequently amended) and include the amended plans which are as follows (in addition to those plans in the list which are still relevant):

Proposed Block Plan 38A received 10th July 2020
Proposed Plan/ground floor plan 30G received 10th July 2020
Proposed Site Plan/First Floor Plan 31G received 10th July 2020.

16.0 Conclusion

16.1 The situation in terms of the restrictions on Homes England funding has only relatively recently emerged. The scheme in the form now presented would be acceptable in policy terms with 6 affordable flats and a contribution towards off-site affordable housing provision to make up the balance of the 35% required.

Moreover, there is the prospect that the remaining 12 flats may also end up being delivered as affordable - albeit this cannot be guaranteed.

17.0 Recommendation

Recommendation A:

Delegate authority to the Head of Planning to grant subject to the completion of a Section 106 Agreement to secure provision of 35% affordable housing (6 flats and a financial contribution to off-site affordable housing provision – the latter not being required if more than 6 affordable units are provided on site) and subject to the planning conditions as set out in the previous committee report in July 2020 and appended to this report, with an updated plans list condition to include the following amended plans:

Proposed Block Plan 38A received 10th July 2020

Proposed Plan/ground floor plan 30G received 10th July 2020

Proposed Site Plan/First Floor Plan 31G received 10th July 2020.

Recommendation B:

Refuse permission for the reasons set out if the legal agreement under Section 106 of the town and country Planning Act 1990 (as amended) is not completed within 6 months of the date of the committee resolution or such extended time as is agreed by the Head of Planning.

1. Policy HOUS1 of the adopted West Dorset, Weymouth and Portland Local Plan 2015 requires a minimum on-site provision of units as affordable housing and in the absence of a planning obligation to secure these affordable units the scheme would fail to meet the substantial unmet need for affordable housing in the district and the proposal would therefore be contrary to Policy HOUS1 of the adopted West Dorset Weymouth and Portland Local Plan. Furthermore the community-related benefits inherent in the scheme would not be achieved. Hence the scheme would be contrary to the objectives of paragraph 92 of the National Planning Policy Framework (2019).

1.0

[Application Number –WP/19/01016/FUL](#)

Site address: St Nicholas Church, Buxton Road, Weymouth DT4 9PJ

Proposal: Demolition of the existing church and erection of 18 affordable flats with associated external amenity space and parking spaces

Applicant name: Hector Benjamin Ltd

Case Officer: Bob Burden

Ward Member(s) Cllr B Heatley, Cllr C Sutton, Cllr K Wheller

2.0

Summary of Recommendation:

Recommendation A: Delegate authority to grant to Head of Planning subject to completion of a S106 agreement to secure provision of 100% affordable housing, and subject to planning conditions.

Recommendation B: Refuse permission for the reasons set out if the legal agreement under Section 106 of the town and country Planning Act 1990 (as amended) is not completed within 6 months of the date of the committee resolution or such extended time as is agreed by the Head of Planning.

3.0

Reason for the recommendation:

- Contribution towards 5 year housing land supply.
- Para 14 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.
- The location is considered to be sustainable and the proposal is acceptable in its design and general visual impact.
- There is not considered to be any significant harm to neighbouring residential amenity.
- There are no material considerations which would warrant refusal of this application.

4.0

Table of key planning issues

Issue	Conclusion
Principle of development	Whilst there is a general presumption to retain such sites in community use, Policy COM3 allows for the context of this to be reviewed in appropriate circumstances; the objective to enhance a community hub nearby, coupled with the opportunity to secure 18 all-affordable flats means that in this particular case the scheme has support in principle.

Affordable Housing	This is an all-affordable housing scheme for social rent or affordable rent, with the opportunity to secure 18 two bedroom flats in a sustainable location which has the support of the Housing Enabling Team Leader .
Visual Impact on Locality and Conservation area.	The existing church building is a visually discordant building in the street scene; the siting, design and materials of the proposed building- with its contemporary approach- would enhance the character of the conservation area.
Effect on residential amenity	The relationship with adjacent and near-by dwellings is not considered to result in unacceptable over-looking, nor would it have an overbearing effect .
Flood-risk	An acceptable surface water drainage strategy has been submitted.
Ecology	An acceptable bio-diversity plan has been submitted, and this has been verified by the Natural Environment Team.
Highways	The site has been inspected and assessed by the Highways Officer; the proposed use is considered acceptable subject to parking, access crossing and surface water drainage details.

5.0 Description of Site

- 5.1 The site lies on the north side of the Buxton Road (A354) on the west side of Weymouth. The site rises significantly from the road and is currently occupied by a 5.6m high barrel-roofed church of pebble dash render/metal cladding under a dark felted roof with a flat roofed side extension. It is positioned close to the rear and east edge of the site. To the west is a grassed area and an extensive tarmac forecourt area for car parking. A small electricity substation is present which would be removed. There is an existing vehicular access to the site flanked by

low frontage walls, with a low wall running along the east boundary and a circa 2.5m high retaining wall at the rear (as the levels rise beyond the site rear).

5.1 The frontage to Buxton Road includes a bus stop and bus shelter to the west side. There are several shops in the vicinity and two/two and a half storey older brick/slate roofed housing on the opposite side of Buxton Road. To the west of the site is a driveway to the rear bungalow. Beyond the drive is a block of architecturally impressive Victorian villas, commencing with No 18 (the nearest having a flat-roofed two-storey extension). The majority of this villa block is in a pale brick. To the rear of the site is a bungalow with a frontage/side garden at an elevated level, of natural stone/dark concrete tiles.

5.2 The eastern boundary includes intermittent planting including laurel shrubs with well-established large trees within the grounds of 1 Verne Road, but close to the application site. No 1 Verne Road is a large imposing and attractive building currently used as a nursing home, featuring alternate light/dark brick banding. The frontage area is a largely open area with car parking under the trees near the site boundary.

6.0 Description of Development

6.1 The scheme proposes removing the church and replacing it with a four storey block of 18 all-affordable flats based on a contemporary design. This would be set back 9m from the pavement and would be off-set 3.8 m from the east boundary and at least 4.3m off the north boundary. On the western side of the site 267m² of communal amenity space would be provided, wrapping around the west side of the building. A refuse and recycling area would be provided behind a landscaped front boundary area. The existing vehicular access would be modified but remain to the east side of the frontage. A new frontage wall would be erected to the east. A pedestrian access would be added to the west. There would be 2 parking spaces to the frontage with the majority (16 spaces) within an under-croft parking area.

6.2 The building would have a mainly rendered ground floor with buff brick above. Standing seam metal cladding would be used on the top floor, the lift/stair section and on the “pop-out” windows. Powder coated aluminium windows and doors would be used. An ornate railing design would be used on the balconies. The top floor recessing allows for an area of rooftop balcony space on the south and east facing elevations.

6.3 The existing wide “bell-mouth” vehicular access would be reduced in width to 4.3m and would be positioned roughly equidistant between the bus stop and the pelican crossing.

7.0 Relevant Planning History

None relevant.

8.0 List of Constraints

Within defined development boundary

Within the Connaught Road Conservation Area (*statutory duty to preserve or enhance the significance of heritage assets under the Planning (Listed Buildings & Conservation Areas) Act 1990*)

9.0 Consultations

9.1 **Wessex Water** - Public sewer in Buxton road, connection can be agreed to this. Surface water - a viable surface water strategy must be demonstrated together with management/maintenance requirements.

9.2 **Flood-Risk Officer** - Site lies in Flood Risk Zone1. Initial holding objection addressed; acceptable surface water drainage strategy received.

9.3 **Highway Officer** - This proposal is located on a frequent bus route, close to the Rodwell Trail which offer walking and cycling to town and Wyke and Portland, is near to schools, doctors and shops and is providing 1 off-street parking space per unit and secure and sheltered cycle parking spaces. EV charging points can be accommodated. The Highway Authority considers that the revised proposals do not present a material harm to the transport network or to highway safety and consequently has NO OBJECTION subject conditions addressing access crossing, parking/turning, and surface water drainage, plus highways informative.

9.4 **Conservation Officer** - Original comments - More integration with the Victorian buildings needed; given more restrained glazing use in these the design should evoke a more “solid” appearance; an amended design of railings, with a more craft/innovative approach would help. At present the scheme lacks innovative design. The scheme would cause less than substantial harm to the conservation area. The development would improve the overall site condition (removal of the church building).

Revised plans later submitted showing shadow-line/revised railings design- Conservation Officer confirmed now supports scheme.

9.5 **Senior Tree Officer Comments** – I have gone through the arboricultural report. There’s nothing controversial and, regardless of the condition of the trees on the adjacent site (the Arb Consultant recommends removal of the Willow – but of course none of us can require that) the proposal is unaffected. Don’t really see a need for conditioning root protection zones since, whilst there is some minor intrusion into the site, the retaining walls etc. have almost certainly dissuaded roots from entering the site – and the BS allows for up to 20% of the root zone to be affected. Would suggest conditioning the landscape scheme though; it would be good to be able to actually require whatever they ‘indicate’ on their proposals.

9.6 **Housing Enabling Team Leader-**

Currently 1800 households on housing register requiring accommodation in the Weymouth and Portland area; a high level of need across the area. Policy requires 35% affordable housing normally on-site, with 70% social/affordable rent and 30% intermediate affordable housing (on open market sites).

The Councils Strategic Housing Market Assessment 2014 suggests in the region of 104 new affordable dwellings need to be developed annually. This is a proposal for 18 affordable 2-bed flats. The applicant's intention is to provide 100% affordable housing and to secure the flats with a section 106 agreement. It provides a lift to the upper floor to enable disabled access. The development would be owned by a Registered Social Landlord.

Summary –This scheme would help meet housing needs in an appropriate way.

9.7 Weymouth Town Council - Warmly welcomes the affordable housing component of the development. The scale of the development is in keeping with the area and the design is modern. Therefore the Council has no objections.

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

10.0 Representations

30 letters of objection/comment have been received. The main planning-related points include:

- Scale and proportion out of character with the conservation area.
- Does not reflect architecture of adjacent Victorian houses.
- Lacks design features of existing characterful development.
- Weymouth Civic Society: excessive density and coverage of limited site. Design would harm character/appearance of conservation area/not in keeping with the Victorian villas.
- Increased traffic near a pedestrian crossing.
- Too high and too dense.
- Reduce number of units.
- 12 flats would be more acceptable.
- Loss of privacy/light to properties to north.
- Proximity to road will overwhelm properties opposite.
- Traffic would be unable to turn right from site, especially at rush hour/school
- bus stop would inhibit driver vision.
- Vehicular access onto busy road to Wyke/Portland, and cars already park in road-traffic problems; too close to pedestrian crossing and bus stop with associated highway dangers.
- Overdevelopment.
- Too far forward of building line.
- Conflict with school children and elderly in area due to traffic.

- A lot of pedestrian activity; children, footfall to general store, chip shop and pharmacy; pupils of Holy Trinity and All Saints; patients/elderly at doctors surgery; route to Portland.
- Access/egress busy between bus stop and pedestrian crossing.
- Busy and congested road with several drop-off/pick up times due to schools etc. in area; vehicles mount kerbs to get past.
- Inadequate car parking, lack of manoeuvring space and more pressure on side roads for parking.
- No provision for visitor parking.
- Should reduce scale of development.
- Should not allow loss of community facility- contrary to COM3 of Local Plan; buyer wishes to use as place of worship.
- Public should be able to view the final external materials for approval.
- Loss of outlook for dwellings to north.
- Unacceptable overlooking/overshadowing of Dwellings to rear.
- Loss of privacy and sunlight to bungalow at rear.
- Loss of privacy from overlooking and over shadowing.
- Will exacerbate surface water drainage problems.
- No local facilities in area e.g. parks.
- Bus service does not go to local employment site-Granby industrial Estate.
- No cycle storage (*case officer note: there is on-site cycle storage*).
- Will exacerbate existing pollution from traffic.
- Noise pollution.
- Could cause land slippage/subsidence for existing properties.
- Windows would be over-looked by first floor bus passengers.
- Balconies are a vulnerable feature.
- Asbestos maybe present.
- Support social housing in principle.
- Ensure refuse vehicle turning is adequate.

1 letter included support comments. The main-planning related points include:

- Welcome 100% affordable housing.
- Nice modern development comparable to Bath Store.

Full copies of all letters of representation can be viewed at dorsetforyou.com

11.0

Relevant Policies

West Dorset, Weymouth and Portland Local Plan 2015

INT1 Presumption in favour of sustainable development

ENV2 Wildlife and habitats

ENV4 Heritage assets

ENV10 landscape and townscape setting

ENV11 pattern of streets and spaces

ENV12 design and positioning of buildings

ENV13 Achieving high levels of environmental performance

ENV15 efficient and appropriate use of land
ENV16 Amenity
SUS2 distribution of development
HOUS1 Affordable housing
HOUS4 development of flats, hostels and houses in multiple occupation
COM3 retention of local community buildings and structures
COM7 safe and efficient transport network
COM9 parking standards in new development

National Planning Policy Framework 2019

2 Achieving sustainable development
5 Delivering a sufficient supply of homes
11 Making effective use of land
12 Achieving well designed places
16 Conserving and enhancing the historic environment

Decision making:

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, including brownfield registers and permission in principle, 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.

Other material considerations

Weymouth and Portland Landscape Character Assessment 2013
Connaught Road Conservation Area (2001)
Listed Buildings and Conservation Areas (SPG2)
Urban Design (SPG3)

12.0 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

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.

13.0 Public Sector Equalities Duty

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.

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 PSED. The scheme includes lifts to all floors and is therefore particularly helpful to disabled and less able persons.

14.0 Financial benefits

Material considerations

18 affordable housing flats,

Spending by occupiers in local shops and facilities

Employment created during construction phase

Non material considerations

Not applicable

15.0 Climate Implications

Works to demolish, remove and then construct the new building will involve environmental emissions. The applicant has however submitted an Energy and Resource Statement; the new building will incorporate features such as elevations benefitting from solar heat gain; all light fittings will be for low energy lamps; the large glazed areas will reduce need for artificial lighting. Materials used in the construction will have low embodied energy and be recyclable where possible. It is considered that these measures would outweigh the carbon and other emissions caused by the construction of the scheme.

16.0 Planning Assessment

Principle of development

16.1 The site lies within the defined development boundary where the principle of residential development is generally acceptable - subject to other material considerations - one such being the recent community use of the site. Although currently vacant the existing site has in the past been used as a church. Policy COM3 of the Local Plan seeks to retain community buildings in community use unless it can be demonstrated that there is no local need for the facility or that such a facility is no longer likely to be viable, and an appropriate alternative community use to meet local needs is not needed or likely to be viable. In the case of this particular church it supported only between 6 and 12 worshippers (a marked trend over recent years has been falling congregation numbers generally in many ecclesiastical contexts). This proposal also needs to be assessed in the context of the building as one with higher costs of upkeep due

to its age, type and condition. These factors have raised questions over the sustainability of this particular facility.

16.2 Para 6.3.5 of the pre-amble to the COM3 policy indicates:
In considering proposals that would result in the loss of local community facilities, the council will take into account what other facilities and services are available locally, and whether there are proposals to consolidate that service into a community facility hub.

16.3 The Parochial Church Council took the decision in the light of the earlier paragraphs above to aim towards consolidating the role of the Holy Trinity Church as a hub nearby, using monies from the sale of the St Nicholas Church site. The Churchwarden has stated that:

“Proceeds of sale will be used solely for the repair, re-ordering and development of Holy Trinity Church to make it a suitable building for use by our local community. The re-ordering would involve the installation of a new kitchen and toilet facilities in the main building of the Church with meeting rooms and exhibition space accessible from the main entrance of the church.”

16.4 Gracewell Care Home on Cross Road- enabling local worshipers to continue. Similarly, other community meetings have transferred to other venues such as Holy Trinity School and All Saints School.

16.5 Also of relevance here (and relevant in the context of the above-mentioned policy pre-amble) is the presence of a significant number of other church/community facilities in the locality. These are as follows:
All Saints Church (Wyke), Wyke Regis Methodist Church and the Convent of Our Lady St Mary- all less than 1 mile away. Furthermore there is the Weymouth Independent Evangelical Church, and a Spiritualist Church on Chickerell road to the north. Moreover Holy Trinity, Hope United and Hope URC Churches are all less than 1 mile to the north-east.

16.6 The policy pre-amble also makes reference to marketing of the site to help assess the case for retention of the facility or otherwise. The site has been marketed by local agent Goadsbys including exposure via website, site “for sale” board and in the Dorset Evening Echo. This resulted in 6 expressions of interest, only one of which was from a religious organisation. Whilst this is a consideration it is considered that the following points need to be considered;
given the context of the significant number of community/church facilities already in the area, coupled with the opportunity to enable the improvement and enhancement of Holy Trinity Church to consolidate as a hub (and therefore reflecting part of the COM3 policy), together with the fact that the proposed development would be an all-affordable housing scheme (therefore with a community benefit) there is a strong case for accepting the principle of allowing this church site to be redeveloped for this particular residential use.
The full Policy COM3 Supporting Statement is available on the planning website.

Affordable Housing-

16.7 This scheme is proposed as an *entirely* affordable housing scheme comprising 18 two bedroomed flats. This would include a level threshold and installation of a lift to aid access for any less able persons. Each flat would be 67m² in area, with the tenure being either social rented or affordable rented. The Councils Housing Enabling Officer has been consulted and advises that there is a high level of need across the Weymouth/Portland area, and that the Strategic Housing Market Assessment 2014 suggests in the region of 104 affordable dwellings need to be developed annually. He concludes that the proposal would help meet needs in an appropriate way.

16.8 The Weymouth and Portland area is one where securing affordable housing can be challenging due to viability issues on a number of sites, resulting in accepting a financial contribution instead or even no contribution at all. This scheme offers an opportunity to secure a significant number of affordable homes on-site, bringing a community benefit in a sustainable location. The affordable homes would be secured as such using a section 106 agreement.

Visual Impact on Locality and on Conservation Area-

16.9 This is a prominent site in the street scene lying within the Connaught Road Conservation Area. It is also close to characterful historic buildings being flanked by large distinctive Victorian houses; No 18 Buxton Road to the west and Elsadene to the east. As such it is a significant site in visual terms. An extract from the Conservation Area document reads:

The semi-detached villas along Buxton Rd are 2½ storeys. Original dormer windows being small with segmental roofs. An important feature of the street frontages are the ground floor verandahs with cast iron columns, originally with lead or zinc roofs. Windows would have been vertical, sliding sashes. On the ground floor, original windows and doors are still evident. The buildings individually and as a group retain many of their Victorian characteristics and architecturally and historically are a link between Blackdown House and Connaught Rd.

16.10 The site currently comprises a “one and a half storey” height barrel-roofed pebble-dash building with bitumen felt roof Church dating from the early 1960’s, together with an extensive tarmac car park to the west. It is proposed to replace this with a four storey building aligned parallel to the road, and positioned closer to the frontage.

16.11 It would be about 5.5m higher than the existing building to the top of the main extensive roof expanse. The higher lift shaft element would be about 1.6m higher than the ridgeline of the bungalow to the rear.

16.12 Some comments have been received which consider this building is too far forward of the building line. However, the main substantive building front (the main balcony projection and the similar building projection on the eastern part of the building) are only about 1m forward of the verandah on 18 Buxton Road to the west. It is set back about 8.5m from the road. Furthermore, there is marked variation near-by on building alignments; the building fronting Buxton Road to the east (the Bath Store) is positioned markedly closer to the road (about 4m away). In these circumstances it is considered the building is appropriately positioned in the street-scene.

16.13 It is fair to say the proposed building is a lot larger and higher than the existing church. However, it is broadly similar in massing terms to the semi-detached Victorian Villa block to the west. In fact it is about 0.7m lower than those.

16.14 The design follows contemporary design principles, with clean lines, and a modern materials palette. Whilst this appearance is clearly different to the Victorian villas, the overall front elevation picks up on the repeated rhythm of window arrangements present in the villas (wider alternating with narrower window areas).

16.15 The materials are mainly render at ground level with buff brick above (picking up the tone of the main villa brick adjacent). The lift element and upper sections include standing seam metal cladding with the flat roof finished with single ply roofing membrane. Windows would be of powder coated aluminium. The Conservation Officers rationale is that the sensitive use of crisp/quality detailing and simple geometric form are themes that can be transferred to the proposal site.

16.16 The Conservation Officers comments on the application are:
Original submission: *More integration with the Victorian buildings needed; given more restrained glazing use in these the design should evoke a more "solid" appearance; an amended design of railings, with a more craft/innovative approach would help. At present the scheme lacks innovative design. The scheme would cause less than substantial harm to the conservation area. The development would improve the overall site condition (removal of the church building).*

16.17 Consequently further drawings were submitted clarifying shadow lines and a revised railing design- the Conservation Officer now supports the scheme. The railing issue has been addressed: Most balconies are finished with galvanised steel involving a swooping curvilinear design expressed in both side and front views - adding a bespoke element to the overall look.

16.18 There are several mature trees on the adjacent site to the east but close to the site boundary including yew, willow and ginkgo trees. The applicant has

submitted a Tree Constraints and Impact Assessment which has been assessed by the Senior Tree and Landscape Officer. From this report he is satisfied that the impact on the trees of the development is acceptable. He does however recommend that a landscaping condition is added.

16.19 Both the Conservation Officer and the Case Officer consider that in visual terms the church constitutes a non-conforming element in the street-scene in terms of positioning, design and materials, with an extensive visible car park; the replacement scheme would “repair” the general rhythm/continuity of built development along this section of Buxton Road.

16.20 It is considered the siting, massing, detailed design and materials would be appropriate for this site; the proposal would enhance the character of this part of the conservation area. This conclusion has been reached having regard to: (section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990.

Effect on residential amenity-

16.21 The site lies in a primarily residential area with several shops to the south-east, on the south side of Buxton Road. Opposite the site to the south are two and single storey/split level dwellings. The front elevation of the building would include various balconies up to third floor level looking southward. However, these would be about 25m from the front elevations of the houses opposite. As such, no unacceptable looking would occur.

16.22 To the west is the Victorian villa: 18 Buxton Road, 16m away from principal windows in the west elevation of the proposed building. This is considered a reasonable distance and would not result in unacceptable overlooking. There are windows in the east elevation of No 18 which face the site but as mentioned, the distance is acceptable in residential amenity terms.

16.23 To the east is Elsadene, 1 Verne Road, a nursing home facility. The east elevation of the proposed building has windows about 3m from the boundary with this property. However, the area east of the building is an extensive frontage area including a sweeping driveway, with car parking occurring beneath several mature trees which exist along parallel with but within the curtilage of 1 Verne Road.

16.24 The scheme has “pop out” projecting windows designed such that the outlook view is to the south (rather than over the frontage grounds of 1 Verne Road). These projections are about 3m from the boundary with this neighbouring site. The windows show that obscure glazing would be used on the area of the window facing the neighbour’s site.

16.25 To the rear (north) of the site are residential dwellings rising up the progressively higher land, with the closest being a bungalow (16 Buxton Road). This is accessed via a concrete access-way running along the western boundary of the application site. The bungalow is set back within the plot at the rear north-west corner, such that its garden area lies to the south and east, backing on to the application site. The ground level rises to the rear such that the floor level of the bungalow is about just over half way up the first floor level of the proposed building.

16.26 The applicant has sought to ensure the neighbours existing view southwards at the west end from the large living room window over Portland Harbour and Island is retained by siting the building to the east of this.

16.27 There are principal windows proposed on the rear elevation which would look out over the bungalow and garden. To the east of the large living room window the bungalow has a bedroom window and an integral double garage. There are 2 roof-lights serving an office to the east and a storeroom/bedroom.

16.28 The western side of the proposed building has kitchen windows at first, second and third floors, and bedroom windows at first and second floor on the rear. These windows would be 5.6m from the boundary with the garden of the bungalow - and a further 16.9m (22.5m total) from the front of the bungalow which is set back at the north-west corner of the site. These windows would look out over a mainly open part of the garden with lawn and a vehicle turning area. Whilst the proposed building would be markedly higher than the bungalow, the elevated positioning of the bungalow does reduce the extent of this height difference. It is considered that the 24m distance between the existing proposed windows would not result in unacceptable overlooking.

16.29 Moving to the eastern half of the rear of the building it is 4.3m from the garden with the garden depth beyond being a further 16m. Two bedroom windows at first and second floor would look out over this. This side of the garden has a more secluded feel with a summerhouse, planting, two outdoor seating areas together with modest sized fruit trees. Two bedroom windows are proposed at first and second floor near this area. The applicant has amended these to the "pop-out" type such that the north facing window is obscure glazed and the east-west side elements are transparent. This modification prevents unacceptable over-looking of the more private areas of the garden whilst allowing occupiers views out.

16.30 The central lift section has a rear access door, window and external stairway to the amenity space. Appropriate means of enclosure would ensure there is no overlooking from the stairway or rear/side amenity spaces of the neighbouring garden. The third (top) floor has balconies to the south and east; the eastern one has an obscure glazed 1.5m high section to prevent views over

the frontage area of 1 Verne Road. External amenity space at this level on the north/west sides is avoided to prevent overlooking.

16.31 Regarding massing, the building positioning and levels differences means it would not have an unacceptable overbearing effect on the bungalow or its garden.

16.32 Turning to amenity space for the proposed flats, the scheme seeks to provide this as a split level communal area wrapping around the western end of the building. A total of 267m² would be provided which satisfies the policy requirement under Policy HOUS4 of the local plan.

Flood-risk-

16.33 The site lies in Flood Risk Zone 1. An initial holding objection was overcome with additional information being submitted. Accordingly the Lead Local Flood Authority now recommends approval to the submitted surface water drainage strategy subject to conditions.

Ecology-

16.34 The applicant has submitted a biodiversity mitigation and enhancement plan which has been confirmed as acceptable by the Natural Environment Team. This includes details such as native species planting, bat and bird boxes.

Highways-

16.35 The site fronts onto the A354 Buxton Road (a main route between Weymouth and Portland). This route carries significant traffic with shops, schools and residential areas in the locality. Various representations have been received which express concern over the traffic increase and various highway safety-related issues such as car parking, crossing the busy road, proximity to the bus stop and pelican crossing, and safety of school children in the area for example. The traffic generated by 18 flats must be balanced against the existing use of the site as a church (Class D1 Non-residential institutions) and the potential traffic this Use Class could potentially generate; the site has a "traffic credit". The existing wide "bell-mouth" vehicular access would be reduced in width to 4.3m and positioned roughly equidistant between the bus stop and the pelican crossing.

16.36 The Highways Officer has inspected the site and the context in relation to the adjacent highway and pedestrian crossing/bus stop in that area. He comments as follows:

This proposal is located on a frequent bus route, close to the Rodwell Trail which offers walking and cycling to town and Wyke and Portland, is near to schools, doctors and shops and is providing 1 off-street parking space per unit and secure and sheltered cycle parking spaces. EV charging points can be accommodated. The Highway Authority considers that the revised proposals do not present a material harm to the transport network or to highway safety and

consequently has NO OBJECTION (subject to conditions addressing access crossing, parking/turning and surface water drainage).

17.0 Conclusion

17.1 The application provides an opportunity to provide 18 all-affordable flats in a sustainable location with access to close-by local shops and facilities, and a convenient bus stop giving access to extensive facilities in Weymouth. This would also be a useful contribution towards addressing the shortfall in the 5 year housing land supply (currently 4.83 years).

17.2 In terms of the economic role the site would provide employment during the construction phase, and subsequent occupiers would be likely to spend in close-by shops and in Weymouth town helping to sustain local employment and businesses. Regarding social aspects, the scheme represents a meaningful contribution to the affordable housing stock helping to assist those in housing need. In environmental terms the development is considered to enhance this part of the Connaught Road Conservation Area. Trees adjacent to the east would not be threatened and implementation of the biodiversity mitigation plan would encourage wildlife. The proposals are considered to be in accordance with the Development Plan.

18.0 RECOMMENDATION

Recommendation A: Delegate authority to grant to Head of Planning subject to completion of a S106 agreement to secure provision of 100% affordable housing, and subject to planning conditions.

1. The development hereby permitted shall be carried out in accordance with the following approved plans:

Site location plan 39 received 20/12/19

Proposed block plan 38 received 20/12/19

Proposed plan/ground floor plan 30F received 16/6/20

Proposed site plan/first floor plan 7 amenity 31F received 16/6/20

Proposed floor plans & street scene 32H received 16/6/20

Proposed floor plans/extended site section 33D received 18/6/20

Proposed elevations 34D received 16/6/20

Railing details 41A received 24/4/20

REASON: For the avoidance of doubt and in the interests of proper planning.

2. 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)

3. No development shall take place above damp proof course level until samples of all facing and roofing materials, (and details of the design and materials of the new road frontage wall section) have been submitted to and approved in writing by the local planning authority and the development shall be completed in accordance with those details thereafter.

REASON: To ensure the external appearance of the completed development in the conservation area is sympathetic to the locality.

4. The windows shall be of powder coated aluminium in a colour which shall first have been submitted to and agreed in writing by the local planning authority. The windows including frames shall be retained in the agreed colour thereafter. The railing details applicable to the south elevation shall be carried out in accordance with the details shown on plan 41A and retained as such thereafter.

REASON: To ensure the external appearance of the completed development in the conservation area is sympathetic to the locality.

5. Prior to the commencement of any development a detailed surface water sustainable drainage scheme for the site, based on an assessment of the hydrological and hydrogeological context of the development including details of the maintenance and management of the surface water sustainable drainage scheme and any receiving system and shall be designed to include a plan for the lifetime of the development for its maintenance and management, the arrangements for adoption by any public body or statutory undertaker, or any other arrangements to secure the operation of the surface water drainage scheme throughout its lifetime, and a timetable for implementation shall have been submitted to and approved in writing by the local planning authority. The approved scheme shall be fully implemented in accordance with the submitted details and timetable for implementation. The scheme shall be managed and maintained thereafter in accordance with the approved details.

REASON: To prevent the increased risk of flooding and to ensure the future maintenance of the surface water drainage system.

- 6 The finished floor levels shall be in accordance with the levels details shown on plan 33C.

REASON: In the interests of visual amenity.

7. No development above damp proof course level shall be carried out until a hard and soft landscaping scheme shall first have been submitted to, and approved in writing, by the local planning authority. The approved scheme shall be implemented and completed during the planting season November-March inclusive, immediately following commencement of the development, or as may be agreed otherwise in writing by the local planning authority. The scheme shall include provision for the maintenance or replacement as necessary of the trees and shrubs for a period of not less than 5 years from completion of the development and the soft landscaping shall be maintained and replaced as necessary in accordance with the approved scheme.

REASON: In the interests of visual amenity.

8. No flat shall be first occupied until all the following glazing measures shall have been installed: The “pop-out” windows on the east elevation shall have obscure glazing facing east (with transparent glazing facing south), and the two pop-out windows in the north elevation to bedroom 2 of both flats 15 and 19 shall have obscure glazing on the north (with transparent glazing to the east and west sides). There shall be no pedestrian access to the external top floor hatched areas as shown on plan 33D. The third floor east elevation balcony and the screening to the external stair and landing on the north elevation shall be obscure glazed. All obscure glazing shall be to Code 3 standard. Thereafter, all the foregoing measures shall be permanently retained.

REASON: In the interests of residential amenity.

9. The development shall be carried out in accordance with the measures contained in the agreed Biodiversity Mitigation Plan (BMP) dated 31/3/20. All works within the BMP shall be carried out in accordance with the agreed timescale unless otherwise agreed in writing by the local planning authority. The completed works shall be retained thereafter.

REASON: To ensure nature conservation interests are fully addressed.

10. No development above damp-proof course level shall be carried out until a detailed scheme to enable the charging of plug-in and other ultra-low emission vehicles in safe, accessible and convenient locations within the development has been submitted to and approved in writing by the local planning authority. The submitted details shall include a timetable for the implementation of the scheme. Thereafter the development shall be carried out in accordance with such details and timetable as have been approved by the local planning authority.

REASON: To ensure that adequate provision is made to enable occupiers of and visitors to the development to be able to charge their plug-in and ultra-low emission vehicles.

11. No flat shall be first occupied until details of the means of enclosure to the boundaries, including materials and height, shall have been submitted to and approved in writing by the local planning authority. Thereafter the means of enclosure as are agreed shall be erected prior to first occupation of any flat and permanently retained thereafter.

REASON: In the interests of privacy and visual amenity.

12. Before the development is occupied or utilised the first 10 metres of the vehicle access, measured from the rear edge of the highway (excluding the vehicle crossing – see the Informative Note below), must be laid out and constructed to a specification submitted to and approved in writing by the Local Planning Authority.

Reason: To ensure that a suitably surfaced and constructed access to the site is provided that prevents loose material being dragged and/or deposited onto the adjacent carriageway causing a safety hazard.

13. Before the development hereby approved is occupied or utilised the parking and turning on the submitted plans must have been constructed. Thereafter these areas must be permanently maintained, kept free from obstruction and available for the purposes specified.

REASON: To ensure the proper and appropriate development of the site to ensure that highway safety is not adversely impacted on.

14. Before the development hereby approved is occupied or utilised provision must be made to ensure that no surface water drains directly from the site onto the adjacent public highway in accordance with details which shall have, prior to development above damp proof course level, been submitted to and approved by the local planning authority. The development shall be carried out in accordance with the approved details and the approved drainage works shall be retained and maintained for the lifetime of the development.

REASON: To ensure that the site is properly drained and that surface water does not flow onto the highway.

Recommendation B: Refuse permission for the reasons set out below if the legal agreement under Section 106 of the town and country Planning Act 1990

(as amended) is not completed within 6 months of the date of the committee resolution or such extended time as is agreed by the Head of Planning:

1. Policy HOUS1 of the adopted West Dorset, Weymouth and Portland Local Plan 2015 requires a minimum on-site provision of units as affordable housing and in the absence of a planning obligation to secure these affordable units the scheme would fail to meet the substantial unmet need for affordable housing in the district and the proposal would therefore be contrary to Policy HOUS1 of the adopted West Dorset Weymouth and Portland Local Plan. Furthermore the community-related benefits inherent in the scheme would not be achieved. Hence the scheme would be contrary to the objectives of paragraph 92 of the National Planning Policy Framework (2019).

INFORMATIVE NOTE: Dorset Highways

The vehicle crossing serving this proposal (that is, the area of highway land between the nearside carriageway edge and the site's road boundary) must be constructed to the specification of the County Highway Authority in order to comply with Section 184 of the Highways Act 1980. The applicant should contact Dorset Highways by telephone at Dorset Direct (01305 221000), by email at dorsetdirect@dorsetcc.gov.uk, or in writing at Dorset Highways, Dorset County Council, County Hall, Dorchester, DT1 1XJ, before the commencement of any works on or adjacent to the public highway.

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WD/D/20/002313

Site address: Land at Whites Meadow, Mosterton

Proposal: Modification/discharge of planning obligations on section 106 dated 5th April 2016 (linked to planning application WD/D/14/002887).

Applicant name – LiveWest Homes Ltd

Case Officer – Bob Burden

Ward Member – Cllr Rebecca Knox

The application is brought to committee because it significantly changes the terms of the extant Section 106 Agreement.

1.0 Summary of Recommendation:

1.1 Delegate authority to the nominated officer to modify the S106 agreement dated 5th April 2016 requiring the disposal of the 10 houses to LiveWest Homes Ltd.

2.0 Reason for the recommendation:

2.1 It is considered that the proposed modification to the S106 would have an acceptable impact.

3.0 Key planning issues

- Provision of affordable housing - The proposed modification to the S106 agreement is considered acceptable.

4.0 Description of Site

4.1 The site is located to the north west of the village of Mosterton and is adjacent to 4 existing semi-detached dwellings at Whites Meadow - a cul-de-sac off the main A3066 through the village. The site is within the Area of Outstanding Natural Beauty (AONB), Axe Valley Hills landscape character area and is outside the Defined Development Boundary (DDB).

4.2 The site is 0.28ha and comprises an area of open grazing land- relatively level but with a slight slope downwards to the north. To the east boundary are the existing 2 storey dwellings which were built in about 2008 finished in cream render and dark brown concrete tiles. A beech hedge and 1.6m high fence defines the boundary. To the south boundary is a hedgerow with post and wire fencing in parts. To the south of this are the gardens of semi-detached houses built of cream painted brick and dark coloured tiles. To the west boundary is a thick 2m high native hedgerow.

5.0 Description of Proposal

5.1 Outline planning permission was approved for up to 10 dwellings under WD/D/14/002887 in April 2016. Later, reserved matters approval was obtained under WD/D/18/000881. Basic groundworks have been carried out on the site at present.

5.2 This application now seeks to modify the S106 agreement by removing the affordable housing obligations –but replacing them with the disposal of the approved 10 houses to LiveWest Ltd.

6.0 Relevant Planning History

WD/D/14/002887 - Outline application for residential development off existing vehicular access - Approved - 14/4/16

WD/D/16/001589 - Modification of Section 106 agreement on application WD/D/14/002887 dated 5 April 2016 – Approved - 5/12/16

WD/D/18/000881 - Reserved matters approval for appearance, landscaping, layout and scale in relation to outline approval WD/D/14/002887 - Approved - 14/4/19

7.0 Relevant Constraints

Outside Defined Development Boundary

8.0 Consultations

8.1 Parish Council - No comments received.

9.0 Representations

9.1 No comments received.

10.0 Relevant Policies

West Dorset, Weymouth and Portland Local Plan (2015)

HOUS1 – Affordable Housing

National Planning Policy Framework

- 4. Decision-making
- 5. Delivering a sufficient supply of homes

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

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.

12.0 Public Sector Equalities Duty

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.

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 PSED.

13.0 Financial benefits

13.1 This application includes an educational contribution (£17,391) to be used for additional and improved teaching facilities at the Parrett and Axe Primary School.

14.0 Climate Implications

14.1 The proposed modification to the S106 is not considered to alter the climate implications of the development.

15.0 Planning Assessment

Background:

15.1 At its meeting on the 8 December 2014 the Development Control Committee of the then West Dorset District Council delegated approval of an outline application for residential development (10 units) subject to a s106 agreement with appropriate CIL contributions and to include not less than 4 units

as affordable housing on-site (WD/D/14/002887). The approval was issued in April 2016. (The site was also outside the defined development boundary at that time, but the housing land supply figure at the time was borderline at 5.1 years resulting in the Local Plan Inspector at the time advising all reasonable opportunities to secure more housing in sustainable locations (such as this) be secured).

15.2 The original agreement was subsequently amended by a supplemental agreement dated 5 December 2016, allowing for the option of paying an affordable housing contribution instead of providing affordable homes on site.

15.3 Hence the s106 background currently requires: 4 of the units to be delivered as affordable housing (3 x affordable rent; 1 x shared ownership), or an affordable housing contribution, in lieu of on-site affordable housing provision.

15.4 A reserved matters application for 10 dwellings was later submitted and approved -WD/D/18/000881, with basic groundworks now carried out on site.

15.5 Whilst the site is currently owned by Harry J Palmer Holdings Ltd, the applicant is a prospective purchaser: LiveWest Homes Ltd, who now seek amendment to the s106 so that all affordable housing restrictions are removed, as well as any obligation to pay an off-site affordable housing financial contribution, provided that the disposal of all 10 units to LiveWest is completed. This would mean there would be no formal restrictions in the s106 – but it would mean the units would be owned by LiveWest Homes Ltd. LiveWest Homes Ltd state that:

All 10 units would be delivered as affordable housing to persons in housing need, in accordance with their statutory requirements as a Registered Provider in accordance with the requirements of Homes England. There is a significant risk that if the S106 agreement is not modified that the acquisition of all 10 units by LiveWest will not be able to proceed as Live West would not be able to secure sufficient grant funding- which would obviously be detrimental to the schemes viability and would result in the potential loss of 6 additional affordable homes in the district.

15.6 The Housing Enabling Team Leader comments that:

The Housing Enabling Team is supportive of this application to modify the S106 to allow for all the homes to be transferred to Live West.

Live West are a large Registered Provider of affordable housing and will look to develop this site as all affordable housing, a mix of rented and shared ownership. It can be difficult to develop affordable housing on sites of this size, not many RPs want sites that will deliver only 4 homes. By having Live West acquire all the homes will allow for 10 affordable homes to be developed.

In order to obtain Homes England funding then the homes should be free of S106 obligations for affordable housing, on condition that they are disposed of to Live West. Homes England will not fund homes controlled by a S106 agreement. This approach will lead to the whole site being developed as affordable. Homes England have indicated that they will support the funding of affordable housing on this site.

Case Officer Comments:

15.7 The existing s106 requirements on this site would deliver either 4 affordable units or, alternatively, an offsite affordable housing financial contribution. Whilst the proposed amendment before you now would remove any affordable housing restrictions from the s106 it would nevertheless result in the entire 10 units being owned by a bona fide Registered Provider of affordable housing. Consequently, this option would secure 6 more affordable units than the current agreement. This is considered a significant improvement in the affordable housing provision. The amended agreement would also secure the £17,391 education contribution - which would benefit the Parrett and Axe Primary School.

16.0 Conclusion

16.1 Whilst this modification would remove formal affordable housing restrictions from the agreement, it would ensure ownership is passed to the Registered Provider Live West Homes Ltd. It would secure 10 rather than 4 affordable homes.

17.0 Recommendation

17.1 1 Delegate authority to the nominated officer to modify the S106 agreement dated 5th April 2016 requiring the disposal of the 10 houses to LiveWest Homes Ltd.

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1.0 Application Number – [WD/D/20/001420](#)

Site address - LYME REGIS HARBOUR, THE COBB, LYME REGIS

Proposal - Extension and repairs to existing slipway and extension of existing boat storage.

Applicant name – Dorset Council

Case Officer – Lindsay Ffello

Ward Member(s) – Cllr D Turner

The application is being brought to committee for determination as the applicant is Dorset Council.

2.0 **Summary of Recommendation:** Delegate authority to the head of planning to approve the planning application subject to receipt of no objection from the Ministry of Defence or no comment is received by 8th December 2020

3.0 **Reason for the recommendation:**

- The proposal is acceptable in relation to:
 - Visual impact
 - Ecology Impact
 - Heritage impact
 - Highway safety
 - Impact on AONB
- There is not considered to be any significant harm to neighbouring residential amenity.
- There are no material considerations which would warrant refusal of this application

4.0 **Table of key planning issues**

Issue	Conclusion
Principle of development	Acceptable
Visual impact	Acceptable with conditions
Impact on ecology	Acceptable
Impact on Heritage Assets including World Heritage Site	Acceptable with conditions
Impact on Flood risk	Acceptable
Impact on Amenity	Acceptable with conditions
Impact on Parking and Highways	Acceptable
Impact on AONB	Acceptable

5.0 **Description of Site**

5.1 The application site is a working slipway with boat storage owned by Dorset Council accessed from Cobb Road. It is located within Lyme Regis' Conservation

Area and Dorset's Area of Outstanding Natural Beauty. To the North of the site there are many commercial properties for example takeaway establishments and public houses but also residential properties.

5.2 The site sits at the northern part of the harbour with the main section of The Cobb to the east and south. The structures to the east and south of the slipway are grade I listed structures known as 'The Cobb Piers and Walls including north wall'. The buildings on the harbour walls are listed separately as grade II these are known as 'Buildings on the Cobb pier occupied by Lyme Regis Sailing Club'. The slipway itself is not listed.

5.3 The site falls within Flood Zone 3 but outside Lyme Regis's Defined development boundary. The site is also just outside (approx.60m) the World Heritage site of 'Dorset and East Devon Coast' also known as Jurassic Coast.

5.4 The application site is sited within close proximity to Lyme Bay & Torbay Special Area of Conservation (SAC), Sidmouth to West Bay SAC and West Dorset Site of Special Scientific Interest (SSSI)

6.0 Description of Development

6.1 The proposal is to repair and extend the slipway as potentially there are safety hazard issues as many of the concrete slabs have cracked and buckled.

6.2 The applicant is also proposing to raise part of the slipway to create a level area which would accommodate storage. This raised platform would have a concrete surface with fill material retained behind pile/sleeper construction. Therefore the sides of the raised platform would be timber sleepers. It is also proposed that a chain fence would be erected around the outside of the platform for safety reasons.

6.3 The raised slipway would be fully visible at low tide.

6.4 Currently the site is a working slipway for boats and pontoon storage and for launching small dinghies and tenders, this would not change with this application, it would just allow for an increase in storage that has the potential to generate more revenue for the harbourmaster.

7.0 Relevant Planning History

1/W/03/000104 (LBC) - Demolish existing old "RAF" and public slipway and construct new dedicated RNLI slipway and separate public slipway area. Form steps to mooring area - Approve

1/W/03/000103 (FUL) - Demolish old "RAF" and public slipways and construct new dedicated RNLI slipway and separate public slipway area. Modify existing vehicular access and form steps to mooring area - Approve

8.0

List of Constraints

- Within the setting of Grade I and Grade II listed building (*statutory duty to preserve or enhance the significance of heritage assets under the Planning (Listed Buildings & Conservation Areas) Act 1990*)
- Within the Lyme Regis's Conservation Area (*statutory duty to preserve or enhance the significance of heritage assets under the Planning (Listed Buildings & Conservation Areas) Act 1990*)
- Area of Outstanding Natural Beauty : (*statutory protection in order to conserve and enhance the natural beauty of their landscapes - National Parks and Access to the Countryside Act of 1949 & Countryside and Rights of Way Act, 2000*)
- Within the setting of World Heritage Site
- Within Flood Zone 3
- Close proximity to Lyme Bay and Torbay Special Area of Conservation (SAC) and also Sidmouth to West Bay SAC
- Close proximity to West Dorset Coast SSSI

9.0

Consultations

9.1 Lyme Regis Parish Council: Support

9.2 Environment Agency: No objection to the proposed development subject to informatives being included in any planning permission granted.

9.3 Historic England: Given the additional details now provided, Historic England has no further objection to the proposal on heritage grounds.

9.4 Marine Management Organisation: Made comment.

9.5 Natural England: Up to the Local Authority if a Habitat Regulation Assessment should be carried out due to impact on Lyme Bay & Torbay SAC. No pathways identified where impact from development would affect the Sidmouth to West Bay SAC or the West Dorset Coast SSSI.

9.6 The Jurassic Coast Trust: No comment received at time of writing.

9.7 Ministry of Defence: Awaiting comments.

9.8 Dorset Council Environmental Health: Due to the proximity of the site to residential dwellings, and the noisy nature of the works a condition is recommended for a Construction Environment Management Plan.

Method statement was submitted and hours of construction condition was recommended.

9.9 Dorset Council Technical Services: Found method statement to be satisfactory except for one small detail relating to the use of an impermeable membrane to allow water to percolate through, which is a contradiction.

9.10 Dorset Council Conservation Officer: Support subject to further information and conditions.

9.11 Dorset Council Highways Department: No objection

9.12 Dorset Council Archaeologist: I do not see archaeological impact as a constraint that needs to be taken into account when this application is determined.

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

Representations received

One representation was received with regards using the slipway as a car park,

Officer Note: Car parking is not part of the current application. It is considered that as the spaces are not for public use it is considered to not be development requiring planning permission as it is ancillary to the use of the slipway.

10.0 Relevant Policies

10.1 National Planning Policy Framework (NPPF) 2019

As far as this application is concerned the following sections of the NPPF are considered to be relevant:

2. Achieving sustainable development
4. Decision-making
6. Building a strong, competitive economy
8. Promoting healthy and safe communities
12. Achieving well designed places
14. Meeting the challenge of climate change, flooding and coastal change
15. Conserving and enhancing the natural environment
16. Conserving and enhancing the historic environment

Decision making:

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, including brownfield registers and permission in principle, 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.

10.2 Adopted West Dorset and Weymouth & Portland Local Plan (2015)

As far as this application is concerned the following policies are considered to be relevant;

- INT1. Presumption In Favour Of Sustainable Development
- ENV1. Landscape, Seascape and Sites Of Geological Interest
- ENV2. Wildlife and Habitats
- ENV4. Heritage Assets
- ENV5. Flood Risk
- ENV7. Coastal Erosion and Land Instability
- ENV10. The Landscape and Townscape Setting
- ENV12. The Design and Positioning Of Buildings
- ENV16. Amenity
- SUS2. Distribution of Development
- ECON5. Tourism Attractions and Facilities
- COM9. Parking Standards in New Development

Other material considerations

10.3 Design and Sustainable Development Planning Guidelines (adopted 2009)

10.4 West Dorset Landscape Character Assessment (February, 2009)

10.5 Dorset Area of Outstanding Natural Beauty Management Plan 2019-2024 (2019)

10.6 East Devon and Dorset UNESCO World Heritage Site

10.7 Special Areas of Conservation titled 'Lyme Bay and Torbay' and 'Sidmouth to West Bay'

10.8 Site of Special Scientific Interest (SSSI) titled 'West Dorset Coast'

10.9 Marine and Coastal Access Act 2009

Section 58 (1) states that;

'A public authority must take any authorisation or enforcement decision in accordance with the appropriate marine policy documents, unless relevant considerations indicate otherwise.'

It also states under 58(2) that;

'If a public authority takes an authorisation or enforcement decision otherwise than in accordance with the appropriate marine policy documents, the public authority must state its reasons.'

10.10 South Inshore and South Offshore Marine Plan (2018)

As far as this application is concerned the following policies are considered to be complied with;

Policy S-DEF-1 Defence
Policy S-ACC-1 Access
Policy S-ACC-2 Access
Policy S-AQ-2 Aquaculture
Policy S-BIO-1 Biodiversity
Policy S-BIO-2 Biodiversity
Policy S-BIO-3 Biodiversity
Policy S-BIO-4 Biodiversity
Policy S-CC-1 Climate Change
Policy S-CC-2 Climate Change
Policy S-CC-3 Climate Change
Policy S-CC-4 Climate Change
Policy S-CO-1 Co-existence
Policy S-DD-2 Dredging and disposal – not part of application
Policy S-DIST-1 Disturbance
Policy S-EMP-1 Employment
Policy S-EMP-2 Employment
Policy S-FISH-1 Fishing
Policy S-FISH-2 Fishing and aquaculture
Policy S-FISH-3 Fishing and aquaculture
Policy S-FISH-4 Fish Habitat
Policy S-FISH-4-HER Fish habitat – Herring
Policy S-HER-1 Heritage Assets
Policy S-INF-1 Infrastructure
Policy S-MPA-1 Marine protected areas
Policy S-MPA-2 Marine protected areas
Policy S-MPA-3 Marine protected areas
Policy S-MPA-4 Marine protected areas
Policy S-NIS-1 Non indigenous species
Policy S-REN-1 Renewables
Policy S-SCP-1 Seascape
Policy S-SOC-1 Social
Policy S-TR-1 Tourism and recreation
Policy S-TR-2 Tourism and recreation
Policy S-UWN-1 Underwater noise
Policy S-UWN-2 Underwater noise
Policy S-WQ-1 Water quality
Policy S-WQ-2 Water quality
Policy S-AGG-4 Aggregates

10.11 South Devon and Dorset Shoreline Management Plan (SMP2)

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

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.

12.0 Public Sector Equalities Duty

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.

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 PSED.

13.0 Financial benefits

13.1 To facilitate the continued use of the slipway and harbour function.

14.0 Climate Implications

14.1 The location is in an area of managed retreat in the shoreline management plan. The proposal is water compatible.

15.0 Planning Assessment

15.1 Principle of Development

15.1.1 As the development is outside of a Defined Development Boundary Local Plan Policy SUS2 is relevant. This policy strictly controls what is acceptable outside DDBs and states what development is restricted to, one of the points is *‘alteration and extensions to existing building in line with their current lawful use, including their subdivision or replacement’* Therefore it is considered that the alterations/extension to this structure are in principle acceptable subject to other material considerations.

15.2 Visual impact

15.2.1 The proposal of repairing and extending the slipway into the harbour bed is visually acceptable as it is not a new slipway, rather a small extension. The raising of the slipway to create a raised concrete deck for storage is also visually acceptable as there is already storage on the slipway itself however due to its sensitive location it is considered that a condition should be added restricting the storage to marine related storage and also condition the design of the fencing that is proposed around the storage area.

15.3 Impact on ecology

15.3.1 The application site is sited within close proximity to Lyme Bay & Torbay Special Area of Conservation (SAC), Sidmouth to West Bay SAC and West Dorset Site of Special Scientific Interest (SSSI).

15.3.2 Natural England were consulted and have not identified a pathway by which impact from the development would affect the qualifying feature of Sidmouth to West Bay SAC and also the notified features of the West Dorset Coast SSSI.

15.3.3 Natural England identified that the proposal is within 65m of the boundary and intertidal of the Lyme Bay & Torbay SAC and that it is the matter for the local planning authority to decide if a habitat regulation assessment should be carried out. The Council's Environmental Assessment Officer was consulted and concluded that due to the distance from the SAC that an Appropriate Assessment isn't needed.

15.3.4 It is considered that due to the points above the proposal is acceptable in relation to ecology and complies with Policy ENV2 of the adopted local plan.

15.4 Impact on Heritage Assets including World Heritage Site

15.4.1 The application site is located within Lyme Regis Conservation Area and within the vicinity of a number of listed buildings, the iconic Grade I Cobb and the World Heritage Site to the south. According to para 184 of the NPPF World Heritage Sites have the highest of significance as Heritage Assets.

15.4.2 A method statement was submitted due to concerns raised by Historic England in relation to impact on archaeological significance and visual impact. Historic England concluded that there wouldn't be an archaeological impact as the harbour is dredged regularly and the beach sands are predominantly re-deposited by machine. It was also confirmed by Dorset Council's Archaeologist that archaeological impact need not be considered as a constraint. It is considered that as the method statement was important to rule out impact on the

surrounding heritage and that a condition should be added to make sure the development is carried out in accordance with it.

15.4.3 The Council's Conservation Officer raised no objection to the repair and extension of the lower edge of the slipway as it is considered that it would not impact on any heritage assets either physically or visually. Therefore it is considered that it would not cause any harm to the surrounding heritage assets.

15.4.4 The visual impact of the creation of a raised storage platform on the significance of the surrounding heritage assets, Grade I Cobb, the World Heritage site and Lyme's conservation area according to Historic England and the Council's Conservation Officer would result in no harm, as the raising of the slipway uses timber sleepers which are in keeping with the setting. They would not be detrimental to the heritage assets' setting as sleepers are used in the construction of the adjacent groyne, thus replicating to some extent an already established feature.

15.4.5 The site is currently a working slipway for boats and pontoon storage and for launching small dinghies and tenders and this would not change. The area for storage would be increased but it is considered that this additional visual impact would be minor and wouldn't result in harm to the overall setting of the heritage assets.

15.4.6 There was mention of a post and chain fence to form a barrier around the edge of the raised storage platform. Historic England suggested that the details be conditioned however the agent has submitted plans showing the fence. Dorset Council's Conservation Officer was consulted on the plans and suggested that a condition be added conditioning the colour of the posts to black and it is considered that this condition should be added to any permission. With this condition and the fact the fence has an open, lightweight nature it is concluded that it wouldn't significantly harm the Setting of the listed structure, world heritage site and also the Conservation Area.

15.4.7 The Council's Conservation Officer initially had concerns with regards to the proposed seaward elevation of the raised platform. It was confirmed that this would be the same as the sides with timber sleepers, which was accepted by the Conservation Officer as in visual terms it replicates the form and construction of the adjacent groyne and whom has no objection to the proposal.

15.4.8 In conclusion it is considered that the proposed development would cause no harm to the special qualities of the World Heritage Site, Lyme Regis Conservation Area and surrounding Listed Building/structures.

15.4.9 The proposal is considered to preserve the character and appearance of the conservation area. This conclusion has been reached having regard to: (1) section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990

that requires special regard to be paid to the desirability of preserving or enhancing the character or appearance of a conservation area; and (2) Local Plan policy.

15.4.10 It is considered that the proposal will not adversely affect the setting of the Grade I Cobb and surrounding listed buildings. This conclusion has been reached having regard to: (1) section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 that requires special regard to be paid to the desirability of preserving or enhancing the setting of Listed Buildings; and (2) Local Plan policy.

15.5 Impact on Flood risk

15.5.1 The proposed development is within Flood Zone 3 and no FRA has been submitted, however it is considered that the slipway and storage of marine related equipment is a water compatible development.

15.5.2 Both Dorset Council Technical Services and the Environment Agency (EA) raised no concerns. The EA did however ask for informatives to be added to any permission regarding pollution prevention during construction, waste management and bio-security.

15.6 Impact on Amenity

15.6.1 It is considered that neighbouring amenity would not be significantly impacted by the completed proposal however due to the close proximity of the site to residential dwellings and the noisy nature of the proposed works it could have an impact during construction. Dorset Council's Environmental Health Officer originally recommended a condition for the submission of a Construction Environment Management Plan (CEMP).

15.6.2 A method statement due to comments from Historic England was submitted and forwarded to Environmental Health as it included hours of operation, this was after their first comment regarding the submission of a CEMP. Dorset Council's Environmental Health Officer concluded that the originally proposed condition asking for a CEMP was not required due to the scale of development but that a condition should be added which controlled the hours of construction as the proposed hours in the method statement are not acceptable due to the proximity to residential properties.

15.6.3 It is considered that with a condition controlling the hours of construction that the proposal would be acceptable and therefore comply with Policy ENV16 of the adopted local plan.

15.7 Impact on Parking and Highways

15.7.1 One representation was received with regards using the slipway to park cars, this however is not part of the current application and any parking occurring is considered to be informal and ancillary to the use of the slipway.

15.7.2 Dorset Council Highways Officer raised no objections to the proposal and it is considered acceptable in relation to parking and highway safety.

15.8 Impact on AONB

15.8.1 The proposed development is considered to be in keeping with the prevailing scale, character and appearance of the area. As such, it would not adversely affect the character, natural beauty or special qualities of the Dorset AONB, nor is it considered to detract from the local landscape character.

16.0 **Conclusion**

16.1 It is considered that the proposed development of repairing and extending the slipway and the creation of a raised storage area complies with national and local planning policy and is recommended for approval subject to planning conditions.

17.0 **RECOMMENDATION**

Delegate authority to the head of planning to approve the planning application subject to receipt of no objection from the Ministry of Defence or no comment is received by 8th December 2020.

1. The development hereby permitted shall be carried out in accordance with the following approved plans:

Location Plan, Received 22nd July 2020

Block Plan, Received 22nd July 2020

Proposed slip platform, received 22nd July 2020

Proposed fencing, received 09th November 2020

REASON: For the avoidance of doubt and in the interests of proper planning.

2. 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).

3. The storage area hereby approved shall be used for marine storage only and for no other storage purpose (including any other use in Class B of the schedule to the Town and Country Planning (use Classes) Order 1987, as amended, or in

any provision equivalent to that Class in any statutory instrument revoking and re-enacting that Order).

Reason: The Council considers an unrestricted Class B use may not be compatible with the living conditions of surrounding residential properties and the visual impact on the sensitive location.

4. The proposed development shall subject to condition 5, be carried out in accordance with the Method Statement received 10th November 2020, unless otherwise first agreed in writing by the local planning authority

Reason: in the interest of safeguarding the surrounding heritage assets.

5. The hours of construction shall be 08.00 until 17.00 Monday to Friday, 08.00 until 13.00 Saturdays and no construction on Sundays or any bank holidays.

Reason: In the interest of neighbouring amenity.

6. The posts of the proposed fence around the edge of the raised storage area shall be black in colour and retained and maintained as such thereafter.

Reason: In the interest of safeguarding the heritage assets and visual amenity.

Informatives

1. Marine Licensing

A proportion of the works appear to be proposed below the Mean High Water mark and so contact should be made with the Marine Management Organisation to ascertain whether a Marine Licence is also required for the works

2. Pollution Prevention during Construction

Safeguards should be implemented during the construction phase to minimise the risks of pollution and detrimental effects to the water interests in and around the site.

Such safeguards should cover the use of plant and machinery, oils/chemicals and materials; the use and routing of heavy plant and vehicles; the location and form of work and storage areas and compounds and the control and removal of spoil and wastes. We recommend the applicant refer to our Pollution Prevention Guidelines, which can be found at:

<https://www.gov.uk/guidance/pollution-prevention-for-businesses>

3. Waste Management

In accordance with the waste hierarchy, the applicant should consider reduction, reuse and recovery of waste in preference to offsite incineration and disposal to landfill during site construction.

If any controlled waste is to be removed off site, then site operator must ensure a registered waste carrier is used to convey the waste material off site to a suitably authorised facility. If the applicant require more specific guidance it is available on our website <https://www.gov.uk/how-to-classify-different-types-of-waste>

4. Bio-security

Bio-security precautions should be undertaken when working on sites with water bodies. You can view some general advice through the following link: [Bio-security](#)

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1.0 APPLICATION NUMBER: [WD/D/20/001014](#)

APPLICATION SITE: CREEK CARAVAN PARK, FISHERS PLACE, RINGSTEAD, DORCHESTER, DT2 8NG

PROPOSAL: Station 40 caravans - Variation of conditions 1 and 2 and removal of conditions 3 and 4 of planning permission 207358 (extending the season)

APPLICANT: Mr R Deakin

CASE OFFICER: Darren Rogers

WARD MEMBER(S): Cllr Ireland

RECOMMENDATION SUMMARY: Approve

This application is reported back to Planning Committee following a recent successful Judicial Review (JR) of the planning permission granted following the application being reported to the Western and Southern Area Planning Committee on 9th July 2020. The JR concludes that the s73 planning permission issued in July is quashed and hence the need to bring this application back to the planning committee for a new determination.

2.0 Summary of Recommendation: Approval subject to conditions

3.0 Reason for the recommendation:

- The proposal is considered to be acceptable with no adverse visual impact as regards impact on the AONB and coastal landscape.
- The proposal is considered to be acceptable with no significant harm to neighbouring residential amenity.
- The proposal is considered to be acceptable with no significant harm to highway safety.
- There are no other material considerations which would warrant refusal of this application.

4.0 Key planning issues

Issue	Conclusion
Principle of Development	Already established through the 1960's planning permission.
Amenity	Proposed altered conditions are not considered to result in a significant adverse effect on living conditions of neighbouring properties.
AONB/Heritage Coast	The site is well established and has existed since the 1960's – no adverse

	effect on these landscape designations arising from this proposal.
Highway Safety	Highways raise no objections.
Coastal Erosion/Land Stability	Proposed altered conditions are not considered to result in a significant adverse effect.
Nature Conservation	No adverse impact on nature conservation interests.
Environmental Impact Assessment	The Council has now issued a Screening Opinion to the effect that the proposal would not result in significant environmental effects requiring a formal Environmental Impact Assessment by way of an Environmental Statement.

4.0 Description of Site

4.1 The applicants' agent set out in their submitted Planning statement the following:

"The Creek Caravan Park is located to the eastern end of Ringstead village and covers an area of approximately 0.7 hectares.

Ringstead village is accessed from the A353 at Poxwell, through Upton village via a private road, which is owned by The Ringstead Estate. The village consists of approximately 20 houses, a car park and seasonal shop; with the car park being supervised from Easter to the autumn half-term break only. From the car park the road continues southwards to access Ringstead beach with Fishers Place, running eastwards providing access to the Creek Caravan Park and other properties. To the north of the site is farmland owned by the National Trust, through which the South West Coast footpath runs and is used for camping by associations such as the Guides and Scouts. This farmland continues to the east of the site. Ringstead beach is to the south of the site and to the west is Gulley Cottage which has 5 holiday caravans located within the surrounding plot of land, but is not part of the Creek Caravan Park.

The Creek Caravan Park is split over 2 levels with a front row of 6 caravans facing the beach at a lower level and the remainder of the site being at the same level as the rest of Ringstead. The site includes 30 static caravans, 1 residential chalet, a

toilet block, office/sheds and bin store. The chalet now known as Coast Path Cottage (formerly Elizabeth Chalet) has been on the site for many years and will be the subject of a further application to confirm the planning status of this building. There is parking for up to 30 cars to the north of the site, as vehicular movement through the caravan site is not permitted other than for unloading and loading on arrival and departure. There is therefore minimal hard surfacing within the site. Landscaping and planting to the boundaries and within the site is maintained to reflect the surrounding rural and agricultural landscape.

Surface water drainage was installed in 1978 which continues to operate efficiently and the site is connected to mains foul water drainage (as is the whole of Ringstead village) maintained by Wessex Water. Further drainage work has been carried out in connection with the coast protection and sewage treatment and pumping station work approved in 1995 and 2004 respectively.

BACKGROUND

The Creek Caravan Park is currently owned and run by Ringstead Caravan Company Ltd which was established in 1978, although prior to this the site was family owned and run since the 1920's. The field was originally used by local people for holidays in their touring caravans and by the 1940's-50's had evolved to a more permanent site with residential staff supervision. The use of the site was regularised in the 1960's with planning permission and a site licence as required by legislation at that time; and has continued as such.

Over the years the site has been improved with the installation of drainage, electricity to each plot and other modernisation. To ensure continued improvements are achieved the planning situation is now being reviewed with the intention that this be updated as appropriate.

Site Licence No. 163/79 was applied for on 13 January 1979 and granted by West Dorset District Council on 2 April 1979. It is acknowledged that the site licence is now out of date with current practice and is intended to be updated with Dorset Council as part of the current review of the site.

The site is outside any defined development boundary, within the AONB and Heritage Coast designations and some of the site may be vulnerable to coastal erosion. Although these issues and applicable Local Plan policies are relevant considerations; as this proposal is an application to vary/remove conditions of an extant permission they are not material to this application".

5.0 Description of Proposal

5.1 The applicants' agents Planning statement goes on to say:

"This application is made under Section 73 of the Town and Country Planning Act 1990 which seeks to remove/vary the conditions of the Planning Permission Ref.

207358 granted on 13 December 1962. The applicant wishes to operate the site with 30 static caravans for a longer season which would reflect the current operation of other sites in the area. They would like this to be from 9th Feb in any year to 10th Jan in the following year. This would allow occupation of the caravans over the Christmas/New year period and potentially the February half term. If this were not acceptable to the committee the dates suggested (1st March to 31st Jan) would be appropriate and acceptable.

Extending the length of season for occupation of the caravans would

- *meet the increasing customer demand for short breaks and holidays at any time of year,*
- *anticipate the potential increased demand for UK based holidays rather than going abroad following the Corona Virus pandemic,*
- *improve the local economy, attracting more visitors to Dorset,*
- *provide additional employment outside the current season and*
- *provide greater operational flexibility and efficiency.*

It is noted that the wording of the conditions imposed in 1962 are now out of date and would not meet current tests for the use of planning conditions. It is therefore requested that conditions 1 and 2 be amended and updated as appropriate and that conditions 3 and 4 would now be unnecessary and should be removed.

There is also an anomaly in the 1962 planning permission which is granted for the stationing of 40 caravans, but condition 1 restricts the number of caravans to 30. To avoid continued discrepancy between the planning permission and condition it is suggested that the number 40 could now be removed from the description of development. This would not make any fundamental change to the permission and the nature of the development would be unchanged, being the use of the site for the stationing of caravans. It is therefore suggested that a new permission could be granted under S73 as detailed below:-

Permission to Station Caravans, subject to the following conditions:

- i. Not more than 30 caravans shall be stationed on the site at any one time.*
- ii. The caravans on the site shall be occupied during the period 9th Feb in any year to 10th Jan in the following year. Or as an alternative ii:*

ii 1st March in any year to 31st January in the following year only”.

6.0 Relevant Planning History

The applicants' agent has set out the Planning History in the submitted Planning statement:

“Planning Permission Ref 207358 was granted in December 1962 – To Station 40 caravans with 4 conditions imposed:-

1. Not more than 30 caravans shall be stationed on the land forming the subject of this application at any one time.

Reason. It is considered that the stationing of more than 30 caravans on the land forming the subject of this application would be detrimental to the character of the coastal locality which is of high scenic and landscape value

2. The land forming the subject of this application shall be used for the stationing of caravans only during the period 1st April to 31st October in each year.

Reason. To reserve to the local planning authority control over the long term use of the site

3. During the period 1st November to 31st March in each year, the caravans shall be parked unoccupied and the land shall be maintained in a tidy condition to the satisfaction of the Local Planning Authority.

Reason. To reserve to the local planning authority control over the long term use of the site

4. Adequate provision shall be made to the satisfaction of the Local Planning Authority for the planting of a screen of trees of a species to be agreed with the Local Planning Authority.

To safeguard the amenity of the locality

Other planning applications provide general background to the evolution of the site and surrounding area and are detailed below. However, from a search of planning history by the Local Authority the only planning applications relating to the use of the caravan site were reference 207358 with permissions issued in 1961 and 1962. The site is considered to have been operating under the Planning Permission granted in December 1962 since that date.

207358	Station 40 caravans	Granted - 13 Dec 1962
1/E/78/000116	Erection of Club House	Refused - 1 March 1978
1/E/94/0615	Carry out Coast Protection works including construction of rock groyne and beach replenishment	Granted - 28 April 1995

7.0 Consultations

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

7.1 Parish Council – The Parish Council initially raised no objections to the application but following many representations received from third parties they now object for the following reasons:

“Owermoigne Parish Council objects to the proposal to extend the period of occupation for the static caravans from the 31st October to the 31st January consequently increasing the site usage from 7 months to 11 months and to reducing the closed season to 1 month.

Reasons for this include the following:

- An 11 month occupation is virtually a permanent residence and so this will substantially intensify the occupation and usage of the site and the local access roads and track. This will impact on the relative tranquillity of Ringstead during the autumn and winter months impacting adversely on the local residents and on the intrinsic character of the AONB and Heritage Coast and the harm arising from this is contrary to NPPF policies 170, 171, 172 and 173.*
- Shopping facilities and services at Ringstead are limited to a seasonal kiosk with a very limited range of stock and therefore it is inevitable that intensifying occupation will increase both individual car journeys and deliveries, impacting on tranquillity for residents and on people using the nationally important south coast footpath that would be directly affected by increased traffic. The cumulative effects of additional journeys on the already struggling access road and the lack of any potential mitigation options means the proposal would be contrary to the sustainability policies contained in Section 9 of the NPPF.*
- The proposals demonstrate no clear benefits to either the local community or the environment and the stated employment opportunities are negligible. There would however be clear disbenefits to the local community and detrimental effects on the character of the landscape, particularly on its valued tranquillity out of season, potential impacts on the sensitive adjacent habitats arising from increased site occupation and impacts on the enjoyment of the south coast path. The current 7 month season is a reasonable balance between the business interests of the caravan park and the interests of the local community and the need to protect the special landscape character of this unique section of the Dorset coastline."*

7.2 Highways - *The Highway Authority has NO OBJECTION to the proposal.*

7.3 Jurassic Coast Trust Comments are submitted in relation to potential impacts of the above proposal on the Dorset and East Devon Coast World Heritage Site (WHS).- *Whilst there is no physical impact on the WHS by this proposal, it has the potential to change the overall economic circumstance of Ringstead. Such circumstances are relevant to decisions made about coastal management so we therefore disagree with the comment in paragraph 5 of the planning statement that says conservation designations and Local Plan policies are not a material consideration in this case. Our principal concern is that by increasing the economic value of the caravan park by extending its season there will be an increased need to expand or strengthen its protection from coastal erosion in the future. Due to the park being positioned at the cliff edge, and adjacent to the part of the coast at Ringstead that is currently undefended, this could potentially lead to conflict with WHS management policy.*

7.4 *We are not yet aware of any updated beach management plan for Ringstead. Such a plan would presumably include the future maintenance of the existing coastal defences that Creek Caravan Park benefits from. We also understand that part of the developing Local Plan for Dorset will be guidance on Coastal Change Management Areas. In the absence of a strategic context for the future of coastal management at Ringstead we recommend that if consent is given to this application it is done so on a temporary basis. Similar temporary permissions are in place for a number of beach chalets in Lyme Regis that were displaced by a landslide and had to be relocated. This consent is renewed each year with the option of it being withdrawn if the position of the chalets ever became unsustainable due to coastal change. This approach may not be appropriate at Ringstead, but without the key strategic documents outlined above it is impossible to make that assessment with confidence.*

7.5 Natural England (NE) - *no objection* - *Natural England considers that the proposed development will not have significant adverse impacts on designated sites and has no objection. Natural England considers that the proposed development will not have likely significant effects on the Isle of Portland to Studland Cliffs Special Area of Conservation and has no objection to the proposed development. To meet the requirements of the Habitats Regulations, we advise you to record your decision that a likely significant effect can be ruled out. As regards the South Dorset Coast Site of Special Scientific Interest, Natural England considers that the proposed development will not damage or destroy the interest features for which the site has been notified and has no objection.*

7.6 *As regards proximity to Protected Heathlands the site lies just outside the 5km consultation zone, at about 5.2km and so there are no adverse impacts arising as regards this issue*

7.7 **NB - In answer to NE's comments, see para 14.19/14.20 below**

7.8 The Council's Technical Services – *The proposed changes to the caravan park usage as a result of this application will not have an impact on coastal erosion. The proposed changes would also not make much change to the economic case for the caravan park whereby there would need to be a change in the coastal management policy.*

8.0 Representations

8.1 At the time of writing the original Committee report there had been 5 representations from occupiers of the dwellings to the west of the site along Fisher Place who objected on grounds of:

- *Fisher Place track is a private, unadopted, unmade up track which forms part of the South West coast path. With only 3 permanently occupied houses along this portion of the track, the amount of vehicular traffic using it considerably increases during the period that the site is open. The concern is that, with the site open for 11 months of the year, there is nothing to stop the users from treating it as their home, only being required to stay elsewhere for the month of February. This means, potentially, 30 extra households in a small hamlet of 5 permanently occupied residences. Also have concerns that the sewage system, which was designed with mainly summer usage in mind, would be unable to cope with that potential situation. The nearest shops are in Preston, 4/5 miles away and there is no provision for entertainment or public transport, so traffic to and from the site, either from users or supermarket delivery vans, would be an issue for 11 months instead of the present 7 months.*
- *Not sure what 'local economy' would benefit as there are plenty of large sites, hotels and B&Bs in and around Weymouth, Preston and Wyke Regis that are much closer to public transport, pubs, shops and cinemas which can accommodate any demand for short breaks and holidays any time of year. Would question what additional employment outside the current season would be available.*
- *Concerned about the proposal to extend the permitted habitation of the caravans at the Creek Caravan Site to as long as 11 months of the year. This would definitely open the opportunity for permanent residence on a site long recognised, loved and protected as of Outstanding Natural Beauty, a World Heritage Site and adjacent to National Trust land. Ringstead is, in fact, possibly unique along the Southern Coast and loved as such by all who come from far and wide (even the US and Australia) to visit. A possible extension to 8 months maybe but 11 is far too long especially considering possible future proposals to change the caravans to chalets.*
- *The decision should simply be postponed. Due to Covid we have only been partially and very recently informed and the situation is complex and unclear. 11 months residence however does seem too long....overriding the original intention to prevent development on a World Heritage Site of such outstanding natural beauty.*

- *Ringstead Bay is one of the jewels of the Jurassic Coastal Path. The Caravan Park is very visible from many miles around. Any development would be totally detrimental to this unspoilt coastline.*
- *The winter months at Ringstead are usually very quiet, the people you see are mostly just ramblers and fishermen. Extending the season at the caravan park and allowing this planning application to go ahead would change the character of the place during the winter-time. It would be more busy and crowded, it's one thing to have lots of people visit during the summer months and enjoy the beach, but during the winter months this would be a mistake and turn the bay into a year round tourist park. Also note that some of the larger caravan parks closer to Weymouth don't even open all year round so it seems odd to grant planning permission to a caravan park in a relatively more secluded and untouched part of the landscape.*
- *Firstly it has become evident that proper procedures for planning permission application have not been followed. The proposal has not been displayed in a prominent public area and therefore many people may be unaware of this application. It has also become evident that the creek caravan site owners intend in the future to turn many of the caravan plots into permanent chalets. The long-term lease holders that represent several of the caravans on site have had their lease renewal applications rejected. These people are part of the community in Ringstead and have been coming to the area for the last 20 years. These applications I suspect have been rejected to further the creek caravan sites intention to expand and develop holiday chalets. Ringstead is an area of special scientific interest and outstanding natural beauty. It has remained so over the years because developments in the holiday industry have thankfully not taken place. To extend residency would have a significant environmental and social impact on Ringstead as an area of unspoiled beauty and for the small existing permanent community that live there. The restrictions on holiday travel abroad and closure of beaches at Lulworth and Durdle Door since coronavirus has already significantly increased local traffic to Ringstead as people drive in their cars to spend a day walking or visiting the beach. Ringstead does not have the infrastructure or necessary car parking space to support an increase in holiday residency year round on top of this. The footpaths and beaches are maintained mainly by the National Trust and are left damaged every year by increasing foot and vehicle traffic. The rubbish collection services provided by the council are non-existent and regularly piles of rubbish accumulate in the car park next to the shop. Equally sanitation services are very limited and depend on the Ringstead Kiosk being open. More people in the area year-round would put further pressure on services that are already inadequate. Hundreds of cars a day visit Ringstead causing pollution and damage to the verges and hedgerows. An increase in traffic due to your residence would further exacerbate these issues. Please protect this area of a Jurassic coast line from developers who intend to make money from it. More people spending time in caravans and the development of a chalet holiday park will in no way benefit Ringstead area of natural beauty or the people that actually live there*

8.2 Members of the Committee were given an update sheet before the Committee on 9th July which listed a further 22 further representations objecting on these grounds:

- *This is a peaceful stretch of coastline with little infrastructure to support the opening of the caravan site 11 months of the year. This will likely lead to people taking up permanent residency with resulting strain on the existing permanent residents and the surrounding environment. Also erosion of the landscape, a need for additional public services and damage to the already fragile access road.*
- *Ringstead bay is a small spot on the Dorset coast of no little beauty. I understand it is a desirable tourist location but I believe any extension to the caravanning season or expansion of the current caravan park would be disastrous for the local area.*
- *In brief, the current extremely limited facilities available would not be able to deal with any more tourists and their cars. If this application were to go ahead, further development would be necessary and I am sure forthcoming. All such developments would be detrimental to the region for many reasons.*
- *Ignoring potential future problems for the moment, and focussing on the immediate impact of extending the season and expanding the site, the proposed changes would increase the caravan's sites negative imprint on the area in a number of ways: it would be more visible for walkers on the coastal path, becoming a larger blight on the spectacular views presented than it already is; more cars coming and going in the area would firstly not fit in the limited car park and secondly cause much damage to the very poor roads in and around Fishers place, not least of all the treacherously potted road leading to the site itself; erosion of this delicate area of coastline would increase, endangering natural life as well that of the property of local residents and businesses. This final point is perhaps the most important. The erosion of our beautiful English coast cannot be stopped entirely but we must do our utmost to ensure we do not hasten it.*
- *To focus on future development, an expansion of the kind proposed would necessitate public toilets being built, roads being developed and extended, and perhaps even an increase in local businesses - shops, cafes, etc. All of these would contribute to the already commonplace and heinous overdevelopment of many areas along the Dorset coast, without making a significant positive impact on employment in the area (it is too small a spot for that).*
- *The only beneficiary of this proposal that I can see would be the owner of the caravan site. Considering the amount of negatives mentioned not only by myself but also by the other concerned members of the public, this benefit to*

the few is far outweighed by the detrimental impact on the many and on this place of striking natural beauty.

- *Would represent over-development of a sensitive site, with detriment and injustice to the existing residents, and to regular and visiting recreational users of the South West coast path and this area of natural beauty.*
- *The application has been made at a time of limited scrutiny out of season and in quarantine, and appears designed to edge closer to applying for permanent residence chalets as seen elsewhere.*
- *I noted that the application also claims that the site is not visible, which is not true, the bin stores, toilet block and most of the caravans are entirely visible from the coastal path, as there is limited screening despite the earlier planning requirement. The caravans are also visible from the beach and from viewpoints along the coast path in both directions.*
- *Ringstead Bay is a small community of 20 houses, only five of which are currently occupied permanently, and 30 caravans on this site. The caravan site therefore represents more than half of the accommodation available in the settlement. Its impact is limited under Planning law because of the recognised need to preserve the character of the settlement as small, peaceful community with a summer visitor role.*
- *The proposed extension of occupation from 7 months of the year to 11 months would nearly double the number of dwellings occupied for almost the whole year, changing the fundamental nature of the area, and doubling the population virtually throughout the year.*
- *There is no public transport. There are said to be 30 spaces for cars at the site, mainly along the coast path, and these are fully occupied in the season. The access is a narrow dirt track which in wet weather, frost and snow becomes hazardous and damaged. The additional traffic if this application were allowed would be to the detriment of local residents who live on the track, and users of the South West coast path which passes along this track.*
- *There is no shop apart from the beach cafe which is open only between April and October. During the summer, holidaymakers using the caravans frequently have supermarket deliveries, adding to the traffic on the track. Refuse collection throughout the year would add further wear and tear to the already poor surface. Doubling the occupancy would further impact the water and sewage infrastructure.*
- *The cliff and beach have long been subject to erosion, with the groyne below the site being essential to prevent the whole site being washed away. Every year more erosion happens, with the low cliffs to the east being particularly*

badly affected as a result of the sea's action on that side of the groyne, and also by people climbing and scrambling onto the cliff sides.

- *The front of the site is a low, slumped area of soft clay which is at high risk of complete erosion like the similar areas to both east and west, from visitor action as well as natural causes. Further east the clay cliffs which slip in wet weather are then damaged by visitors searching for fossils, an activity which would be very likely to increase with additional visitor footfall in the wetter winter months.*
- *The site itself is only in small part within the Special Area of Nature Conservation, and there is no plan at this point to physically encroach further, so the relevant authorities cannot technically object to the proposal. However, the doubling of human use and encroachment on this sensitive environment is very likely to impact upon the fragile geology and the plant and animal life. The current closure period allows rest and recuperation for the natural inhabitants; the proposal would impact directly on the nesting season of creatures inhabiting the hedgerows and the undercliff, and on the successful growth of the rich plant, butterfly and insect life in the area.*
- *The proposal to abandon the requirement for the land to be maintained in 'tidy order' off season, and the original requirement for a screen of trees on the site further indicate a lack of concern for the protection and enhancement of the valuable natural resources of this coastline, and should not be permitted.*
- *The proposal of an extended season is claimed to meet visitor demand for UK holidays, employment outside the current season, and operational efficiency. There is minimal local economy in Ringstead Bay, the seasonal shop being the only business, and as this is closed through the winter months it would gain no benefit. The extended opening would presumably extend the one caretaker job on the site itself. Accommodation out of season is already plentiful in B&B and hotels in the larger villages and towns nearby. This proposal offers no genuine economic benefit to the community, the only benefit being to the company which owns the site whose rental income would increase.*
- *It is the small, seasonal nature of this place which gives its charm and natural setting.*
- *It will have a negative impact on the picturesque setting of Ringstead, obscuring views and expanding into land on the Heritage coast. The existing infrastructure, facilities and roads do not have capacity and any expansion will further devalue the unique character of the place due to Covid, Lockdown and people working from home, the Application, which was put in 4 weeks into lockdown, did not follow the correct procedures.*
- *This proposal would further damage the single track lane through Upton Ringstead which is often in gridlock because of the unreasonable number of*

visitors to Ringstead Beach. Adding longer residency would be disastrous to the small community of Upton with a permanent residency of less than 30. No consideration has been given to us and no notice of this application given. I would particularly appeal to the Highways Department, Country Access Team and Environmental Health to reconsider the impact on our small hamlet. There have been many instances when Emergency vehicles would have been denied access.

- *It would inevitably change the whole character of the village, by increasing the number of long-term residents by a very substantial number. I am not surprised that this has caused great distress to the existing residents - and also to many summer visitors to the village who appreciate its unspoilt character.*
- *A campsite occupied for 11 months of the year - as opposed to the current 7 months - would have a destructive impact on the existing community and on the local environment. It would mean a substantial increase in traffic on narrow country lanes and impose a significant extra burden on water supplies, refuse collection and sewage disposal arrangements.*
- *Ringstead is located in an Area of Outstanding National Beauty on the Jurassic Coast and the South West coastal path passes along the lane currently leading to the caravan site. The site is already prominent, visible from both the coast path and from the beach and from higher ground further along the coast. Making the site into a permanent residential area would be aesthetically harmful as well as inevitably damaging to the fragile local environment for the currently flourishing variety of plant and animal life, including deer, rabbits and a wide range of birds.*
- *As there is no public transport to Ringstead, the proposed development would result in an increase in cars and vans using the gravel lane from the private road into Ringstead to the caravan site. Both the road and the lane are already potholed by the current burden of traffic, largely of day-trip summer visitors. A significant increase in traffic would be a year-around nuisance to the current residents as well as a hazard to walkers on the busy coast path. There is also some concern about the prospect of substantial increased demand on water supplies and sewage facilities.*
- *Whilst we applaud the decision to update and modernise the caravan site replacing the outdated units we do have concerns over the extension of the permitted usage to eleven months each year.*
- *To encourage up to thirty extra 'households' during the inclement winter months would put untold pressure on the already challenged roads, both council and privately owned, and potentially change the nature of Ringstead.*

- *The winter period of rest and recovery benefits the ecology of the area and is also enjoyed by the residents. If this is compromised it will change things on this idyllic unspoilt area of the Jurassic coast forever.*
- *In order to understand why the directors of the Ringstead Caravan Co. Ltd. are seeking an extension from 7 to 11 months of the year, a meeting between some residents and directors of the Company was arranged. It failed to discover their future intentions. They acknowledged that the site was to be cleared at the end of the season with the ending of leases held by the caravan owners and that there was a possibility that the site would be sold. This is a quiet, long established, successful business whose future is unclear. Econ7 (ii and iii) states that Proposals involving a reorganisation or intensification of existing sites must clearly demonstrate that the development forms part of a long term management plan.*
- *This small, exposed site is unsuitable for short let holiday accommodation in the winter months. It has no onsite facilities, shops, entertainment, or any of the indoor activities found on the larger sites and required by visitors. Local plan 4.5.19 encourages extending the season to these sites.*
- *The access from the A353 runs for 2 miles along roads and unmade track half of which is privately owned. There are frequent awkward bends and many places where two cars are unable to pass. The final unmade section is on the SW coast path. During the winter months the ice and snow drifting on the steep privately maintained summit can make it impassable for days. This access to the site presents many road safety issues. Parking by the site can sometimes be a problem with larger vans and trailers extending over the SW coastal path, 30 spaces for parking is optimistic. Other infrastructure such as the sewerage system and electricity supply may also become compromised if the site's operations intensify.*
- *The site is a CCMA at high and immediate risk of erosion and flooding. Land instability and slippage is common along this part of the coast. The increase in extreme weather events, both wind and wave, during the winter months make this cliff top site particularly vulnerable. As a Section 73 application this is seen as a new application for planning permission under the 2017 Environment Impact Assessment Regulations, and should have been accompanied by a screening. The NPPF looks to reduce risk from coastal change by avoiding inappropriate development.*
- *Disagree that extending the season "would reflect the current operation of other sites in the area"; research shows 8 months is normal on even the larger more suitable sites such as Haven Seaview and Durdle Door. Ringstead does not benefit materially from the caravan site and the site's benefit to the local economy is unknown.*

- *The extension of the site's season from 7 to 11 months of the year will change it from providing summer holiday accommodation to what is in effect an all year round residential park, with all the attendant difficulties of policing. It would create a precedent that could creep to the neighbouring site and the property beyond, The Creek, which is also owned by some of the directors of the Ringstead Caravan Co.Ltd.*
- *The anticipated increase in traffic, noise, pollution, and disturbance will affect our quality of life as usually experienced in the winter months.*
- *Ringstead plays an important role in providing access to the beach for tourists and local people during the summer months. The local plan acknowledges the pressures of tourism on local communities and the need to retain the sense of remoteness and tranquillity in rural areas. This is achieved here during the winter months when, as the only 2 business here, the car park shop and caravan site close and our hamlet is returned to its residents and the walkers along the coastal path. The changes being proposed will bring year round commercialisation to Ringstead, change its unique character and could swell our winter population tenfold or more.*
- *Oppose the removal of condition 3 - It states the times when the caravans should be unoccupied during the year thereby ensuring it does not become a residential site. Ringstead is an area where open market housing is normally refused.*
- *The reasons given for both condition 2 and 3 are to reserve to the LPA control over the long term use of the site, I would not wish this to change.*
- *Oppose the removal of condition 4 - The need for the planting of trees for screening of the site is ongoing on this exposed site and should remain.*
- *Ringstead is a unique coastal hamlet having an influx of visitors in the summer months because of its beach and timeless ambience. It is fondly known as 'the locals' beach'. Residents accept and welcome this seasonal intrusion despite suffering the consequences of increased rubbish, noise and disturbance. The winter months, however, should be a time when the locality has respite from thousands of tourists and regains its identity as a small Dorset rural community.*
- *There is no public transport to Ringstead, the nearest bus stop is over two miles away. Access is by car. The caravan site is off an unmade stretch of the SW coast path which is rutted, potholed and hazardous in Winter. Residents frequently become stuck in the hamlet because of snow and ice. Further disturbance for residents as noisy cars crunch down the path in all hours with head light intrusion in the winter months is unacceptable.*

- *From November to late March the caravan site is likely to be lit for safety reasons thus increasing light pollution in a dark sky. This is detrimental to the nocturnal wildlife that inhabits this area. Residents also enjoy the dark and the chance to see night skies particularly towards the north and east. A peaceful, less disturbed winter season is necessary for the continuation of the biodiversity of the area which is rich in wildlife and plants.*
- *The intentions of the caravan site owners to invite new lodges or caravans to be placed on vacated plots and thus the likelihood of an increased population of tourists occupying such dwellings for 11 months of the year raises alarm that Ringstead's population could reach a stage where caravan dwellers easily outnumber the residents and become the raison d'être for Ringstead as it morphs from a unique Dorset hamlet to a tourist park. Indeed to allow 11 months is to invite nigh on permanent residency with opportunists circumnavigating the regulations for yearlong residence.*
- *Ringstead in many ways during the winter months is as unspoilt as in 1962. I cite part of condition 1 in the original 1962 application 207350 where it refers to a 'coastal locality' of 'high scenic and landscape value' I urge rejection of the present proposal which will have an enduring impact on Ringstead and change its unique character to the detriment of all.*
- *In refusing an appeal to planning in 1961, it was recognised that any intensification in the number of caravans on the site would be "detrimental to character of this beautiful and secluded locality": thus limited to 30 caravans. Conditions 3 and 4 were reserved to the Local Planning Authority to give them control over the long term use of the site, because the site was recognised as being 'in a coastal area of high scenic and landscape value'. Condition 4 was imposed 'to safeguard the amenities of the locality'.*
- *In what I presume is the licence under which the site is presently operating of 1979, no mention is made of the need for screening with trees as it is one of the conditions on the 1962 permission. This requirement is lost under the new proposal. In such a heavily protected area where further new development would not be allowed, the reasons for imposing these conditions remain as valid today as they did in 1962.*
- *There are other buildings on the site which do not appear in the 1962 permission. The residential chalet started life as a small site office with no residential element. Accommodation for the site manager was off-site in what is now Gullely Cottage. This chalet is to be the subject of a further application to confirm its status; what is its current planning status? I could find no local site of comparable size operating for 11 months per year. Many of the larger sites with on-site facilities and good links to public transport operate for 7-9 months; a closed season allows the site to regenerate.*

- *In the absence of any indication of the intentions of the applicant in requesting 11 month occupancy, one has to make assumptions. While the applicants' assertion is that it will not change the nature of the development, the removal or relaxing of any of the conditions opens up the likelihood that detrimental change will occur. Ringstead is a less than ideal site as a winter holiday destination; marine activities can be severely restricted and water logged ground can be a problem and snow and ice can cause the road to become impassable.*
- *Historically, Ringstead has suffered from erosion of the cliffs and beach. This erosion is ongoing to the east and west of this site where there are no hard sea defences. The hard sea defences around the site were provided with public money and are subject to ongoing maintenance.*
- *The Local Plan recognises that any development requiring increased coastal defences would be harmful to the Outstanding Universal Value of the World Heritage Site. In a time when climate change is expected to increase incidences of extreme weather, any development should be directed away from areas subject to coastal erosion or land, such as would be required to provide concrete bases on which to station caravans or lodges which could be detrimental on such a geologically fragile site.*
- *In respect of the contribution to the local economy, with an 11 month occupancy, privately owned caravans/lodges would in effect become second homes but without the attendant council tax obligations, so contributing little to this aspect of the economy.*
- *The present trend for converting from static caravans to fully residential is also of concern in the request for 11 month occupancy. Ringstead has always been a popular place to visit in summer, especially by local people. It supports a large summer population, some resident, some walkers on the South West coast path, and day visitors. But in winter it slows down. There are still day visitors, but the resident population of 5 houses by the shore and 4 further in land enjoy a more tranquil environment with dark skies at night, less noise disturbance and less traffic, giving the place a more isolated feel.*
- *The caravan site has been a part of Ringstead summers for many years, offering affordable holidays, however existing caravan owners have been given notice on their pitch leases, many after 20 years and more. The applicant is operating a successful business under its present conditions and the proposed change to those conditions should be resisted to prevent detriment to the natural environment, tranquillity of the location, and impact on local residents.*
- *A public footpath Right of Way S34/19 runs through the site; this does not appear on the applicant's plan.*

- *I would also like to draw Committee Members' attention to the consultation process: of the 8 permanently occupied houses, the 7 who have no direct involvement with the site were unaware of the proposal until an article appeared in the Echo on 16 June, there was no planning notice in the Echo. There was one notice on the site notice board, but during the pandemic people were staying at home and this was insufficient Public notice to properly inform residents during this period, and therefore reduced the time available for comments.*
- *The proposed increase will impact the precious coastline that is 1 of 46 Areas of Outstanding Natural Beauty in England, Wales and Ireland that are protected for our future generations. It is well known that the cliffs surrounding the Jurassic Coastline are not stable, therefore I fear an increase in tourist numbers over the months of winter will de-stabilise the cliffs further.*
- *The change from a summer season site to all year-round occupation will change the character of Ringstead and will dwarf the resident population.*
- *Access to and from the site during the winter months can be treacherous making this an unsuitable site for all year-round occupation.*
- *The lighting required for winter use will impact on the environment and habitat of the wildlife, particularly Barn and Little Owls.*
- *If the caravan site is given this extension it will affect the character and uniqueness of this heritage coastal location. Ringstead has always been a busy summer location for tourists and locals alike. In the winter months Ringstead's appeal to many is through the lack of tourism this extension to all year-round tourist use will have a significant effect on the small resident population. The winter months allow respite for the environment and the residents of this small hamlet.*
- *Application document - Under 4. Description of proposal. This proposal was started on 1/1/1962 and finished 1/4/61. Under 6. Site visit. The site is clearly visible from the Beach and SW Coastal path. Under 8. Ownership Certificate. I do not believe the applicant is the sole owner.*
- *We are regular out of season visitors to Ringstead Bay and the surrounding area, the primary attraction being the peace and solitude to be gained once the holidaymakers have gone home. We are therefore somewhat dismayed to learn that the caravan park at Ringstead has applied for such a large extension to its season with the inevitable consequence of the loss of tranquillity at what must be considered to be one of the jewels of W. Dorset.*

- *We fully accept that the tourist industry is in great difficulty at the moment but we strongly urge you therefore to consider the long term implications of this application and thus reject it.*
- *The wildness and fragile environmental beauty of Ringstead on the Heritage Coast would be severely affected by almost year-round occupation of the caravan site, and the increased pressure this would put on the very limited infrastructure. Ringstead is a small residential community and the poor quality and very steep access road is completely unsuitable to winter tourism, with no access by public transport.*
- *There are very few local amenities on or off site, meaning this application isn't a viable option. Ringstead bay is of outstanding natural beauty, and the winter months offer a rare opportunity to experience and enjoy this solitude, which could be destroyed by this application to extend the use of the caravan site.*
- *I object strongly that permission is granted that would allow the site to open 11 months, with all the extra footfall, the extra cars, in a time of the year when access can be a problem with the weather and gives no benefit to the local residents, the walkers, the fragile Environment or the coastal areas.*
- *I am also very concerned that because there was no Site visit, parts of the actual Application have not been checked and there are significant errors in fact. Ownership of roads and tracks, parking north of the site, National trust Boundaries, route of South West Coast Route are some of the errors, plus there are others that have been mentioned in the Objections.*
- *It would seriously damage the peace and tranquillity of Dorset's heritage coast during the winter months. This is a time when there are fewer tourists, therefore the shop is not open during the winter months, meaning the proposal will have no positive impact on the immediate local economy. The West Dorset Weymouth and Portland local plan greatly emphasises the need for preserving areas of peace and tranquillity and Ringstead during the winter months is one of these places. The proposal will increase strain on footpaths, and road access which in the winter months is difficult coming down a steep slope. Further to this, more than doubling the number of residents there during the winter months will have a big detrimental effect on light pollution at night. During the winter months storms batter the coast, which poses a serious health and safety risk for caravans near the front. To summarise this proposal will have a major negative effect on the heritage coast in this area, and further weaken Dorset councils' position to preserve it.*
- *The 1962 planning consent does not refer to the chalet then known as Elizabeth Chalet and now known as Coast Path Cottage, which is used as a residential dwelling. The current application refers to 'confirming the planning status' of this*

building, which implies that the owners are aware that this building is being used for residential purposes without appropriate permission.

- *It should also be noted that the consultation notice which had been displayed on the site notice board was removed last week before the end of the consultation period, and before the end of the lockdown, when the leaseholders returned.*
- *Ringstead is a small community and the infrastructure of the roads and local amenities do not make this a viable option. The rest of the tourist facilities based around the caravan are ALL seasonal. The bay is outstanding beauty and needs the months in between summer visitors to recuperate. It is certainly not designed or ready to be used all year around.*

8.3 An 11 signatory petition has also been submitted objecting to the application on grounds of

- *Commercialisation of Ringstead and that the non-occupancy period currently in force adds to the peaceful environment of this hamlet set in an AONB/World Heritage Jurassic coast area and*
- *requests from site owners to clear the site by the end of 2020 season.*

8.4 6 further representations in support stating:

- *Do not expect the number of cars driving along Fisher's Place to increase hugely as a result of an extended open season.*
- *Over the last 42 years the caravan site has never been at full occupancy outside of 3 weeks during the height of the summer. There is no reason to expect this to change, especially in the colder months of the year.*
- *Caravan owners come as day visitors in the winter months to spend a few hours in their caravans and enjoy the peace and quiet of Ringstead out of season. What this extension would offer them is an opportunity to stay over and enjoy those quiet times that other holiday home owners (houses) at Ringstead currently are fortunate enough to enjoy.*
- *Improvements in caravan design and insulation has meant that over the last 20 years many caravan parks around the county have now applied for and received planning permission to extend their season for their owners. However even modern caravans are still caravans (as I used to say to our visitors they are really just tin cans - you can hear every rain drop and feel every gust of wind against the sides) so in the colder, wetter months of the year they still won't offer the same experience as a summer holiday in a caravan or a winter holiday in a house. It just isn't comfortable or convenient.*

- *It would be lovely for some of them to experience a Christmas or New Year at Ringstead if they want to, and to experience the camaraderie that exists here in the winter months amongst residents and holidaymakers alike. Would welcome the idea that there might be a few more people around for security reasons alone.*
- *Just because our owners are not lucky enough to own a bricks and mortar holiday home here at Ringstead doesn't mean they feel any less strongly about preserving the uniqueness and beauty that is Ringstead and I think if they are allowed to stay over out of season they will add to, rather than detract from, the quality of life here.*
- *I think it would be really great if the caravan site was open longer as more of us would get a chance to visit and stay over.*
- *We would support the Caravan site extending the season so we can enjoy the bay in peace, whilst also not spending an arm and leg. It would be encouraging to know there is a holiday waiting for us towards the end of the year. I think the season being extended would appeal to people in our situation who can't afford the prices during the summer anymore. Anyone who knows Ringstead understands that by holidaying there in winter time they will likely be spending a lot of time indoors, except for the occasional walk, so I doubt it would greatly affect the local's enjoyment of their home. Life is going to be different from now on, it can't stay the same and people need to support local businesses and the environment by holidaying locally and responsibly.*
- *I've been coming to Ringstead for many years because I love the peace and quiet. The natural beauty is amazing and I feel privileged every time I visit. Recently having got a dog, I now enjoy the numerous walks the area has to offer, not just the lovely beach. I've found the people to be welcoming and have been visiting almost daily over the last few weeks.*
- *I've also been lucky enough to have stayed in some of the holiday cottages in the area over the years. However this year they all were booked up so quickly once holidays were allowed again, even into next year, so there is nothing left in my price range. Covid-19 has also reduced my income, meaning I can't afford to stay during the peak holiday season anymore.*
- *If the caravan site was open longer then I would very much welcome the opportunity to holiday out of season. It would be cheaper for me, there would be less competition for dates and I can have a peaceful stay in a place I love without having to travel there each day.*
- *Most people who come to Ringstead appreciate its unique beauty, and want to take care of it, myself included.*

- *I think it's a fantastic idea, and I'm writing to voice my support. I have been visiting the area for several years, as my partner's grandmother lives nearby. I've come to love and enjoy the Dorset Coast, and in particular, Ringstead beach and the adjacent caravan site. My favourite time to visit the area is during the off-season. Smaller crowds and more affordable off-season prices is extremely appealing. Especially at this time – having suffered an income reduction due to Covid-19, and generally hoping to avoid crowds, offseason visits are ideal.*
- *Also, the opportunity to enjoy Ringstead without having to make daily visits when the caravan site is closed (as is the current situation) would be a huge improvement to our experience.*
- *I care about preservation and protection of the area as much as anyone. I doubt that extending the season would alter the nature and appeal of the caravan site. If anything, it might provide more resources and reason to better preserve it for future generations*
- **Ringstead Protection Society Committee** state - *We understand that current residential occupancy- i.e. .overnight sleeping- in the autumn up to the end of October is not great at the present time. It seems unlikely it will continue at the same level during the extra months which are amongst the coldest of the year. Caravans in winter on a site exposed to gales are not the most enticing places to stay. It might well be different if the site had modern, well insulated chalets, equipped modern energy efficient heating and modern bathrooms. If an application to build those was made, the Society would be concerned. Owners are entitled now to visit their caravans for the day at any time of the year and a successful application will not change that. We do not however believe that many people will be wanting to stay there in the additional months if permitted, other than perhaps for half term or over Christmas.*
- *It does not believe there will be a major increase in traffic if the application is successful and certainly not of a size that would justify refusing the application.*
- *For the above reasons, the Society does not propose to lend its support to the objectors.*

8.5 Finally the applicant has responded direct to a number of the objections by stating that:

- *The timing of the application is because we want to regularise the site planning regulations, which are very old and incorrect as part of the improvements to the company and the site we are making.*
- *Ringstead Caravan Company has not applied for permanent residence in its planning application and has never indicated it would ever want to do so.*

- *As a company we have always complied with our site licence and planning and never allowed anyone to use the caravan as their sole and permanent residence and will continue to do so. The caravan site has been there since the 1930s older than a vast majority of the houses in Ringstead. A season extension will not change the view, as the caravans stay there 365 days a year.*
- *The Ringstead Caravan Park plays a major role in addressing some of the issues of concern to residents with regard to littering by daily visitors to Ringstead. See the section on waste.*
- *No additional development is required or has been made in the planning application. All pitches have their own utilities and do not require any additional public services.*
- *No public transport is currently needed when it is open now. The season extension will have even less need for public transport, I have no data on deliveries and neither do I imagine the complainants. The caravan site is used for many delivery drivers and services such as domestic refuse collection of the residents to turn around as it is the only place big enough to do so. We have never objected to this and are always keen to help the community.*
- *The caravan site pays £1040 to use the road far more than any other property in the village. It also voluntarily repairs the road asking no contributions from any other residence or holiday accommodation business. As far as we are aware no one else does this in Ringstead.*
- *There is no expansion of the numbers of people using the caravan site. As previously mentioned we are by far the single biggest contribution towards the upkeep and repairs of the road.*
- *The caravan site collects waste and recycling for two houses the council can not reach further up the track.*
- *We also collect a huge amount of waste from beach visitors (nothing to do with us) and provide the only dog waste bin in the village at our own expense.*
- *In our closed season we do not have bins and so there is a build-up of waste left by day visitors who do not take their waste home with them. Hopefully with an extended season we can help reduce this.*
- *The caravan site has its own toilets and drainage facilities and will have no additional strain on any public facilities.*
- *The caravan site actually hosts the drainage and pumping facilities for the village on our land and is maintained at our expense. The Caravan site was*

central to the decision to fund the groin as it increased the number of people who would benefit from the project in the cost benefit analysis, thus enabling the project to go ahead.

- *Council engineers think the rate of erosion has been significantly delayed by the presence of the groin which is of benefit to all the residents and visitors to Ringstead.*
- *We are not increasing the number of vans or overall numbers of visitors to the site so this objection is irrelevant.*
- *As well employing local trade's persons and being able to offer all year work to cleaners and other contractors we promote local events, tourist attractions and businesses to our holiday makers. An extension would help the all year round economy of local business.*

9.0 Relevant Policies

9.1 National Planning Policy Framework

As far as this application is concerned the following section(s) of the NPPF are considered to be relevant;

2. Achieving sustainable development
4. Decision-making
6. Building a strong, competitive economy
11. Making effective use of land
14. Meeting the challenge of climate change, flooding and coastal change
15. Conserving and enhancing the natural environment

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, including brownfield registers and permission in principle, 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.

9.2 West Dorset, Weymouth and Portland Local Plan

INT1 - Presumption in Favour of Sustainable Development
ENV1 - Landscape seascape and sites of Geological Interest
ENV7 - Coastal Erosion and Land Instability
COM7 - Creating a safe and efficient transport network
ENV10 - Landscape and Townscape setting
ENV16 - Amenity
ECON 7 - Caravans and campsites

Other material considerations

WDDC Landscape Character Areas 2009

AONB Management Plan 2019-24

Dorset Heathlands Planning Framework SPD 2015-2020

In July 2020 the Government announced a proposal to extend opening of holiday parks, caravan parks and campsites given the Covid 19 pandemic stating:

“The Government recognises that holiday parks, caravan parks and campsites may decide to extend opening beyond the summer season to support these businesses to recover from Covid-19 business disruption. In some cases, planning conditions may restrict their open season. We have made a Written Ministerial Statement to emphasise that planning enforcement is a discretionary activity, and local planning authorities should not seek to undertake enforcement action which would unnecessarily restrict the ability of holiday parks, caravan parks and campsites to extend their open season. Local planning authorities should also prioritise decision making for applications to vary relevant planning conditions, and take account of the economic benefits resulting from extended opening.

10.0 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

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.

11.0 Public Sector Equalities Duty

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.

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 PSED.

12.0 Financial benefits

Material benefits of the proposed development	
Additional period of occupancy is likely to lead to increase spend in the local economy	

13.0 Climate Implications

13.1 The application site is not within a settlement or village with close by services and facilities for those using the caravan site but the village does have a seasonal shop. The fact however remains that the site has been well established since the 1960's and the climate change implications of the extended period is not considered to be significant in climate change terms.

14.0 Planning Assessment

The following issue is considered relevant to this proposal.

- Whether the removal and variation of the conditions is acceptable in planning terms noting that the caravan site is an established one having regard to impact on the character and appearance the area; amenity of neighbouring residents; highway impacts; nature conservation interests; and other environmental impacts (EIA)?

14.1 Section 73 of the Planning Act 1990 states that:

“On such an application the local planning authority shall consider only the question of the conditions subject to which planning permission should be granted, and—

(a) if they decide that planning permission should be granted subject to conditions differing from those subject to which the previous permission was granted, or that it should be granted unconditionally, they shall grant planning permission accordingly, and

(b) if they decide that planning permission should be granted subject to the same conditions as those subject to which the previous permission was granted, they shall refuse the application

14.2 The Creek Caravan Site is a long established and successful business that continues to operate under the planning permission granted in 1962. This application made under Section 73 of the Town and Country Planning Act seeks to remove/vary the conditions of the Planning Permission Ref. 207358 granted on 13 December 1962. The applicant wishes to operate the site with **30 static caravans** for a longer season which would reflect the current operation of other sites in the

area. It seeks to update that permission with the removal and variation of conditions, but does not fundamentally change the permission and does not propose any alteration to the site itself. Condition 1 of the original permission explains that

“Not more than 30 caravans shall be stationed on the land forming the subject of this application at any one time.

Reason. It is considered that the stationing of more than 30 caravans on the land forming the subject of this application would be detrimental to the character of the coastal locality which is of high scenic and landscape value

And condition 2 explains that

“The land forming the subject of this application shall be used for the stationing of caravans only during the period 1st April to 31st October in each year.

Reason. To reserve to the local planning authority control over the long term use of the site”

And condition 3 explains that

3. During the period 1st November to 31st March in each year, the caravans shall be parked unoccupied and the land shall be maintained in a tidy condition to the satisfaction of the Local Planning Authority.

Reason. To reserve to the local planning authority control over the long term use of the site

Condition 2 as originally written appears to allow only the stationing of caravans on the site for certain months of the year (essentially the summer months) but that in effect the caravans are stationed on site all year round. As such there would appear to be a conflict between the original conditions 2 and 3, where 2 implies caravans would only be on site part of the year i.e. stationed during the summer months, and the original condition 3 which permits that caravans can be parked during the winter months but have to be unoccupied. However in essence the applicant wishes to operate the site with 30 static caravans for a longer season.

14.3 Extending the length of season for occupation of the caravans would in the applicants view

- meet the increasing customer demand for short breaks and holidays at any time of year,
- anticipate the potential increased demand for UK based holidays rather than going abroad following the Corona Virus pandemic,
- improve the local economy, attracting more visitors to Dorset,

- provide additional employment outside the current season and
- provide greater operational flexibility and efficiency.

14.4 It is noted that some of the wording of the conditions imposed in 1962 (notably conditions 3 and 4) would not meet current Government ‘tests’ for the use of planning conditions in terms of their precision or enforceability. In addition and on the face of it the original planning application was described as being a proposal for 40 caravans when in fact the approval was given only for 30 – however in essence an approval was given for a proposal that was described as the stationing of caravans with the number 40 simply stated but it is the planning condition which then limited its extent in terms of numbers (to 30).

14.5 Your officers had previously recommended that the description of development be amended to avoid continued discrepancy between the planning permission description from 1962 and condition 1, when it recommended that the number 40 could be removed from the description of development. This was on the basis that it was considered that this would not make any fundamental change to the permission and the nature of the development would be unchanged, being the use of the site for the stationing of caravans.

14.6 While your officers recognised that it would be better if the text “40” was omitted from the description of development in the new 2020 permission, the issue was whether it had the legal power to do that on a s73 application. In light of a relatively recent Court of Appeal decision, the JR concluded that it did not.

14.7 In effect the 1962 permission confers planning permission to use the site to station caravans, subject to the condition that not more than 30 caravans shall be stationed on the site at any one time. The reference to the word “40” in the permission is not an effective limitation on the number of caravans because that should be done by condition. The permitted use of the site is for the stationing of caravans and that planning permission was conditioned to station 30 caravans only on the site.

14.8 As such it is now considered that this application in terms of the original 1962 description should remain and that no alteration be made to condition 1 which remains that it limits the numbers of caravans to 30 e.g.

“1. Not more than 30 caravans shall be stationed on the land forming the subject of this application at any one time.

Reason. It is considered that the stationing of more than 30 caravans on the land forming the subject of this application would be detrimental to the character of the coastal locality which is of high scenic and landscape value”

14.9 Impact on Character of the area/Landscape - Condition 2 states:

“The land forming the subject of this application shall be used for the stationing of caravans only during the period 1st April to 31st October in each year.

14.10 The applicant proposed that this be altered to:

ii). The caravans on the site shall be occupied during the period 9th Feb in any year to 10th Jan in the following year.

Or as an alternative ii) should that be the view of Committee:

ii 1st March in any year to 31st January in the following year only”.

14.11 In this respect it is considered that the variation of this condition in principle would seek to boost the local economy by extending the season. This would not change the character or appearance of the site or its impact on the surrounding countryside and landscape as the caravans are already sited there all year round. But the issue as to the agreed period of occupancy was considered by Committee in July – see paras 14.14-14.15 below.

14.12 As regards neighbouring amenity/highway impacts – Members will also be aware that we have received many representations objecting for the reasons as are set out above, that the extended season would adversely impact on the amenity of residents in Ringstead to the west of the site as a result of the likely increased comings and goings to and from the site. However there are no highway objections to the proposal - the road to the caravan site as pointed out by objectors is a private road and the maintenance of that road is not a material planning consideration - and it must be remembered that the current permission authorises a 6 months occupation of all 30 caravans between April and October (notwithstanding any local terms and conditions laid down separately by the landowner/site manager for a reduced occupancy period). It is not anticipated that occupancy levels in any event would be as great outside of these spring/summer/autumn months (essentially to cover the winter Xmas/New Year period) in any event to justify a significant adverse amenity impact on the occupiers of dwellings to the west of the site sufficient to justify a refusal of planning permission as a result of comings and goings to and from the site. Finally objectors have made reference to lighting in terms of additional landscape impact but this application is only for the variation of condition and no lighting is proposed as part of it. As such Policy ENV16 is considered to be met and as there are no highway objections Policy COM7 Policy is considered to be met.

14.13 At your July 9th Committee meeting Cllr Ireland proposed (which was seconded by Cllr Barrow) that the time period for any extended occupancy should seek to reflect that of nearby caravan parks seeking to ensure some consistency in approach. Approval was therefore given for an extended period as being:

“The caravans on the site shall only be occupied during the period from 15th March in any year to 15th January in the following year.

Reason: To define the permission and to prevent an unrestricted and permanent residential occupation all year round”.

14.14 The reason for this was seeking to ensure a consistency of approach. As an example Osmington Mills Caravan Park circa 2km as the crow flies to the west of the site has a condition attached to its permission as a caravan and camping park which requires it to close between 15th January and 15th March under ref PA/1/E/84/528 granted on 23rd June 1987. There is a current application (WD/D/19/002903) seeking to use that site as an all year round holiday park which remains as yet undetermined. Nevertheless this restricted condition period would meet with Cllr Ireland's previous proposition and the decision of Committee who agreed this condition previously. It would also ensure a consistency of approach to these 2 sites and in particular it would ensure that at present the same time period when the application site and the one at Osmington Mills would not be occupied thereby ensuring that impacts on for example residential amenity of neighbours is reduced. The proposal to amend condition 2 is therefore acceptable in land use planning terms to a period as follows:

“The land forming the subject of this application shall be used for the stationing of caravans only during the period from 15th March in any year to 15th January in the following year.

Reason: To define the permission and to prevent an unrestricted and permanent residential occupation all year round”

14.15 Coastal Management Issues - As regards the comments of the Jurassic Coast Trust, a temporary planning permission might well have been considered an appropriate one if this were a new caravan site proposal in light of coastal erosion issues, but that is not the case here. The site has been well established since the 1960's and so a condition limiting the permission to a temporary period is not reasonable. This proposal merely seeks to vary/modify the 1960's planning permission which has valid planning conditions which limit the numbers to 30 caravans and for a longer occupation season. It is not anticipated that such changes would adversely affect issues of coastal erosion and its natural forces in this area unlike a new proposal to site a caravan park where the very principle of permitting one might be more critically assessed in coastal erosion and AONB/Heritage Coast landscape designation terms.

14.16 In addition the applicants' agent points out that while they acknowledge the concerns regarding coastal erosion and the need for a long term strategic approach, this application does not include any physical change and therefore they do not feel the extended season proposed will have any significant impact on coastal erosion. Part of the coast in the vicinity is undefended and the Creek Caravan Park benefits from some coastal defences, both of which would need to be considered as part of any future coastal management proposals. Any future coastal defence development

would be the subject of a separate planning application for appropriate consideration at that time, previous coast protection work being approved in 1995. Further, a temporary permission would result in long term uncertainty which would be damaging to the existing business and the tourist economy.

14.17 Impact on nature conservation interests - As is set out above, Natural England raise no objections. The Council has carried out an Appropriate Assessment (AA) under the Habitats Regulations Assessment as Competent Authority in accordance with the requirements of Regulation 63 of the Conservation of Habitats and Species Regulations 2017, Article 6 (3) of the Habitats Directive and having due regard to its duties under Section 40(1) of the Natural Environment and Rural Communities (NERC) Act 2006 to the purpose of conserving biodiversity. Whilst a small proportion of the southern site boundary of the site extends into the Isle of Portland to Studland Cliffs SAC, Natural England has concluded that the proposed variation in conditions will not result in likely significant effects on this European site and the AA concludes that there will be no adverse effect on the integrity of the designated sites identified above. As regards the South Dorset Coast Site of Special Scientific Interest, Natural England considers that the proposed development will not damage or destroy the interest features for which the site has been notified and has no objection.

14.18 As regards proximity to Protected Heathlands (Warmwell Heath which is notified as a Site of Special Scientific Interest (SSSIs) and is also part of the Dorset Heathlands Special Protection Area (SPA) and Dorset Heaths Special Area of Conservation (SAC) and Ramsar) Natural England has confirmed that as the site lies just outside the 5km consultation zone, at about 5.2km and as such there are no adverse impacts arising as regards this issue.

14.19 Environmental Impact Assessment Regulations 2017 – If a proposed project is listed in Schedule 2 of the 2017 Regulations and exceeds the relevant thresholds or criteria as are set out in the Regulations (sometimes referred to as ‘exclusion thresholds and criteria’) the proposal needs to be screened by the local planning authority to determine whether significant effects on the environment are likely and hence whether an Environmental Impact Assessment is required. Projects listed in Schedule 2 which are located in, or partly in, a sensitive area (in this case the AONB is identified as sensitive area) also need to be screened, even if they are below the thresholds or do not meet the criteria. A link to schedule 2 is here <https://www.legislation.gov.uk/ukxi/2017/571/schedule/2/made>

14.20 In this case this proposal falls within Schedule 2, category 12 (Tourism and Leisure) (e) - permanent camp sites and caravan sites - but the threshold area of the development does not exceed 1 hectare – it is circa 0.6ha.

14.21 It also falls into Schedule 2, category 13 (Changes and extensions) (b) “Any change to or extension of development of a description listed in paragraph 12 where that development is already authorised, executed or in the process of being executed; and Either—

(i) The development as changed or extended may have significant adverse effects on the environment; or

(ii) in relation to development of a description mentioned in column 1, the thresholds and criteria in the corresponding part of column 2 applied to the change or extension are met or exceeded.”

14.22 In this case the proposed changes by way of the variation/modification of conditions do not meet the identified thresholds.

14.23 Nevertheless a Screening Opinion has now been made which explains that:

Characteristics of the development - The site is an existing Caravan site and the application seeks to vary conditions of the original planning permission essentially to extend the time period of occupancy of the caravans. There would be no increase in numbers of caravans arising from the application. No adverse issues impacting on natural resources; waste; pollution nuisances or risk of accidents to warrant EIA are likely

Location of the development - The site is an existing Caravan site and is located in a designated AONB/Heritage Coast area. However the application seeks to vary conditions of the original planning permission essentially to extend the time period of occupancy of the caravans. There would be no additional adverse landscape impact arising from the current proposal as the number of caravans is not intended to alter.

In addition Natural England considers that the proposed development will not have significant adverse impacts on designated sites and has no objection. Natural England considers that the proposed development will not have likely significant effects on the Isle of Portland to Studland Cliffs Special Area of Conservation and has no objection to the proposed development. To meet the requirements of the Habitats Regulations, they advise us to record our decision that a likely significant effect can be ruled out. As regards the South Dorset Coast Site of Special Scientific Interest, Natural England considers that the proposed development will not damage or destroy the interest features for which the site has been notified and has no objection.

As regards proximity to Protected Heathlands the site lies just outside the 5km consultation zone, at about 5.2km and so there are no adverse impacts arising as regards this issue

As such, the proposal is unlikely to create significant impacts on the environment sufficient to trigger the need for an Environmental Impact Assessment (EIA) by way of an Environmental Statement (ES)

Characteristics of the impact - The extent of the impact in seeking to extend the time period for occupancy of the caravans would not alter the characteristics of the site other than being assessed via the normal Development Management processes/considerations. As such, this is unlikely to create significant impacts on the environment sufficient to trigger the need for an Environmental Impact Assessment (EIA) by way of an Environmental Statement (ES)

14.24 EIA Conclusion - The above EIA Screening Opinion sets out that despite the project being listed as a Project in Schedule 2 but not meeting the size area threshold, it lies in a sensitive area (AONB) and a Heritage Coast but for the above reasons is not considered to have significant impacts on the environment sufficient to trigger the need for an Environmental Impact Assessment (EIA) by way of an Environmental Statement (ES).

14.25 Condition 3. It currently states. *“During the period 1st November to 31st March in each year, the caravans shall be parked unoccupied and the land shall be maintained in a tidy condition to the satisfaction of the Local Planning Authority”.*

This condition does not meet the tests of a condition as it requires the site to be maintained in a tidy condition to the satisfaction of the LPA but is not precise or reasonable or enforceable.

14.26 Condition 4. It currently states. *“Adequate provision shall be made to the satisfaction of the Local Planning Authority for the planting of a screen of trees of a species to be agreed with the Local Planning Authority”.*

This condition also does not meet the tests of a condition as it requires the provision to the satisfaction of the Local Planning Authority for the planting of a screen of trees of a species to be agreed with the Local Planning Authority. It does not set out where they should be planted or even for them to be maintained thereafter. If they were provided back in the 1960's nothing in the condition seeks to ensure they are retained and in any event the caravan site is now long established such that any form of screening is not considered to be required.

14.27 It is considered that conditions 3 and 4 are unnecessary and should be removed.

15.0 Conclusion

15.1 This application is reported back to Planning Committee following a recent successful Judicial Review (JR) and quashing of the planning permission granted following the decision made at your July 9th 2020 Committee meeting. The proposed development however remains in your officers' view as acceptable and is therefore recommended for approval.

16.0 Recommendation – Approval is recommended subject to the following conditions:

1 The development hereby permitted shall be carried out in accordance with the following approved plans:

Location Plan received on 28/04/2020

REASON: For the avoidance of doubt and in the interests of proper planning.

2 Not more than 30 caravans shall be stationed on the land forming the subject of this application at any one time.

Reason. It is considered that the stationing of more than 30 caravans on the land forming the subject of this application would be detrimental to the character of the coastal locality which is of high scenic and landscape value

3. The caravans on the site shall only be occupied during the period from 15th March in any year to 15th January in the following year.

Reason: To define the permission and to prevent an unrestricted and permanent residential occupation all year round.

UPDATE REPORT - ENFORCEMENT ACTION

**HOMESTEAD FARM, MAIN STREET, BOTHENHAMPTON,
BRIDPORT, DT6 4BJ**

Planning Committee date: 3rd December 2020

Case Ref: WD/D/19/003186

Breach of planning: Demolition of original farmhouse and Erection of a dwelling not in accordance with planning approval WD/D/17/002888 as amended via the approved non material amendment approvals WD/D/19/000355/NMA & WD/D/19/000624/NMA

Location: **HOMESTEAD FARM, MAIN STREET, BOTHENHAMPTON,
BRIDPORT, DT6 4BJ**

Case Officer: **Darren Rogers**

1 Full details of the breach of planning control

1.1 The carrying out of operational development comprising the “Demolition of original farmhouse and Erection of a dwelling” not in accordance with planning approval WD/D/17/002888 **Approved April 2018** as amended via the approved non material amendment approvals set out under:

- WD/D/19/000355/NMA - Non-material amendment to Planning Permission No. WD/D/17/002888 for changes to external materials and the omission of rooflights, photovoltaic panels and external staircase. **Approved March 2019**
- WD/D/19/000624/NMA - Amendment to planning permission reference WD/D/17/002888 - Change to dormer windows on west and east elevation. **Approved March 2019**

2 The site and surrounding areas

2.1 This is as described in paras 5.1 - 5.3 of the attached report to Planning Committee held on 12th August 2020 as regards application number WD/D/19/003186. That application sought retrospective planning permission for the variation of Condition 1 (the plans list) on application approval ref WD/D/17/002888/FUL – described as “Demolition of original farmhouse in Conservation Area. Erection of 1.no. new 4 bed low carbon house”.

3 Relevant planning and enforcement history

3.1 The following applications set out the planning history of this site in chronological order.

WD/D/17/002888/FUL - Demolition of original farmhouse in Conservation Area. Erection of 1.no. new 4 bed low carbon house. **Approved April 2018**

WD/D/18/001167/CWC - Request for confirmation of compliance of conditions 9 (proposed access onto Duck Street is commenced full construction details) & 10 (details of the days and hours that operations shall take place on site during the demolition and construction phases of the development and details of site operative parking arrangements) of planning approval WD/D/17/0028. **Approved Dec 2018**

WD/D/18/002892/CWC - Request for confirmation of compliance with conditions 3 (details and samples of all facing and roofing materials including details of the proposed glass (to be of a non-reflective type) to be installed in the rear lower extensions , 4 (proposed heritage greenhouse; compost bins; wooden shed; mobile chicken caravan; outdoor shelter; and tool shed) & 6 (proposed drainage works (foul and surface water) of planning approval WD/D/17/002888 - **Approved Dec 2018**

Jan 2019 Enf Investigation opened - Alleged construction of building higher than approved.

WD/D/19/000355/NMA - Non-material amendment to Planning Permission No. WD/D/17/002888 for changes to external materials and the omission of rooflights, photovoltaic panels and external staircase. **Approved March 2019**

WD/D/19/000624/NMA - Amendment to planning permission reference WD/D/17/002888 - Change to dormer windows on west and east elevation. **Approved March 2019**

WD/D/19/000782/CWC - Request for confirmation of compliance with condition 3 (Further to previous submissions of tile samples; the Phalempin Single Camber Clay Plain Roof Tile - Val De Siene (104) size 170mm x 270mm; is considered to be acceptable) of planning approval WD/D/17/002888 **Approved May 2019**

WD/D/19/001329/CWC - Request for confirmation of compliance with condition 3 (Proposed materials have been agreed previously except for the non-reflective glass to be installed in the rear lower extensions. The Guardian clear float glass with a Guardian Clarity low reflectance coating as submitted is considered to be acceptable) of planning approval WD/D/17/002888 - **Approved Oct 2019**

WD/D/19/002277/NMA - Amendment to planning permission WD/D/17/002888 - alterations to height and width of dwelling (as part of Enf Investigation) **Refused Oct 2019**

WD/D/19/002463/CWC - Request for confirmation of compliance with condition 3 (The render mix to be a traditional lime render with a mix of 1:3 Non-Hydrated Lime with washed sand is acceptable of planning approval WD/D/17/002888. **Approved 30th October 2019**

WD/D/19/003186 - Demolition of original farmhouse in Conservation Area. Erection of 1.no. new 4 bed low carbon house (with variation of condition 1 of planning approval WD/D/17/002888 to amend approved plans) **Refused 13th August 2020**

4 Officer's investigation and evidence

4.1 As Members will be aware at their Committee meeting on 12th August 2020, retrospective planning permission ref WD/D/19/003186 was refused for the "Demolition of original farmhouse in Conservation Area. Erection of 1.no. new 4 bed low carbon house (with variation of condition 1 of planning approval WD/D/17/002888 to amend approved plans)".

4.2 Permission was refused for the following 2 reasons:

1 *The proposal is a visually dominating and prominent built form of development, out of character to the area. The site is located within the Conservation Area and where the wider setting of that area is affected such that the proposal does not 'preserve' or 'enhance' that area as is required and set out given the statutory Section 72 test of the Planning (Listed Buildings*

and Conservation Areas) Act 1990. On that basis it has an adverse impact on the existing Conservation Area character and harms the Conservation Area character and appearance. That harm would be less than substantial but there are no wider public benefits arising from the proposal that would outweigh that harm in the planning balance. As such the proposal would not be in accordance with Policies ENV4, ENV10 or ENV12 of the West Dorset, Weymouth & Portland Local Plan (2015) ; Policies HT2, D1 & D8 of the Bridport Neighbourhood Plan; nor paragraph 127 and section 16 of the National Planning Policy Framework (2019) and in particular para 192 which states:

In determining applications, local planning authorities should take account of:

c) the desirability of new development making a positive contribution to local character and distinctiveness.

2 *The proposed development by reason of its mass, scale and bulk has an unduly dominating and overbearing impact when viewed from existing neighbouring properties in Main Street and Duck Street. As a result it sits uncomfortably in relation to those neighbouring occupiers and is detrimental to their amenity (outlook). Its mass, scale and bulk is also detrimental to the character and appearance of the area. As such the proposed development would be contrary to Policies ENV10; ENV12 & ENV16 of the West Dorset, Weymouth & Portland Local Plan (2015); Policies D1 & D8 of the Bridport Neighbourhood Plan; and Section 12 of the National Planning Policy Framework (2019) and in particular paragraph 127 which states amongst other things that decisions should ensure that developments provide a high standard of amenity for existing and future users.*

5 Relevant planning policy

This was as set out in the 12th August 2020 Planning Committee report under application number WD/D/19/003186 and is set out here again in full with the policies that were referred to in the reasons for refusal in bold:

5.1 National Planning Policy Framework

Section 4 - Decision Making

Section 5 - Delivering a sufficient supply of homes

Section 11 - Making effective use of land

Section 12 - Achieving well-designed places

Section 14 - Meeting the challenge of climate change, flooding and coastal change

Section 15 - Conserving and enhancing the natural environment

Section 16 – Conserving and enhancing the historic environment

5.2 Adopted West Dorset and Weymouth & Portland Local Plan (2015)

INT1. Presumption In Favour Of Sustainable Development

ENV2. Landscape, Seascape and Sites of Geological Interest

ENV2. Wildlife and Habitats

ENV4. Heritage Assets

ENV10. The Landscape and Townscape Setting

ENV11. The Pattern of Streets and Spaces

ENV12. The Design and Positioning Of Buildings

ENV13. Achieving High Levels of Environmental Performance

ENV15. Efficient and Appropriate Use of Land

ENV16. Amenity

SUS1. The Level of Economic and Housing Growth

SUS2. Distribution of Development

HOUS1. Affordable Housing
COM1. Making Sure New Development Makes Suitable Provision for Community Infrastructure
COM7. Creating a Safe and Efficient Transport Network
COM9. Parking Standards in New Development
COM10. The Provision of Utilities Service Infrastructure
CPM11. Renewable Energy Development

5.3 Bridport Neighbourhood Plan

Climate Change

POLICY CC1 - Publicising Carbon Footprint
POLICY CC2 - Energy and Carbon Emissions
POLICY CC3 - Energy Generation to Offset Predicted Carbon Emissions

Access & Movement

POLICY AM1 - Promotion of Active Travel Modes
POLICY AM2 - Managing Vehicular Traffic

Housing

POLICY H7 - Custom-Build and Self-Build Homes

Heritage

POLICY HT1 - Non Designated Heritage Assets
POLICY HT2 - Public Realm

Landscape

POLICY L2 - Biodiversity
POLICY L5 - Enhancement of the Environment

Design for Living

POLICY D1 - Harmonising with the Site

POLICY D2 - Programme of Consultation
POLICY D5 - Efficient Use of Land
POLICY D6 - Definition of Streets and Spaces
POLICY D7 - Creation of Secure Areas

POLICY D8 - Contributing to the Local Character

POLICY D9 - Environmental Performance (see also Policies CC2, CC3)
POLICY D11 - Building for Life

5.4 OTHER MATERIAL PLANNING CONSIDERATIONS:

Design & Sustainable Development Planning Guidelines (2009)

Village Design Statements (VDSs) previously adopted as SPG in West Dorset, which remain relevant and may be material considerations in planning decisions include:

- Bothenhampton: includes parish plan (2003)

WDDC Landscape Character Assessment February 2009 – Urban Area

Bothenhampton Conservation Area Appraisal

6 Enforcement action and reasons for the taking of formal action.

6.1 At your Committee meeting on 8th Oct, Members considered a report by officers (as attached) as to what, if any, enforcement action be taken. Committee's decision was:

Decision: That the Committee agrees not to take enforcement action providing that an appeal is made against the decision to refuse planning permission by 15 November 2020. If no appeal is made by 15 November 2020 the question of enforcement action will be reported back to the Committee at the earliest opportunity.

Reason for Decision

The Inspector's view on any subsequent planning appeal will help to inform what formal enforcement action may be appropriate, if any, particularly noting that Inspectors often give a view in their formal decision letters as to which aspects of a development they consider acceptable, and which are not. By waiting for the outcome of any planning appeal, the Council will have a more defensible position as regards to any formal enforcement action it then decides to take.

6.2 The above resolution was reported back to the applicant's agent and we have now received a reply to it stating (my emphasis in bold):

"Thank you for your letter dated 8 October 2020, received as an attachment to the email of the 11 November 2020.

I can confirm that my instructions are to request to the Inspectorate a Public Inquiry.

In terms of timing, unfortunately there has been slippage in our timetable because of the complexity of the case and the number of consultants involved; it has taken longer that we had hoped to prepare the case fully and then be in a position to submit the appeal.

We have prepared a preliminary Statement of Common Ground and this will be issued to you the week of 23 November, following our meeting with Counsel. We would like to be in a position to agree the statement with the LPA prior to the submission of the appeal to narrow the issues.

The Statement of Case is in the course of preparation. The anticipated date for lodging the appeal is the week beginning 14 December. We will of course notify you immediately once the appeal is lodged".

6.3 The above timeline does not accord with Committee's previous appeal deadline of Nov 15th and hence this report back to Cttee seeking Committee's decision as to what enforcement action is considered necessary to remedy the planning harm previously identified as the previous application has been refused and was retrospective in nature. Any such formal enforcement action could run alongside the Section 78 appeal.

6.4 Further construction work at the site has since ceased until any planning appeal against the refused application has been determined.

6.5 Officers have had regard to the Minutes of the Committee meeting on 12th August 2020 (attached to this report) and it appears to us that the main planning harm identified by Members

in refusing planning permission was that related to the overall height of the main building complex and given that the 2 wings of the building had been built slightly further up the slope towards Main Street which had served to increase the impact in terms of height.

6.6 It must be remembered that planning permission has already been granted for a replacement dwelling at this site which does offer a significant material planning consideration fall-back position. That approval was for a development permitted under ref number WD/D/17/002888 (Approved April 2018) as amended via the approved non material amendment approvals set out under:

- WD/D/19/000355/NMA - Non-material amendment to Planning Permission No. WD/D/17/002888 for changes to external materials and the omission of rooflights, photovoltaic panels and external staircase. Approved March 2019
- WD/D/19/000624/NMA - Amendment to planning permission reference WD/D/17/002888 - Change to dormer windows on west and east elevation. Approved March 2019

6.7 Given Officers' understanding that Members' main concern is the height of the buildings "as built" and in particular the alterations carried out from the approved layout of the wings of the main complex which has compounded the height issue of concern, it is recommended that enforcement action be taken to return the height of the main building complex to that as per the "as approved" elevations as shown on the following submitted drawings:

27 Dec 2019 L 604 (COMPARISON) ELEVATION AA COMPARISON 1 OF 7
27 Dec 2019 L 605 (COMPARISON) ELEVATION EE COMPARISON 2 OF 7
27 Dec 2019 L 606 (COMPARISON) ELEVATION FF COMPARISON 3 OF 7
27 Dec 2019 L 607 (COMPARISON) ELEVATION GG COMPARISON 4 OF 7
27 Dec 2019 L 608 (COMPARISON) ELEVATION HH COMPARISON 5 OF 7
27 Dec 2019 L 609 (COMPARISON) ELEVATION II COMPARISON 6 OF 7
27 Dec 2019 L 610 (COMPARISON) ELEVATION KK COMPARISON 7 OF 7

6.8 These drawings show the "as built" and "as approved" elevations showing the height differences.

6.9 **Reasons for serving an Enforcement notice**

Officers suggest that the reason for serving an enforcement would therefore be;

The proposal as built is a visually dominating and prominent built form of development, out of character to the area. The site is located within the Conservation Area and where the wider setting of that area is affected such that the proposal does not 'preserve' or 'enhance' that area as is required and set out given the statutory Section 72 test of the Planning (Listed Buildings and Conservation Areas) Act 1990. On that basis it has an adverse impact on the existing Conservation Area character and harms the Conservation Area character and appearance. That harm would be less than substantial but there are no wider public benefits arising from the proposal that would outweigh that harm in the planning balance. As such the proposal as built would not be in accordance with Policies ENV4, ENV10 or ENV12 of the West Dorset, Weymouth & Portland Local Plan (2015) ; Policies HT2, D1 & D8 of the Bridport Neighbourhood Plan; nor paragraph 127 and section 16 of the National Planning Policy Framework (2019) and in particular para 192 which states:

In determining applications, local planning authorities should take account of:

c) the desirability of new development making a positive contribution to local character and distinctiveness.

2 *The proposed development as built by reason of its mass, scale and bulk has an unduly dominating and overbearing impact when viewed from existing neighbouring properties in Main Street and Duck Street. As a result it sits uncomfortably in relation to those neighbouring occupiers and is detrimental to their amenity (outlook). Its mass, scale and bulk is also detrimental to the character and appearance of the area. As such the proposed development would be contrary to Policies ENV10; ENV12 & ENV16 of the West Dorset, Weymouth & Portland Local Plan (2015); Policies D1 & D8 of the Bridport Neighbourhood Plan; and Section 12 of the National Planning Policy Framework (2019) and in particular paragraph 127 which states amongst other things that decisions should ensure that developments provide a high standard of amenity for existing and future users.*

6.10 The alterations required to return the height of the main building complex to that as per the following submitted drawings would overcome the planning harm identified by Members as set out above:

Plan received 27 Dec 2019	L 604	(COMPARISON) ELEVATION AA COMPARISON 1 OF 7
Plan received 27 Dec 2019	L 605	(COMPARISON) ELEVATION EE COMPARISON 2 OF 7
Plan received 27 Dec 2019	L 606	(COMPARISON) ELEVATION FF COMPARISON 3 OF 7
Plan received 27 Dec 2019	L 607	(COMPARISON) ELEVATION GG COMPARISON 4 OF 7
Plan received 27 Dec 2019	L 608	(COMPARISON) ELEVATION HH COMPARISON 5 OF 7
Plan received 27 Dec 2019	L 609	(COMPARISON) ELEVATION II COMPARISON 6 OF 7
Plan received 27 Dec 2019	L 610	(COMPARISON) ELEVATION KK COMPARISON 7 OF 7

6.11 Time period for compliance

It is considered that a time period of 6 months would be reasonable. The Committee should be aware that if an appeal is made against the enforcement notice, the 6 month period would run from the appeal decision (if the Notice is upheld) and the time period can be varied by the Inspector on appeal.

6.12 Under Enforcement

6.13 Taking Enforcement action only in relation to the height of the main building complex would result in not taking action to remedy the whole of a breach of planning control. This is known as “under enforcement”. Where an enforcement notice identifies a breach of planning control which could have required any buildings or works to be removed, or an activity to stop, but has stipulated some lesser requirements, and all the requirements of the notice have been complied with, then planning permission is deemed to be granted for those remaining operations or use (section 173(11) of the Town and Country Planning Act 1990).

6.14 It is not considered that for example the vehicular accesses onto Main Street and Duck Street are unacceptable in planning terms notwithstanding the fact that they are technically not in accordance with the approved scheme – these are considered to be minor transgressions that are acceptable in planning terms and result in no significant planning harm to the character of the area; neighbour amenity; or to highway safety given that there were no highway objections to the proposals and this did not form a reason for refusal.

6.15 For information only the alterations to the landscape proposals mainly to the south of the main building that includes a domestic pond and ancillary buildings namely the Heritage greenhouse; barbeque shelter; field shelter; tool and lawnmower store; open wood & trailer store; compost bins and wood shed; and chicken coop all as part of the wider rear garden area raise any significant planning harm to the character of the area and in fact were approved under compliance with condition application WD/D/18/002892/CWC - Request for confirmation of compliance with condition 4 (proposed heritage greenhouse; compost bins; wooden shed; mobile chicken caravan; outdoor shelter; and tool shed) of planning approval WD/D/17/002888 - Approved Dec 2018.

6.16 As such Enforcement action is being recommended only in relation to the height of the main building complex. The following aspects are considered acceptable:

- the alterations carried out from the approved layout of the wings of the main complex of the building as built when compared to as approved except for the height implications of that change
- the vehicular accesses onto Main Street and Duck Street

6.17 Expediency For Enforcement Action

6.18 The need to maintain public confidence in the planning system and the proportionality of taking action underpins enforcement procedures and the decision on whether it is appropriate to serve a notice. Having regard to Paragraph 58 of the NPPF (2019) which states "*Effective enforcement is important to maintain public confidence in the planning system. Enforcement action is discretionary, and local planning authorities should act proportionately in responding to suspected breaches of planning control*"

6.19 Based on the above planning assessment, consideration of the relevant Acts and other relevant material considerations, including the advice contained within the policies of the Development Plan, and para 58 of the NPPF (2019), it is considered reasonable, proportionate and expedient in view of policies contained within the Development Plan to instigate enforcement action on this occasion

7 Human rights and Equality considerations

7.1 The provisions of the European Convention on Human rights including the following articles;

Article 1 of the First Protocol (Right to peaceful enjoyment of possessions and protection of property)

Article 8 – Right to respect for private and family life, home and correspondence

Article 14 – Prohibition of discrimination

are relevant when considering enforcement action. These rights are not absolute and need to be balanced against the wider public interest. Local planning authorities have a duty to enforce planning legislation in a proportionate way. Enforcement action should be necessary in the public interest of upholding the integrity of the planning system to address the planning harm caused by the unauthorised development, and proportionate to the harm which it is identified that the breach is causing.

7.2 The recipient of any such notice will have the opportunity to submit an appeal against an Enforcement Notice.

7.3 Consideration has also been given to the Council's duties under the Equalities Act 2010, to have regard to the need to eliminate discrimination, harassment, victimisation, or other conduct prohibited by this Act, to advance equality of opportunities and fostering good relations between those who share characteristics protected by the Act and those who do not share them. Taking enforcement action would not conflict with the Council's duties under this Act.

8 Statutory authority.

Section 172 of the Town and Country Planning Act 1990 (as amended)

9 Financial implications

The financial implications include staff resources, the costs of any subsequent appeal/prosecution and any legal representation required. These costs will be met by the existing budget.

A Costs award to the applicant could be an issue if an application for Costs is made by the applicant for any unreasonable behaviour of the Council in seeking to defend the appeal and/or issue formal enforcement action but this is unknown at this stage.

10 Recommendation

Committee are requested to consider the issuing of an Enforcement Notice that requires alterations being carried out to return the height of the main building complex to that as per the "as approved" elevations as shown on the following submitted drawings

Plan received 27 Dec 2019	L 604	(COMPARISON) ELEVATION AA COMPARISON 1 OF 7
Plan received 27 Dec 2019	L 605	(COMPARISON) ELEVATION EE COMPARISON 2 OF 7
Plan received 27 Dec 2019	L 606	(COMPARISON) ELEVATION FF COMPARISON 3 OF 7
Plan received 27 Dec 2019	L 607	(COMPARISON) ELEVATION GG COMPARISON 4 OF 7
Plan received 27 Dec 2019	L 608	(COMPARISON) ELEVATION HH COMPARISON 5 OF 7
Plan received 27 Dec 2019	L 609	(COMPARISON) ELEVATION II COMPARISON 6 OF 7
Plan received 27 Dec 2019	L 610	(COMPARISON) ELEVATION KK COMPARISON 7 OF 7

Reasons for serving an Enforcement notice

The proposal as built is a visually dominating and prominent built form of development, out of character to the area. The site is located within the Conservation Area and where the wider setting of that area is affected such that the proposal does not 'preserve' or 'enhance' that area as is required and set out given the statutory Section 72 test of the Planning (Listed Buildings and Conservation Areas) Act 1990. On that basis it has an adverse impact on the existing Conservation Area character and harms the Conservation Area character and appearance. That harm would be less than substantial but there are no wider public benefits arising from the proposal that would outweigh that harm in the planning balance. As such the proposal as built would not be in accordance with Policies ENV4, ENV10 or ENV12 of the West Dorset, Weymouth & Portland Local Plan (2015) ; Policies HT2, D1 & D8 of the Bridport Neighbourhood Plan; nor paragraph 127 and section 16 of the National Planning Policy Framework (2019) and in particular para 192 which states:

In determining applications, local planning authorities should take account of:

c) the desirability of new development making a positive contribution to local character and distinctiveness.

2 The proposed development as built by reason of its mass, scale and bulk has an unduly dominating and overbearing impact when viewed from existing neighbouring properties in Main Street and Duck Street. As a result it sits uncomfortably in relation to those neighbouring occupiers and is detrimental to their amenity (outlook). Its mass, scale and bulk is also detrimental to the character and appearance of the area. As such the proposed development would be contrary to Policies ENV10; ENV12 & ENV16 of the West Dorset, Weymouth & Portland Local Plan (2015); Policies D1 & D8 of the Bridport Neighbourhood Plan; and Section 12 of the National Planning Policy Framework (2019) and in particular paragraph 127 which states amongst other things that decisions should ensure that developments provide a high standard of amenity for existing and future users.

Time period for compliance

It is considered that a time period of 6 months would be reasonable. However this timescale may be delayed if any appeal against an enforcement notice is dealt with at the same time as a Section 78 appeal against the planning application refusal.

Darren Rogers
Planning Enforcement Manager

Agenda item

WD/D/19/003186 - Homestead Farm, Main Street, Bothenhampton, Bridport, DT6 4BJ

- [Meeting of Dorset Council - Western and Southern Area Planning Committee, Wednesday, 12th August, 2020 10.00 am \(Item 149.\)](#)

Demolition of original farmhouse in Conservation Area. Erection of 1.no. new 4 bed low carbon house (with variation of condition 1 of planning approval WD/D/17/002888 to amend approved plans).

Minutes:

The Committee considered an application for the demolition of an original farmhouse in the Conservation Area and the erection of a new 4 bed low carbon house (with variation of condition 1 of planning approval WD/D/17/002888 to amend approved plans).

The Enforcement Manager presented the Section 73a application that sought to vary the plans list condition for the previously approved planning permission for the site. A number of Non-Material Amendment applications (NMAs) had subsequently been approved, but the latest received in 2019 was refused. This was due to the cumulative changes sought not being accepted as an NMA which left the only option to regularise the building as now built and to be completed in the form of a Section 73a application.

Members were shown a site location plan, showing a red line dividing the built form and garden/ allotment areas and terraced properties on the north side accessed by a higher footpath level to the road; the site location in relation to the village centre and nearby listed buildings, Conservation Area (CA) and DDB; an aerial photo of the land before development and former farmhouse buildings along Main Street sloping downwards and Village Hall; google views before redevelopment of the farmhouse at right angles to other buildings down the slope of the land and access footway to the properties along Main Street.

Members were also shown various plans of the "Y" shape development and lower level garage accessed via Main Street and the garden area / private allotment with an access off Duck Street.

A number of photos were shown of the development including the structure as built, the garage set at a lower level off Main Street; the Main Street and Duck Street accesses and the general vicinity of the development.

He confirmed that no Highways objection had been made in relation to the slope of the driveway leading to the garage.

Slides were shown of the as built and as approved floor plans which showed a similar building in terms of its footprint and accommodation, however, the building had been "tweaked" on the various levels and was now further towards Main Street showing how it had not been built in accordance with the approved

plans. Comparisons were also shown of the as approved and as built elevations showing the differences in height of various elements of the building.

The key planning points were highlighted including:-

- Principle of development
- Design
- CA / AONB
- Neighbouring amenity
- Highways
- Community Infrastructure Levy (CIL)

A number of written representations objecting to the application and one in support by the Agent were received and are attached to these minutes. Some of these were read out at the meeting by the Administration Assistant in accordance with the revised Public Speaking Protocol for Area Planning Committee meetings.

Cllr David Bolwell - Dorset Council - Bridport, addressed the Committee stating that many changes had been made to the original plans approved by West Dorset District Council, which had already been reduced in size further to comments by the Conservation Officer. A survey paid for by residents revealed that the positioning and heights of the development were wrong and the heights contained in paragraph 6.17 of the report were different to those submitted in the NMAs. Approximately 10 metres of hedgerow along Duck Street had also been removed. The fallback position was that this development was not built to the original specification and both residents and the Parish Council had lost faith in the planning system. The development had been littered with non-compliance issues and he asked the Committee to refuse the application based on mass, height, ENV16 and Bridport Neighbourhood Plan D1 and D8.

Cllr Nick Ireland stated that he had visited the site the previous evening and was mostly concerned with the huge discrepancy in the heights and that moving the wings further up the slope had served to increase the impact in terms of height.

The Enforcement Manager advised that the height discrepancy in the report relied on hand drawn plans provided by applicant and the reasons for the discrepancy in heights was set out in paragraph 6.19 of the report.

The Solicitor advised that members should consider the building "as built" and whether its height had a planning impact which was unacceptable, and provide reasons.

Cllr Kelvin Clayton read an extract from the original design and impact statement and queried the absence of green roofing in the development. He said that the plans for the original wings were downslope and barely visible and that he had

stood in the same spot where the wings now obliterated the views. He therefore considered that the application went against a number of material considerations. He asked whether there was any independent verification between surveys provided by the applicant and residents and referred to the lack of comment by the Conservation Officer and Historic England in the report.

The Enforcement Manager stated that he could not confirm whether the Conservation Officer had visited the site, however, he had done so as the case officer and it was his responsibility to balance the concerns of all representatives with the planning considerations. He confirmed that there was no independent survey and that he had relied on the applicants to provide details in relation to heights.

He emphasised that members needed to look at the building "as built" and assess the resultant planning harm if members felt that the building was too dominating and overbearing.

Cllr Kate Wheller stated that she was incensed by this application and that it was not appropriate for in the centre of a Conservation Area. She drew attention to comments made by the agent and that there were appreciable differences in height and the development was much nearer to Main Street than what was approved. She questioned the lack of accurate plans and how the building was almost completed when it was known that there were significant differences from the approved plans. She considered that this showed a lack of respect and total disregard for the planning process that had not happened accidentally in her view.

Cllr Jean Dunseith agreed with this view and expressed her concern in relation to roof heights on both wings due to the need to accommodate services, that the wings were closer to Main Street and higher when viewed from the road. She felt that the technical considerations in relation to the roof heights should have been resolved before the original permission had been granted and viewed the way in which this development had taken place as being very sloppy.

The Solicitor stated that he understood why members should feel that the development proceeding in this way showed disrespect to the planning system, however, the legislation allowed retrospective permission in respect of such scenarios which legislators envisaged might happen. Any decision to refuse the application on the basis of roof heights would require valid planning reasons.

Other members agreed with the views already expressed and that the height of the building affected the Conservation Area and neighbour amenity, the repositioning of the wing causing a considerable difference to the closeness to homes on Main Street. The Chairman further commented that the building contrasted with the great character and charm of the village and the street scene in the Conservation Area and village hall.

Cllr Kelvin Clayton referred to the 2 main planning issues highlighted in paragraph 16.1 of the report and proposed refusal of the application on the basis of the Neighbourhood Plan HT2; Local Plan ENV10.1 and NPPF 127c. This was seconded by Cllr Kate Wheller.

The meeting was adjourned from 15.42am to 15.45am in order that officers could draft the wording of the reasons for refusal based on the concerns of the Committee.

The following reasons for refusal were shared by way of a presentation slide for the benefit of members of the Committee and the public.

1 The proposal is a visually dominating and prominent built form of development, out of character to the area. The site is located within the Conservation Area and where the wider setting of that area is affected such that the proposal does not 'preserve' or 'enhance' that area as is required and set out given the statutory Section 72 test of the Planning (Listed Buildings and Conservation Areas) Act 1990. On that basis it has an adverse impact on the existing Conservation Area character and harms the Conservation Area character and appearance. That harm would be less than substantial but there are no wider public benefits arising from the proposal that would outweigh that harm in the planning balance. As such the proposal would not be in accordance with Policies ENV4, ENV10 or ENV12 of the West Dorset, Weymouth & Portland Local Plan (2015) ; Policies HT2, D1 & D8 of the Bridport Neighbourhood Plan; nor paragraph 127 and section 16 of the National Planning Policy Framework (2019) and in particular para 192 which states:

In determining applications, local planning authorities should take account of: c) the desirability of new development making a positive contribution to local character and distinctiveness.

2 The proposed development by reason of its mass, scale and bulk has an unduly dominating and overbearing impact when viewed from existing neighbouring properties in Main Street and Duck Street. As a result it sits uncomfortably in relation to those neighbouring occupiers and is detrimental to their amenity (outlook). Its mass, scale and bulk is also detrimental to the character and appearance of the area. As such the proposed development would be contrary to Policies ENV10; ENV12 & ENV16 of the West Dorset, Weymouth & Portland Local Plan (2015); Policies D1 & D8 of the Bridport Neighbourhood Plan; and Section 12 of the National Planning Policy Framework (2019) and in particular paragraph 127 which states amongst other things that decisions should ensure that developments provide a high standard of amenity for existing and future users.

The proposer and seconder of the motion to refuse the application confirmed that they were content with the wording of the reasons.

Decision: That the application be refused for the reasons outlined in the appendix to these minutes.

Supporting documents:

- [Homestead Farm, Bothenhampton, item 149. !\[\]\(a88007b249b36c75dcbde101f514cec3_img.jpg\) PDF 578 KB](#)

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UPDATE REPORT - POTENTIAL ENFORCEMENT ACTION
HOMESTEAD FARM, MAIN STREET, BOTHENHAMPTON,
BRIDPORT, DT6 4BJ

Planning Committee date: 8th October 2020

Case Ref: WD/D/19/003186

Breach of planning: Demolition of original farmhouse and Erection of a dwelling not in accordance with planning approval WD/D/17/002888 as amended via the approved non material amendment approvals WD/D/19/000355/NMA & WD/D/19/000624/NMA

Location: **HOMESTEAD FARM, MAIN STREET, BOTHENHAMPTON, BRIDPORT, DT6 4BJ**

Case Officer: **Darren Rogers**

1 Full details of the breach of planning control

1.1 The carrying out of operational development comprising the “Demolition of original farmhouse and Erection of a dwelling” not in accordance with planning approval WD/D/17/002888 **Approved April 2018** as amended via the approved non material amendment approvals set out under:

- WD/D/19/000355/NMA - Non-material amendment to Planning Permission No. WD/D/17/002888 for changes to external materials and the omission of rooflights, photovoltaic panels and external staircase. **Approved March 2019**
- WD/D/19/000624/NMA - Amendment to planning permission reference WD/D/17/002888 - Change to dormer windows on west and east elevation. **Approved March 2019**

2 The site and surrounding areas

2.1 This is as described in paras 5.1 - 5.3 of the attached report to Planning Committee held on 12th August 2020 as regards application number WD/D/19/003186. That application sought retrospective planning permission for the variation of Condition 1 (the plans list) on application approval ref WD/D/17/002888/FUL – described as “Demolition of original farmhouse in Conservation Area. Erection of 1.no. new 4 bed low carbon house”.

3 Relevant planning and enforcement history

3.1 The following applications set out the planning history of this site in chronological order.

WD/D/17/002888/FUL - Demolition of original farmhouse in Conservation Area. Erection of 1.no. new 4 bed low carbon house. **Approved April 2018**

WD/D/18/001167/CWC - Request for confirmation of compliance of conditions 9 (proposed access onto Duck Street is commenced full construction details) & 10 (details of the days and hours that operations shall take place on site during the demolition and construction phases of the development and details of site operative parking arrangements) of planning approval WD/D/17/0028. **Approved Dec 2018**

WD/D/18/002892/CWC - Request for confirmation of compliance with conditions 3 (details and samples of all facing and roofing materials including details of the proposed glass (to be of a non-reflective type) to be installed in the rear lower extensions , 4 (proposed heritage greenhouse; compost bins; wooden shed; mobile chicken caravan; outdoor shelter; and tool shed) & 6 (proposed drainage works (foul and surface water) of planning approval WD/D/17/002888 - **Approved Dec 2018**

Jan 2019 Enf Investigation opened - Alleged construction of building higher than approved.

WD/D/19/000355/NMA - Non-material amendment to Planning Permission No. WD/D/17/002888 for changes to external materials and the omission of rooflights, photovoltaic panels and external staircase. **Approved March 2019**

WD/D/19/000624/NMA - Amendment to planning permission reference WD/D/17/002888 - Change to dormer windows on west and east elevation. **Approved March 2019**

WD/D/19/000782/CWC - Request for confirmation of compliance with condition 3 (Further to previous submissions of tile samples; the Phalempin Single Camber Clay Plain Roof Tile - Val De Siene (104) size 170mm x 270mm; is considered to be acceptable) of planning approval WD/D/17/002888 **Approved May 2019**

WD/D/19/001329/CWC - Request for confirmation of compliance with condition 3 (Proposed materials have been agreed previously except for the non-reflective glass to be installed in the rear lower extensions. The Guardian clear float glass with a Guardian Clarity low reflectance coating as submitted is considered to be acceptable) of planning approval WD/D/17/002888 - **Approved Oct 2019**

WD/D/19/002277/NMA - Amendment to planning permission WD/D/17/002888 - alterations to height and width of dwelling (as part of Enf Investigation) **Refused Oct 2019**

WD/D/19/002463/CWC - Request for confirmation of compliance with condition 3 (The render mix to be a traditional lime render with a mix of 1:3 Non-Hydrated Lime with washed sand is acceptable of planning approval WD/D/17/002888. **Approved 30th October 2019**

WD/D/19/003186 - Demolition of original farmhouse in Conservation Area. Erection of 1.no. new 4 bed low carbon house (with variation of condition 1 of planning approval WD/D/17/002888 to amend approved plans) **Refused 13th August 2020**

4 Officer's investigation and evidence

4.1 As Members will be aware at their Committee meeting on 12th August 2020, retrospective planning permission ref WD/D/19/003186 was refused for the "Demolition of original farmhouse in Conservation Area. Erection of 1.no. new 4 bed low carbon house (with variation of condition 1 of planning approval WD/D/17/002888 to amend approved plans)".

4.2 Permission was refused for the following 2 reasons:

1 *The proposal is a visually dominating and prominent built form of development, out of character to the area. The site is located within the Conservation Area and where the wider*

setting of that area is affected such that the proposal does not 'preserve' or 'enhance' that area as is required and set out given the statutory Section 72 test of the Planning (Listed Buildings and Conservation Areas) Act 1990. On that basis it has an adverse impact on the existing Conservation Area character and harms the Conservation Area character and appearance. That harm would be less than substantial but there are no wider public benefits arising from the proposal that would outweigh that harm in the planning balance. As such the proposal would not be in accordance with Policies ENV4, ENV10 or ENV12 of the West Dorset, Weymouth & Portland Local Plan (2015) ; Policies HT2, D1 & D8 of the Bridport Neighbourhood Plan; nor paragraph 127 and section 16 of the National Planning Policy Framework (2019) and in particular para 192 which states:

In determining applications, local planning authorities should take account of:

c) the desirability of new development making a positive contribution to local character and distinctiveness.

2 *The proposed development by reason of its mass, scale and bulk has an unduly dominating and overbearing impact when viewed from existing neighbouring properties in Main Street and Duck Street. As a result it sits uncomfortably in relation to those neighbouring occupiers and is detrimental to their amenity (outlook). Its mass, scale and bulk is also detrimental to the character and appearance of the area. As such the proposed development would be contrary to Policies ENV10; ENV12 & ENV16 of the West Dorset, Weymouth & Portland Local Plan (2015); Policies D1 & D8 of the Bridport Neighbourhood Plan; and Section 12 of the National Planning Policy Framework (2019) and in particular paragraph 127 which states amongst other things that decisions should ensure that developments provide a high standard of amenity for existing and future users.*

5 Relevant planning policy

This was as set out in the 12th August 2020 Planning Committee report under application number WD/D/19/003186 and is set out here again in full with the policies that were referred to in the reasons for refusal in bold:

5.1 National Planning Policy Framework

Section 4 - Decision Making

Section 5 - Delivering a sufficient supply of homes

Section 11 - Making effective use of land

Section 12 - Achieving well-designed places

Section 14 - Meeting the challenge of climate change, flooding and coastal change

Section 15 - Conserving and enhancing the natural environment

Section 16 – Conserving and enhancing the historic environment

5.2 Adopted West Dorset and Weymouth & Portland Local Plan (2015)

INT1. Presumption In Favour Of Sustainable Development

ENV2. Landscape, Seascape and Sites of Geological Interest

ENV2. Wildlife and Habitats

ENV4. Heritage Assets

ENV10. The Landscape and Townscape Setting

ENV11. The Pattern of Streets and Spaces

ENV12. The Design and Positioning Of Buildings

ENV13. Achieving High Levels of Environmental Performance

ENV15. Efficient and Appropriate Use of Land

ENV16. Amenity

SUS1. The Level of Economic and Housing Growth
SUS2. Distribution of Development
HOUS1. Affordable Housing
COM1. Making Sure New Development Makes Suitable Provision for Community Infrastructure
COM7. Creating a Safe and Efficient Transport Network
COM9. Parking Standards in New Development
COM10. The Provision of Utilities Service Infrastructure
CPM11. Renewable Energy Development

5.3 Bridport Neighbourhood Plan

Climate Change

POLICY CC1 - Publicising Carbon Footprint

POLICY CC2 - Energy and Carbon Emissions

POLICY CC3 - Energy Generation to Offset Predicted Carbon Emissions

Access & Movement

POLICY AM1 - Promotion of Active Travel Modes

POLICY AM2 - Managing Vehicular Traffic

Housing

POLICY H7 - Custom-Build and Self-Build Homes

Heritage

POLICY HT1 - Non Designated Heritage Assets

POLICY HT2 - Public Realm

Landscape

POLICY L2 - Biodiversity

POLICY L5 - Enhancement of the Environment

Design for Living

POLICY D1 - Harmonising with the Site

POLICY D2 - Programme of Consultation

POLICY D5 - Efficient Use of Land

POLICY D6 - Definition of Streets and Spaces

POLICY D7 - Creation of Secure Areas

POLICY D8 - Contributing to the Local Character

POLICY D9 - Environmental Performance (see also Policies CC2, CC3)

POLICY D11 - Building for Life

5.4 OTHER MATERIAL PLANNING CONSIDERATIONS:

Design & Sustainable Development Planning Guidelines (2009)

Village Design Statements (VDSs) previously adopted as SPG in West Dorset, which remain relevant and may be material considerations in planning decisions include:

- Bothenhampton: includes parish plan (2003)

WDDC Landscape Character Assessment February 2009 – Urban Area

Bothenhampton Conservation Area Appraisal

6 Enforcement action available and reasons for the taking of formal action.

6.1 As the previous application has been refused and was retrospective in nature consideration now needs to be considered as to whether it is expedient to take enforcement action; and if so what action is required to remedy any planning harm.

6.2 Officers have already informed the applicants that following the Committee's decision on 12th August, that further construction work at the site should cease until any planning appeal against the refused application has been determined and that any further work that is carried out is done entirely at their own risk pending the outcome of any such appeal.

6.3 The applicants' agent has replied (August 2020) stating that he is instructed to make a Section 78 planning appeal and that the applicants acknowledge the degree of local concern about the scheme. Therefore, they are looking at ceasing work, while the appeal runs its course but they do not wish to see the building, or the plants deteriorate. They have set out a schedule of works (attached to this report) to be carried out to make the building properly secure and weathertight and to put it into a state so that it does not deteriorate, while the appeal is determined. Once these are completed (due at the end of September 2020), the applicants have agreed that no further work to complete the building would be undertaken until the appeal has been determined. Your officers have already agreed to these works as this is considered to be a pragmatic approach to enable the building to be made watertight and safe, prior to all further works ceasing, pending the appeal outcome. Officers have also stressed to the applicants agent the fact that these remain to be carried out entirely at the applicants own risk pending any appeal outcome. They have also agreed to let us know if (and hopefully there will not be) there is any slippage in the September timetable.

6.4 Given the above, and setting aside the appeal, the Council need to consider at this stage whether to commence formal enforcement action which could run alongside the Section 78 appeal.

6.5 It must be remembered that planning permission has already been granted for a replacement dwelling at this site which does offer a significant material planning consideration fall-back position. That approval was for a development permitted under ref number WD/D/17/002888 (Approved April 2018) as amended via the approved non material amendment approvals set out under:

- WD/D/19/000355/NMA - Non-material amendment to Planning Permission No. WD/D/17/002888 for changes to external materials and the omission of rooflights, photovoltaic panels and external staircase. Approved March 2019
- WD/D/19/000624/NMA - Amendment to planning permission reference WD/D/17/002888 - Change to dormer windows on west and east elevation. Approved March 2019

6.6 On 12 August, the Committee concluded that the changes requested under the most recent application WD/D/19/003186 which sought to deal in part retrospectively) with changes from the originally approved application (as amended) by the 2 NMA approvals listed above) are unacceptable for the reasons set out at paragraph 4.2 above.

6.7 Both of the above reasons are supported by relevant development plan and national policy references as are set out in this report.

6.8 It is therefore falls to Committee to consider the need for, and scope of, any enforcement action and the need to consider the issue of expediency having regard to the development plan and any other material planning considerations. A number of options are available.

Option 1 – That no enforcement action be taken at this stage.

6.9 This would be pending the outcome of the Section 78 appeal. Members need to take account of the planning permission that has already been granted and the applicant's agent has indicated that there will be an appeal. Of course there would be delays that could occur if enforcement action is taken only after the planning appeal is determined in favour of the Council but if the outcome of any such appeal is that it is allowed then no formal enforcement action would then be necessary. However an Inspector's view on any subsequent planning appeal will help to inform what formal enforcement action may be appropriate, if any, particularly noting that Inspectors often give a view in their formal decision letters as to which aspects of a development they consider acceptable, and which are not. By waiting for the outcome of any planning appeal, the Council will have a more defensible position as regards to any formal enforcement action we then decide to take. The matter would be brought back to Committee as soon as possible if permission is refused on the appeal.

Option 2 - That enforcement action be taken requiring demolition of the whole building

6.10 This would require demolition of the whole of the building as is now built and that it be replaced with the dwelling as was approved under ref WD/D/17/002888 (Approved April 2018) as amended via the approved non material amendment approvals. Officers' advice is that it would not be expedient to require demolition of the whole building as it is capable of being altered to address the reasons for refusal of the latest application and more closely match the approved building.

Option 3 - That enforcement action be taken requiring alteration of specific elements

6.11– Officers consider that the Committee's reasons for refusal could be properly addressed by requiring that only certain elements of the building are changed such as the roof heights of the building as was approved compared to the height of the building as built; and/or that the footprint of the building as built is altered to that of the footprint of the building as approved.

6.12 It is not considered that for example the vehicular accesses onto Main Street and Duck Street are unacceptable in planning terms notwithstanding the fact that they are technically not in accordance with the approved scheme – these are considered to be minor transgressions that result in no significant planning harm to the character of the area; neighbour amenity; or to highway safety given that there were no highway objections to the proposals and this did not form a reason for refusal.

6.13 Nor is it considered that the alterations to the landscape proposals main to the south of the main building that includes a domestic pond and ancillary buildings namely the Heritage greenhouse; barbeque shelter; field shelter; tool and lawnmower store; open wood & trailer store; compost bins and wood shed; and chicken coop all as part of the wider rear garden area raise any significant planning harm to the character of the area and in fact were approved under

compliance with condition application WD/D/18/002892/CWC - Request for confirmation of compliance with condition 4 (proposed heritage greenhouse; compost bins; wooden shed; mobile chicken caravan; outdoor shelter; and tool shed) of planning approval WD/D/17/002888 - Approved Dec 2018.

7 Human rights and Equality considerations

7.1 The provisions of the European Convention on Human rights including the following articles;

Article 1 of the First Protocol (Right to peaceful enjoyment of possessions and protection of property)

Article 8 – Right to respect for private and family life, home and correspondence

Article 14 – Prohibition of discrimination

are relevant when considering enforcement action. These rights are not absolute and need to be balanced against the wider public interest. Local planning authorities have a duty to enforce planning legislation in a proportionate way. Enforcement action should be necessary in the public interest of upholding the integrity of the planning system to address the planning harm caused by the unauthorised development, and proportionate to the harm which it is identified that the breach is causing.

7.2 The recipient of any such notice will have the opportunity to submit an appeal against an Enforcement Notice.

7.3 Consideration has also been given to the Council's duties under the Equalities Act 2010, to have regard to the need to eliminate discrimination, harassment, victimisation, or other conduct prohibited by this Act, to advance equality of opportunities and fostering good relations between those who share characteristics protected by the Act and those who do not share them. Taking enforcement action would not conflict with the Council's duties under this Act.

8 Statutory authority.

Section 172 of the Town and Country Planning Act 1990 (as amended)

9 Financial implications

The financial implications include staff resources, the costs of any subsequent appeal/prosecution and any legal representation required. These costs will be met by the existing budget.

A Costs award to the applicant could be an issue if an application for Costs is made by the applicant for any unreasonable behaviour of the Council in seeking to defend the appeal and/or issue formal enforcement action but this is unknown at this stage.

10 Recommendation

Committee are requested to consider the options available and to determine what action they consider is necessary to remedy the breach of planning control. However **Officers recommend to Members that Option 1 is approved** and we hold any formal enforcement action in abeyance, until such time as any Section 78 planning appeal is determined.

The reason for this is that the Inspector's view on any subsequent planning appeal will help to inform what formal enforcement action may be appropriate, if any, particularly noting that Inspectors often give a view in their formal decision letters as to which aspects of a

development they consider acceptable, and which are not. By waiting for the outcome of any planning appeal, The Council will have a more defensible position as regards to any formal enforcement action we then decide to take.

Darren Rogers
Planning Enforcement Manager

Agenda item

Update Report - Potential Enforcement Action, Homestead Farm, Main Street, Bothenhampton, Bridport, DT6 4BJ

- [Meeting of Dorset Council - Western and Southern Area Planning Committee, Thursday, 8th October, 2020 10.00 am \(Item 24.\)](#)

Demolition of original farmhouse and erection of a dwelling not in accordance with planning approval WD/D/17/002888 as amended via the approved non material amendment approvals WD/D/19/000355/NMA and WD/D/19/000624/NMA.

Minutes:

The report was presented by the Enforcement Manager who provided the same presentation that was given to the Committee at its meeting on 10 September 2020 for the benefit of newly appointed members of the committee who had joined since that time.

He referred to the update sheet containing e-mails from the applicants on 30 September and 7 October 2020 that had been circulated to members prior to the meeting. These e-mails confirmed that the site had been locked down and the keys handed back to the applicants and that the site would be available to local residents for parking during highway authority works to the high pavement. The applicants had indicated that they would submit an appeal of the committee's decision in due course.

The Enforcement Manager outlined the 3 enforcement options below in full.

Option 1 – That no enforcement action be taken at this stage.

Option 2 - That enforcement action be taken requiring demolition of the whole building - *this was not considered to be expedient as the buildings were capable of being altered to more closely match the approved building and therefore the proportionality of taking such action needed to be considered.*

Option 3 - That enforcement action be taken requiring alteration of specific elements.

The Administration Assistant read out some of the written representations in accordance with the public speaking protocol. All written representations received were circulated to the committee prior to the meeting and are attached as an appendix to these minutes.

In response to comments made during public participation, the Enforcement Manager stated that the differences of the "as built" and "as approved" schemes were marginal. However, the subjective nature of the issues had been reflected in the public comments as well as differences in views of officers and the committee. The fallback position was the original permission as granted and therefore Option 1 meant that the Planning Inspector's view could inform any

enforcement action that may be appropriate and was a more defensible position for the Council going forward.

Members questioned the accuracy of the measurements provided in the report as different figures had been provided as part of the Non-Material Amendments (NMAs). They asked how the Planning Inspector would assess the accuracy of these figures when they may also be reliant on the drawings and measurements presented to them.

The Enforcement Manager confirmed that it was usual practice for planning officers to rely on measurements provided by the applicant and how this was dealt with going forward would depend on the nature of any appeal. It was not unusual for a Planning Inspector to bring measuring equipment to a site, however, if an appeal resulted in a public inquiry then the measurements would be investigated by the Council in proofs of evidence.

Members remained concerned regarding the varying measurements and further highlighted that an appeal had not yet been submitted.

Councillor Bill Pipe proposed that in the absence of a lodged appeal, that enforcement action was not taken provided that an appeal was made by 15 November 2020. This would allow for a further report to be considered by the committee at its meeting on 3 December 2020.

Proposed by Councillor Bill Pipe, seconded by Councillor Jean Dunseith.

Decision: That the Committee agrees not to take enforcement action providing that an appeal is made against the decision to refuse planning permission by 15 November 2020. If no appeal is made by 15 November 2020 the question of enforcement action will be reported back to the Committee at the earliest opportunity.

Reason for Decision

The Inspector's view on any subsequent planning appeal will help to inform what formal enforcement action may be appropriate, if any, particularly noting that Inspectors often give a view in their formal decision letters as to which aspects of a development they consider acceptable, and which are not. By waiting for the outcome of any planning appeal, the Council will have a more defensible position as regards to any formal enforcement action it then decides to take.

Supporting documents:

- [Update Report – Potential Enforcement Action, Homestead Farm, Main Street, Bothenhampton, Bridport, DT6 4BJ, item 24. PDF 495 KB](#)
- [Homestead Farm - Background Document 1 \(Report to Committee 12 August 2020\), item 24. PDF 578 KB](#)

- [Homestead Farm - Background Document 2 \(Minutes of Committee 12 August 2020\), item 24. !\[\]\(7e19807c61da14f515588e95cd49886c_img.jpg\) PDF 412 KB](#)
- [Homestead Farm - Background Document 3 \(Schedule of Works\), item 24. !\[\]\(8ff9e60a4b0560d7ec99179ef4779d9e_img.jpg\) PDF 105 KB](#)

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1. Application Details

Reference: [WP/20/00477/FUL](#)

Site Location: Adult Education Centre, 45 Dorchester Road, Weymouth DT4 7JT

Proposal: Demolition of existing single storey modular building, glazed link corridor and privacy wall, change of use of existing property from office use to residential use on first and second floors, erect two storey residential children's home, installation of boundary fencing and railings and alterations to vehicle access and gates.

Applicant: Dorset Council

Case Officer: Huw Williams

Ward Member: Cllr Jon Orrell

Reason Application is Reported to Committee:

As an application made (submitted) by Dorset Council and being in respect of Council-owned land, the application is reported to Committee for determination in accordance with Dorset Council's Constitution.

2. Recommendation

- 2.1 Grant planning permission subject to the conditions set out in paragraph 10.1 below.

3. Reason for Recommendation

- 3.1 The Planning and Compulsory Purchase Act 2004 (as amended) provides that if regard is to be had to the development plan for the purpose any any determination to be made under the planning Acts the determination must be made in accordance with the plan unless material considerations indicate otherwise (section 38(6)).
- 3.2 The development plan includes the West Dorset, Weymouth and Portland Local Plan 2015 as adopted by Weymouth and Portland Borough Council in October 2015, hereafter referred to as 'the Adopted Local Plan'.
- 3.3 The application site is located:
- (i) within Weymouth, identified in the Adopted Local Plan as a main town and, as such, a highest priority location for development (Policy SUS2);
 - (ii) within the settlement boundary of Weymouth as defined in the Adopted Local Plan wherein residential, employment and other development to meet the needs of the local area will normally be permitted (Policy SUS2);
 - (iii) within the designated Lodmoor Hill Conservation Area, wherein special attention must be paid to the desirability of preserving or enhancing the character or appearance of that area;
 - (iv) within the setting of a Grade II listed building ('Cranford House' listed as Weymouth Technical College and now in residential use); and
 - (v) adjacent to residential properties.

- 3.4 The application incorporates design details relating to the proposed access arrangement and to appearance, landscaping, layout and scale of the proposed development that are considered to be in general accordance with both local and national planning policy.
- 3.5 Some concerns have been expressed in representations received regarding the design proposals and the potential for detrimental impact on the character and appearance of the Lodmoor Hill Conservation Area, but, in the Case Officer's opinion, the proposed development would enhance the character and appearance of the Lodmoor Hill Conservation Area without material harm to the significance of any other designated heritage assets.
- 3.6 The proposal is further judged to represent an appropriate and sustainable form of development that is in general accordance with the Adopted Local Plan. It is further considered that there are no material considerations warranting the refusal of planning permission or the determination of the application other than in accordance with development plan.
- 3.7 Consideration has been given to other statutory duties, obligations and regulatory requirements, the conclusion being planning permission can and should be granted.

4. Background

- 4.1 As 'the Applicant', Dorset Council seeks planning permission for the demolition of a single storey modular building, glazed link corridor and privacy wall at No. 45 Dorchester Road, Weymouth, together with the change of use of existing property from office use to residential use on the first and second floors, the erection of a two storey residential children's home, the installation of boundary fencing and railings and alterations to vehicle access and gates.
- 4.2 Submission of the application follows pre-application engagement with Dorset Council's Planning Service and the local community.
- 4.3 The application explains that Dorset Council needs to take steps to increase the availability of accommodation for children in care within Dorset in order to meet the county's statutory duty to ensure that there is sufficient accommodation for looked after children and that to help achieve this the Council has identified the use of 45 Dorchester Road and the grounds of the property to locate an offsite constructed building for use as a Residential Children's Home and that the existing main building at 45 Dorchester Road will also be used by Children's Services for other services to support looked after children and care leavers.
- 4.4 It is further indicated that:
- (i) the new Residential Children's home would accommodate a maximum of 4/5 children with appropriate bedroom provision including en-suites, living, dining and kitchen facilities together with associated staff facilities;
 - (ii) the change of use and refurbishment of the former Registrar's Service offices will provide bed-sit type accommodation for care leavers with communal kitchen/dining/lounge facilities; and
 - (iii) creating this residential provision in Dorset will improve the service quality and outcomes for young people within the County.

- 4.5 In addition to the requisite form, certificate and fee, the application includes:
- (i) a suite of plans and drawings illustrating the application proposal comprising:
 - Dorset Property Drawing No. L101 Revision P1 dated 20.04.20 and titled Site Location Plan,
 - Dorset Property Drawing No. L102 Revision P1 dated 20.04.20 and titled Tree Constraints and Demolition Plan Site as existing,
 - Dorset Property Drawing No. L110 Revision P1 dated 07.07.2020 and titled Proposed Site Layout Landscape Strategy Plan,
 - Dorset Property Drawing No. A300 Revision P3 dated 15.07.2020 and titled Proposed GA Plans,
 - Dorset Property Drawing No. A301 Revision P2 dated 15.07.2020 and titled Proposed Elevations and Site/Location Plan,
 - Dorset Property Drawing No. A302 Revision P1 dated 15.07.2020 and titled Proposed External Elevation Finishes Plan,
 - Dorset Property Drawing No. 1 050 dated 16.04.2020 and titled Existing Plans, and
 - Dorset Property Drawing No. 2 010 dated 16.07.2020 and titled Proposed Planning Plans;
 - (ii) a Design and Access Statement dated July 2020 prepared by Dorset Property;
 - (iii) an Arboricultural Impact Assessment and Arboricultural Method Statement dated 19th May 2020 prepared by Dorset Council's Arboricultural Officer;
 - (iv) an Ecology Report dated 28 November 2019 prepared by Dorset Council's Natural Environment Team (Report ref: DP/024/19 version 2);
 - (v) a Phase 2 Bat Survey Report dated May 2020 prepared by Dorset Council's Natural Environment Team (Report ref: DP/025/20v1); and
 - (vi) a Biodiversity Plan dated 30.06.20 prepared by Dorset Council's Natural Environment Team.
- 4.6 The application form, the plans and drawings listed above and other documents submitted with the application may be inspected online through the application web pages accessible by entering the application reference at <https://planning.dorset.gov.uk/public-access/>.
- 4.7 'The Application Site' is shown edged red on the Site Location Plan (Drawing No. L101 Revision P1) and comprises approximately 0.2 hectares of land situated to the west of the B3159 (Dorchester Road) and to the east of the Class D Park Lane.
- 4.8 To the north of the Application Site is a complex of residential apartments (Kildare Court) which were developed through the change of use and conversion of a detached Edwardian villa formerly comprising No. 47 Dorchester Road.
- 4.9 To the south of the Application Site is further residential development in the form of flats at No. 43 Dorchester Road (also formerly a detached Edwardian villa) and a detached dwelling house at No. 8 Park Lane.
- 4.10 Opposite the application site on Dorchester Road is a Grade II listed building ('Cranford House') which is listed as 'Weymouth Technical College' but which is now part of a residential development that is accessed off Ricketts Close, north of which

are derelict properties at Nos. 8 and 10 Dorchester Road and beyond which is the Best Western Hotel Rembrandt.

- 4.11 Development along Park Lane also includes a mix of residential and hotel use.
- 4.12 The Application Site is owned by Dorset Council and is currently unoccupied, but has previously been used by the Registrar's Service, a Community Resource Team and by Skills and Learning for Adult Community Education.
- 4.13 All neighbouring property is shown to be in third party ownership.
- 4.14 Existing built development within the Application Site comprises a three-storey building constructed as a substantial Edwardian villa that is set back from the Dorchester Road frontage and which has much later single-storey additions to the side and rear including a single-storey modular building that is located towards the rear of the site close to Kildare Court and the Park Lane frontage.
- 4.15 Site boundaries are defined with a mix of walling and fencing, with metal gates and railings within the Dorchester Road frontage, and there are trees and hedges along parts of each boundary.
- 4.16 Vehicular and pedestrian access to the site is available from Dorchester Road and there is a narrow (pedestrian) gateway to Park Lane.
- 4.17 Much of the open land within the site is currently surfaced in tarmac and has previously been used for vehicular parking and manoeuvring.
- 4.18 The Application Site, the neighbouring residential properties and the listed buildings are all located within the designated Lodmoor Hill Conservation Area and also within the settlement boundary for Weymouth defined in the Adopted Local Plan.
- 4.19 Planning permission for the demolition of the existing dwellings at Nos. 8 and 10 Dorchester Road and for the erection of 3no. blocks of flats (33 flats in total) with car parking, cycle and refuse storage was granted in May 2020 (Planning Permission Ref: WP/19/00476/FUL).

5. Statutory Requirements, Duties and Obligation

- 5.1 Section 70(2) of the Town and Country Planning Act 1990 (as amended) provides that in dealing with an application for planning permission the authority shall have regard to:
 - (a) the provisions of the development plan, so far as material to the application,
 - (b) a post-examination draft neighbourhood development plan, so far as material to the application,
 - (c) any local finance considerations, so far as material to the application, and
 - (d) any other material consideration.
- 5.2 The development plan includes the West Dorset, Weymouth and Portland Local Plan 2015 as adopted by the former Weymouth and Portland Borough Council in October 2015 ('the Adopted Local Plan'), which set out a vision for Weymouth and Portland and provides a basis for planning decisions during the period to 2031.

- 5.3 There is no made neighbourhood plan and no post-examination draft neighbourhood plan material to the application.
- 5.4 For the purposes of section 70 of the Town and Country Planning Act 1990 “local finance consideration” means:
- (a) a grant or other financial assistance that has been, or will or could be, provided to a relevant authority by a Minister of the Crown, or
 - (b) sums that a relevant authority has received, or will or could receive, in payment of Community Infrastructure Levy.
- 5.5 Defined as such, there are no local finance considerations that are material to the application.
- 5.6 The term ‘any other material consideration’ is very broad in scope, a material consideration being any matter which is relevant to making the planning decision in question (e.g. whether to grant or refuse an application for planning permission). Material in this instance are:
- (i) other statutory requirements, duties and obligations;
 - (ii) national planning policy set out in the National Planning Policy Framework (‘the NPPF’) and associated Planning Practice Guidance (‘NPPG’);
 - (iii) relevant supplementary planning policy documents and/or guidance including Weymouth and Portland Borough Council’s 2002 Supplementary Planning Guidance documents on Urban Design and on Listed Buildings and Conservation Areas; and
 - (iv) representations made about the application.
- 5.7 The most relevant national and local planning policies are identified in section 6 of this report and are addressed in the Case Officer’s Appraisal presented in section 9 of this report.
- 5.8 The presented appraisal also addresses various matters raised in representations made about the application, those representations being summarised in sections 7 and 8 below.
- 5.9 Other statutory requirements, obligations and duties are addressed below.

Planning and Compulsory Purchase Act 2004 (as amended)

- 5.10 The Planning and Compulsory Purchase Act 2004 (as amended) provides that if regard is to be had to the development plan for the purpose any any determination to be made under the planning Acts the determination must be made in accordance with the plan unless material considerations indicate otherwise (section 38(6)).
- 5.11 The development plan contains relevant provisions that must be taken into account and the application must be determined in accordance with the development plan unless material considerations indicate otherwise.

Publicity and Consultation

- 5.12 Statutory requirements for publicity and consultation on planning applications are set out in The Town and Country Planning (Development Management Procedure)

Order 2015 (as amended) and Dorset Council policy in the Dorset Council Planning Service Statement of Community Involvement (SCI), January 2020.

- 5.13 The application has been publicised by site notice and in the local press. In addition, notification letters were sent to 61 addresses in the vicinity of the Application Site.
- 5.14 In light of concerns regarding the apparent non-delivery of neighbour notification letters further notification letters were sent on 11 November 2020 such that a public consultation period is ongoing. Any further representations made about the application during the ongoing consultation period will be reported at Committee.

The Environmental Impact Assessment Regulations

- 5.15 The Town and Country Planning (Environmental Impact Assessment) Regulations 2017 (as amended), hereafter referred to as 'the EIA Regulations', set out requirements for environmental impact assessment (EIA) for certain forms of development. The proposed development is not of a type mentioned in Schedule 1 the EIA Regulations nor of a form necessitating screening for the possible need for EIA as Schedule 2 development. Accordingly EIA is not necessary.

Planning (Listed Buildings and Conservation Areas) Act 1990 (as amended)

- 5.16 Section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 (as amended) provides that in considering whether to grant planning permission for development which affects a listed building or its setting, the local planning authority or, as the case may be, the Secretary of State shall 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.
- 5.17 The subject development would not directly (i.e. physically) impact on any listed building but would affect the setting of Cranford House, such that special regard must be paid to the desirability of preserving the setting of the listed building.
- 5.18 Under section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 (as amended) in the exercise of any functions under the Planning Acts with respect to any buildings or other land in a conservation area, special attention shall be paid to the desirability of preserving or enhancing the character or appearance of that area.
- 5.19 As the Application is located within the designated Lodmoor Hill Conservation Area, special attention must be paid to the the desirability of preserving or enhancing the character or appearance of that area.

Biodiversity

- 5.20 Regulation 9(3) of the Conservation of Habitats and Species Regulations 2017 places a duty on the planning authority, in considering an application for planning permission, to have regard to its effects on European protected species and section 40 of the Natural Environment and Rural Communities Act 2006 places a duty on planning authorities to have regard, so far as is consistent with the proper exercise of its functions, to the purpose of conserving biodiversity.

- 5.21 The Biodiversity Plan submitted as part of the application has been prepared in accordance with the Dorset Biodiversity Appraisal Protocol such that the plan either avoids the likelihood of deliberate disturbance or otherwise provides sufficient measures likely to remedy any disturbance whereby Natural England, in considering an application for a disturbance licence, would likely be satisfied that the test in Regulation 55(9)(b) of the Habitats Regulations 2017 is capable of being met. Provided that full implementation of the Biodiversity Plan is secured by means of planning condition, the submitted Plan may also be taken to provide reasonable ecological mitigation and enhancement measures to meet the duty under section 40 of the Natural Environment and Rural Communities Act 2006 and to accord with development plan policy for biodiversity.

Equalities

- 5.22 Section 149 of the Equalities Act 2010 (as amended) provides that in the exercise of its functions a public authority must have due regard to the need to:
- (i) eliminate discrimination, victimisation and any other conduct that is prohibited by or under the Act;
 - (ii) advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it; and
 - (iii) foster good relations between persons who share a relevant protected characteristic and persons who do not share it.
- 5.23 Commonly referred to as 'the Public Sector Equalities Duty', the relevant protected characteristics are age, disability, gender reassignment, pregnancy and maternity, race, religion or belief, sex and sexual orientation.
- 5.24 Being focussed on meeting the needs of children in care and including design measures to assist people with disabilities and/or impaired mobility, it is considered that the proposed development is likely to advance equality between persons who share a relevant characteristic particularly in respect of age and/or disability and is unlikely to lead to discrimination, victimisation or any other conduct prohibited by or under the Equalities Act 2010.

Human Rights

- 5.25 The Human Rights Act 1998 imposes an obligation on public authorities not to act incompatibly with the European Convention on Human Rights, such that persons directly affected by the adverse effects of decisions of public authorities may be able to claim a breach of their human rights. The articles/protocols of particular relevance are:
- (i) Article 6 - Right to a fair and public hearing;
 - (ii) Article 8 - Right to respect for private and family life; and
 - (iii) The First Protocol, Article 1 - Protection of Property.
- 5.26 Rights under Article 6 and 8 are qualified rights, meaning that interference with them may be justified if deemed necessary in the interests of national security, public safety or the economic well-being of the country, for the prevention of disorder or crime, for the protection of health or morals, or for the protection of the rights and freedoms of others.

- 5.27 Article 1 of Protocol 1 provides that a person is entitled to the peaceful enjoyment of his possessions and that no-one shall be deprived of his possessions except in the public interest. The term “possessions” may include material possessions, such as property, and also planning permissions and possibly other rights.
- 5.28 Any interference with a Convention right must be proportionate to the intended objective, such that any interference should be carefully designed to meet the objective in question and not be arbitrary, unfair or overly severe.
- 5.29 I am satisfied:
- (i) that the subject application has been subject to proper public consultation;
 - (ii) that the public have had an adequate opportunity to make representations in the normal ways; and
 - (iii) that the representations received are addressed in this report.
- 5.30 Any further representations made about the application during the ongoing consultation period will be reported at Committee.
- 5.31 European case law suggests that interference with the human rights noted above will only be considered to engage those Articles and thereby cause a breach of human rights where that interference is significant. For the reasons set out in this report, I am satisfied that the proposed development should not:
- (i) impact on the right to live one’s personal life without unjustified interference such that Article 8 would be engaged; nor
 - (ii) unreasonably deprive any person of either their right to the peaceful enjoyment of their possessions or of their right to their possessions.

6. Planning Policy Framework

National Planning Policy

- 6.1 Published in February 2019 and modified in June 2019, the National Planning Policy Framework (hereafter referred to as ‘the NPPF’) sets out the Government’s planning policies for England and how these are expected to be applied.
- 6.2 The NPPF makes clear that the purpose of the planning system is to contribute to the achievement of sustainable development (paragraph 7) and that achieving sustainable development means that the planning system has three overarching objectives, which are interdependent and need to be pursued in mutually supportive ways, so that opportunities can be taken to secure net gains across each of the different objectives (paragraph 8), the overarching objectives identified to be:
- “(a) **an economic objective** – to help build a strong, responsive and competitive economy, by ensuring that sufficient land of the right types is available in the right places and at the right time to support growth, innovation and improved productivity; and by identifying and coordinating the provision of infrastructure;
 - (b) **a social objective** – to support strong, vibrant and healthy communities, by ensuring that a sufficient number and range of homes can be provided to meet the needs of present and future generations;

and by fostering a well-designed and safe built environment, with accessible services and open spaces that reflect current and future needs and support communities' health, social and cultural well-being; and

- (c) **an environmental objective** – to contribute to protecting and enhancing our natural, built and historic environment; including making effective use of land, helping to improve biodiversity, using natural resources prudently, minimising waste and pollution, and mitigating and adapting to climate change, including moving to a low carbon economy.”

6.3 Paragraph 9 of the NPPF makes clear that the overarching objectives are not criteria against which every planning decision can or should be judged, noting that decisions should play an active role in guiding development towards sustainable solutions but, that in doing so, should take local circumstances into account so as to reflect the character, needs and opportunities of each area.

6.4 In order that sustainable development is pursued in a positive way, at the heart of the NPPF is a presumption in favour of sustainable development (NPPF paragraph 10), which, for decision taking, amongst other matters, means:

“... approving development proposals that accord with an up-to-date development plan without delay”.

6.5 In relation to decision making, paragraph 38 of the NPPF states that local planning authorities should approach decisions on proposed development in a positive and creative way, using the full range of planning tools available and working proactively with applicants to secure developments that will improve the economic, social and environmental conditions of the area, and further states that decision-makers at every level should seek to approve applications for sustainable development where possible.

6.6 Paragraph 54 of the NPPF provides that local planning authorities should consider whether otherwise unacceptable development could be made acceptable through the use of conditions or planning obligations but notes that planning obligations should only be used where it is not possible to address unacceptable impacts through a planning condition.

6.7 Paragraph 55 of the NPPF provides that planning conditions should be kept to a minimum and only imposed where they are necessary, relevant to planning and to the development to be permitted, enforceable, precise and reasonable in all other respects. It is further stated that agreeing conditions early is beneficial to all parties involved in the process and can speed up decision making and that conditions that are required to be discharged before development commences should be avoided, unless there is a clear justification.

6.8 Paragraph 56 of the NPPF provides that planning obligations must only be sought where:

- (i) necessary to make the development acceptable in planning terms;
- (ii) directly related to the development; and

(iii) fairly and reasonably related in scale and kind to the development.

6.9 The NPPF further provides pertinent policy on a range of matters including:

- Delivering a sufficient supply of homes;
- Building a strong, competitive economy;
- Promoting healthy and safe communities;
- Promoting sustainable transport;
- Making effective use of land;
- Achieving well-designed places;
- Meeting the challenge of climate change, flooding and coastal change;
- Conserving and enhancing the natural environment; and
- Conserving and enhancing the historic environment.

6.10 The policies set out in the NPPF are supplemented by national Planning Practice Guidance (NPPG), the intention being that the NPPF and the PPG are read and applied together.

West Dorset, Weymouth and Portland Local Plan 2015 (the Adopted Local Plan)

6.11 The strategic objectives of the Adopted Local Plan provide a concise expression of the Plan's priorities and are listed as being:

- Support the local economy to provide opportunities for high quality, better paid jobs
- Meet local housing needs for all as far as is possible
- Regenerate key areas including Weymouth and Dorchester town centres, to improve the area's retail, arts, cultural and leisure offer; and increase employment opportunities
- Support sustainable, safe and healthy communities with accessibility to a range of services and facilities
- Protect and enhance the outstanding natural and built environment, including its landscape, biodiversity and geodiversity, and the local distinctiveness of places within the area – this will be the over-riding objective in those areas of the plan which are particularly sensitive to change
- Reduce vulnerability to the impacts of climate change, both by minimising the potential impacts and adapting to those that are inevitable – this will be the over-riding objective in those areas of the plan which are at highest risk
- Provide greater opportunities to reduce car use; improve safety; ensure convenient and appropriate public transport services; and seek greater network efficiency for pedestrians, cyclists and equestrians
- Achieve high quality and sustainable in design, reflecting local character and distinctiveness of the area

6.12 For each of the objectives, the Adopted Local Plan sets out more detailed policies to be applied to particular assets, locations and/or types of development, the following policies being particularly relevant to the determination of the application:

- INT1. Presumption in Favour of Sustainable Development
- ENV2. Wildlife and Habitats
- ENV4. Heritage Assets
- ENV5. Flood Risk

- ENV10. The Landscape and Townscape Setting
- ENV11. The Pattern of Streets and Spaces
- ENV12. The Design and Positioning of Buildings
- ENV13. Achieving High Levels of Environmental Performance
- ENV15. Efficient and Appropriate Use of Land
- ENV16. Amenity
- SUS2. Distribution of Development
- HOUS4. Development of Flats, Hostels and Houses in Multiple Occupation
- HOUS5. Residential Care Accommodation
- COM2. New or Improved Local Community Buildings and Structures
- COM3. The Retention of Local Community Buildings and Structures
- COM7. Creating A Safe and Efficient Transport Network
- COM9. Parking Standards in New Development
- COM10. The Provision of Utilities Service Infrastructure
- COM11. Renewable Energy Development

7. Consultee Response

7.1 Dorset Council Ward Member

No response received.

7.2 Weymouth Town Council

No objection.

7.3 Dorset Council Transport Development Liaison Engineer

Advises that the Highway Authority considers that the proposals do not present a material harm to the transport network or to highway safety and consequently has no objection.

Condition requested securing provision, retention and maintenance of proposed turning and parking.

Notes concern about suggested closure of Dorchester Road footway fronting site during the demolition phase commenting that avoiding one hazard with another is not acceptable and questioning whether the use of hoarding or fencing has been fully considered.

7.4 Dorset Council Conservation and Design Officer

Notes that they been involved in design development for the project and that they have a design reservation about the proposal. Comments that:

“In terms of site and building layout etc there are no concerns however the building design and use of modular components does not conform with the traditional building form, of dual pitched roofs and gable ends.

I understand there is a desire to reduce build costs and modular construction certainly reduces site time, however this is a contemporary building technique

which is very much a "modernist" modular technique which is not considered compatible with traditional construction form.

The proposal seeks to rebuild a similar building form but using different building materials and methods and this is considered a mistake. Either use the right material or make the design appropriate to the construction materials.

Nevertheless I see any harm limited to design only and overall the harm caused to the conservation area would be considered less than substantial and other benefits may well outweigh the level of harm perceived from the design."

7.5 Dorset Council Tree Officer

No response received.

7.6 The Theatres Trust

No comment.

8. Other Representations Received

- 8.1 In addition to the consultation responses summarised above, 1 other representation has been received from the Weymouth Civic Society noting:

"We appreciate the potential benefit to the town of proper provision for disadvantaged children.

However, we object strenuously to the design of the proposed new building. The materials in particular are utterly inappropriate. It is totally out of keeping with the adjacent buildings. It does not respect the character of the Conservation Area or make any positive contribution to it.

This should be an opportunity to construct a pleasing building in this important location on the main road into Weymouth. Numbers 43, 45 and 47 Dorchester Road are locally important and of a quality and age to be candidates for a Local List of Heritage Assets. Together with the former Weymouth College opposite, they form a significant group within the Conservation Area.

An example of a new structure blending with the original building can be seen at 47 Dorchester Road (Kildare Court), where the building immediately adjacent to this current site is a large extension which was constructed on the south side of the original house in 2007 (photo).

We also note that the proposed development will result in the loss of available parking, and we trust that the highway officer will take this into account."

9. Case Officer's Appraisal

- 9.1 Having regard to the provisions of the development plan, the information submitted in support of the application and the representations received, the main issues in the determination of the application relate to:

- (i) the adequacy of information submitted in support of the application;
- (ii) the acceptability in principle of the proposed development;
- (iii) climate change, flooding and impact on the natural environment;
- (iv) access, parking and accessibility;
- (v) the acceptability of the proposed design and its implications for the character and appearance of the application site and the surrounding area;
- (vi) the impact of the proposed development on the historic environment; and
- (vii) impact on amenity.

Adequacy of Information Submitted in Support of Application

- 9.2 Paragraph 43 of the NPPF is clear that the right information is crucial to good decision-making, particularly where formal assessments are required, but national practice guidance is equally clear that planning authorities should take a proportionate approach to the information requested in support of applications (PPG, Reference ID: 14-038-201403060).
- 9.3 The subject application is supported by a detailed Design and Access Statement and further supported by specialist reports addressing arboricultural and ecological issues. Environmental impact assessment pursuant to the EIA Regulations has not been undertaken but has not been deemed necessary.
- 9.4 No particular concerns have been raised in representations about the adequacy of the information submitted in support of the application and it is considered that such further details and actions as are necessary to ensure a satisfactory level of compliance with the development plan can reasonably be secured by means of planning condition.
- 9.5 Accordingly, subject to imposition of the planning conditions set out in section 10.1 below, I am satisfied that adequate information has been provided to enable the application to be determined and for planning permission to be granted.

Principle of Development

- 9.6 Amongst other matters, paragraph 118 of the NPPF provides that planning decisions should:
- (i) encourage multiple benefits from urban land;
 - (ii) give substantial weight to the value of using suitable brownfield land within settlements for homes and other identified needs;
 - (iii) support appropriate opportunities to remediate despoiled, degraded or derelict land; and
 - (iv) promote and support the development of under-utilised land and buildings, especially if this would help to meet identified needs for housing where land supply is constrained and available sites could be used more effectively.
- 9.7 The Application Site comprises previously developed land that has a history of community and employment use and which is shown on the Policies Map of the Adopted Local Plan to be located within the defined development boundary for Weymouth. Accordingly, the Application Site is shown to be within a main settlement identified as a highest priority location for development and wherein Policy SUS2 of

the Adopted Local Plan provides that residential, employment and other development to meet the needs of the local area will normally be permitted.

- 9.8 The Application Site is further shown to be within a designated Conservation Area, wherein special attention must be paid to the the desirability of preserving or enhancing the character or appearance of that area but is not subject to any site-specific land use policy or allocation.
- 9.9 The Environment Agency's Flood Risk Map for Planning shows the Application Site is shown to be in Flood Zone 1 and consequently to be at very low risk of flooding from rivers or the sea and is regarded as being at low risk of surface water flooding. The Site further benefits from existing mains service connections and is not subject of any statutory nature conservation designation.
- 9.10 The Design and Access Statement submitted in support of the application notes that the Application Site is situated in a convenient location, close to and within walking distance of local amenities; approximately 1.2 km (15 minute walk) from Weymouth town centre; 0.95 km (12 min walk) from Weymouth train station; approximately 0.6 km (7 minute walk) from the Weymouth College and 230 metres (3 minute walk) from the Weymouth Community Hospital. It is further noted that Dorchester Road is one of the principle thoroughfares into Weymouth and is well served by public transport, the nearest bus stop being immediately adjacent to the Application Site.
- 9.11 The application proposal provides for:
- (i) the demolition of some existing development that is considered to be of poor architectural quality and to be of no particular heritage significance, the demolition of which would enhance the character and appearance of the Lodmoor Hill Conservation Area;
 - (ii) the change of use of retained property to provide residential accommodation for care leavers to meet local needs;
 - (iii) the erection of a two-storey Residential Children's Home to meet local needs; and
 - (iv) the removal of areas of hard surfacing currently given over to vehicular parking and their replacement with landscaped amenity space to the benefit of biodiversity and the character and appearance of the area.
- 9.12 Parts of the retained building would also be used for office and administrative space for Children's Services and for other services to support looked after children and care leavers.
- 9.13 In relation to the proposed uses, the Design and Access Statement submitted in support of the application explains that Dorset Council needs to take steps to increase the availability of accommodation for children in care within Dorset in order to meet the county's statutory duty to ensure that there is sufficient accommodation for looked after children and that creating this residential provision will improve the service quality and outcomes for young people in Dorset. The Statement further notes that the existing building would be adapted to accommodate bed-sit type accommodation for care leavers with communal kitchen/dining/lounge facilities to the upper floors separated via the back entrance to the house, thereby keeping the ground floor accessible for the service to use with some office space being required

to ensure day to day roles and functions are carried out to care for the children in Dorset.

- 9.14 Policy HOUS4 of the Adopted Local Plan refers specifically to proposals for flats, hostels and houses in multiple occupation and states that such development should:
- (i) be compatible with the character of the area;
 - (ii) not result in a cramped form of development;
 - (iii) provide sufficient private amenity space within the site for the likely future occupants, normally comprising at least 10% of the site area for conversions providing 4 or more flats, and 20% of the site area for all new build schemes, unless such provision is undesirable in design terms.
- 9.15 Policy HOUS5 refers to residential care accommodation and provides that applications for new care accommodation should:
- (i) be located within a defined development boundary and at an appropriate scale in relation to the settlement;
 - (ii) meet with the strategic aims and objectives of Dorset County Council and NHS Dorset including demonstration of need for the service in the locality; and
 - (iii) provide sufficient private amenity space within the site for the likely future occupants, normally comprising at least 20% of the site area unless such provision is undesirable in design terms.
- 9.16 For the purposes of the Adopted Local Plan the term:
- (i) “community infrastructure” is defined to include a wide range of facilities including schools and social care facilities;
 - (ii) “employment” includes development in the B Use Classes such as offices, workshops and industrial premises and applies to non B class development which provides direct, ongoing local employment opportunities such as tourism and retail, but it does not apply to development that indirectly benefits the local economy (such as housing), and businesses such as farming, care homes and tourist accommodation providers, which are covered by other policies of the Plan;
 - (iii) “employment sites” includes land or premises that are presently in an employment use or, if vacant, previously in an employment use; and
 - (iv) “local community buildings and structures” may include shops, financial and professional services, schools, doctor’s surgeries, village halls, places of worship, restaurants, public houses, sports facilities and recreational open space normally used by the local community in which it is located.
- 9.17 Having most recently been used as a Registrar’s Office and as Adult Education Centre with associated employment, the Application Site falls to be considered as an “other” (i.e. non key) employment site and also constitutes community infrastructure with an existing local community building.
- 9.18 The application proposal provides for a specialist form of residential accommodation that as social care facilities will constitute community infrastructure delivered through the erection of new local building and the partial re-use of an existing local community building.
- 9.19 Policy COM3 of the Adopted Local Plan provides that planning permission for proposals, including change of use, which result in the loss of local community

buildings or structures (including sites which were most recently used for this purpose), will not be permitted unless:

- (i) it can be demonstrated that there is no local need for the facility or that such a facility is no longer likely to be viable; and
- (ii) an appropriate alternative community use to meet local needs is not needed or likely to be viable.

- 9.20 However, Policy COM2 of the Adopted Local Plan provides that proposal for new, replaced or improved local community buildings or structures will be permitted providing the proposal is within or adjoining an existing settlement, provided that the proposal would be well-located to be accessible to its main catchment population and would not generate significant additional single purpose trips by private transport and would not undermine the commercial viability of nearby community facilities which may be better placed to serve the needs of the community. It is further stated that regard will be had to the desirability of concentrating new community buildings and structures in settlements, especially where new housing development is permitted, and also ensuring that, where practicable, the design allows for a range of current and future uses.
- 9.21 In relation to other employment sites, Policy ECON3 of the Adopted Local Plan provides that the redevelopment of employment land and premises for non-employment uses that are in accordance with other planning policies will be permitted where it will not prejudice the efficient and effective use of the remainder of the employment area and redevelopment of the site would offer important community benefits or no significant loss of jobs / potential jobs.
- 9.22 The application addresses the development and use of the whole 'employment site', each of the former site uses having been relocated elsewhere such that the proposed development would not result in any job losses.
- 9.23 The proposal is for an appropriate alternative use to meet local needs that would involve a level of on-site employment, albeit with some positions falling outside of the definition of employment set out in the Adopted Local Plan.
- 9.24 The design merits and broader environmental implications of the proposed development are considered later in this appraisal, but the the proposed layout would not result in an unduly cramped form of development with well over 20% of the site area to be laid out out as private amenity space for likely future occupants.
- 9.25 Accordingly, the application proposal provides for an appropriate and beneficial form of development that would make more effective use of vacant, previously developed land for purposes that are in accordance with national and local land use policy and that would also be to the benefit of the local economy. The proposal is therefore acceptable in principle.

Climate Change, Flooding and Impact on the Natural Environment

- 9.26 Paragraph 148 of the NPPF provides that the planning system should support the transition to a low carbon future in a changing climate, taking full account of flood risk and help to:

- (i) shape places in ways that contribute to radical reductions in greenhouse gas emissions;
 - (ii) minimise vulnerability and improve resilience;
 - (iii) encourage the reuse of existing resources, including the conversion of existing buildings; and
 - (iv) support renewable and low carbon energy and associated infrastructure.
- 9.27 Paragraph 150 of the NPPF states that new development should be planned for in ways that:
- (i) avoid increased vulnerability to the range of impacts arising from climate change; and
 - (ii) can help to reduce greenhouse gas emissions, such as through its location, orientation and design, further stating that any local requirements for the sustainability of buildings should reflect the Government's policy for national technical standards.
- 9.28 Amongst others matters, paragraph 170 of the NPPF provides that planning decisions should contribute to and enhance the natural and local environment by;
- (i) minimising impacts on and providing net gains for biodiversity;
 - (ii) helping to improve local environmental conditions; and
 - (iii) remediating and mitigating despoiled, degraded and derelict land, where appropriate.
- 9.29 Policy ENV2 of the Adopted Local Plan provides the protection of important wildlife and habitats and further provides that proposals that conserve or enhance biodiversity should be supported and that opportunities to incorporate and enhance biodiversity in and around developments will be encouraged.
- 9.30 Policy ENV5 of the Adopted Local Plan provides that new development should be planned to avoid risk of flooding where possible and that the risk of flooding will be minimised by:
- (i) steering development towards the areas of lowest risk and avoiding inappropriate development in the higher flood risk zones;
 - (ii) ensuring development will not generate flooding through surface water runoff and/or exacerbate flooding elsewhere.
- 9.31 Policy ENV13 of the Adopted Local Plan provides that new buildings and alterations/ extensions to existing buildings are expected to achieve high standards of environmental performance.
- 9.32 The Environment Agency's Flood Risk Map for Planning shows the Application Site is shown to be in Flood Zone 1 and consequently to be at very low risk of flooding from rivers or the sea and is regarded as being at low risk of surface water flooding. The Site further benefits from existing mains service connections and is not subject of any statutory nature conservation designation.
- 9.33 The proposal is for foul and surface waters to be discharged to the main sewers, but the application proposal would see a reduction in hard surfaced area, resulting in increased infiltration of surface water thereby improving the sustainability of the existing drainage arrangement.

- 9.34 Tree loss to the proposed development would be limited to two poor quality trees, with all tree works to be undertaken outside the bird nesting season and the overall impact of the application proposal on biodiversity likely to be beneficial.
- 9.35 In relation to energy requirement, the Design and Access Statement notes that for the new building this will be reduced by the installation of doubled glazed window units throughout and building insulation to attain Simplified Building Energy Model (SBEM) calculations to the satisfaction of Dorset Council. It is further noted air source heat pumps will be used to provide heating and hoped that photovoltaic panels can be used on the rear roof pitch of the two storey section of the new building in accordance with Dorset Council's Sustainability Policies and Strategy.
- 9.36 Accordingly, it is considered that policy requirements in respect of climate change, flooding and the natural environment have been addressed adequately.

Access, Parking and Accessibility

- 9.37 Paragraph 91 of the NPPF provides that planning decisions should aim to achieve healthy, inclusive and safe places which:
- (i) promote social interaction;
 - (ii) are safe and accessible; and
 - (iii) enable and support healthy lifestyles, especially where this would address identified local health and well-being needs.
- 9.38 In relation to promoting sustainable transport, paragraph 108 of the NPPF provides that in assessing applications for development, it should be ensured that:
- (i) appropriate opportunities to promote sustainable transport modes can be – or have been – taken up, given the type of development and its location;
 - (ii) safe and suitable access to the site can be achieved for all users; and
 - (iii) any significant impacts from the development on the transport network (in terms of capacity and congestion), or on highway safety, can be cost effectively mitigated to an acceptable degree.
- 9.39 However, paragraph 109 of the NPPF provides that development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe.
- 9.40 In relation to achieving well-designed places, amongst other matters, paragraph 127 of the NPPF provides that planning decisions should ensure that developments create places that are safe, inclusive and accessible and which promote health and well-being, with a high standard of amenity for existing and future users.
- 9.41 Policy COM7 of the Adopted Local Plan provides that development should be located where the volume of traffic likely to be generated can be accommodated on the local highway network without exacerbating community severance and further provides that development will not be permitted:
- (i) where the residual cumulative impacts on the efficiency of the transport network are likely to be severe; and

- (ii) unless it can be demonstrated that it would not have a severe detrimental effect on road safety, or measures can be introduced to reasonably mitigate potentially dangerous conditions.
- 9.42 Policy COM9 of the Adopted Local Plan provides that parking should be provided in association with new residential development, with the amount of parking to be provided assessed under the methodology set out in the Bournemouth, Poole & Dorset Residential Car Parking Study, taking account of the following factors:
 - (i) levels of local accessibility;
 - (ii) historic and forecast car ownership levels;
 - (iii) the size, type, tenure and location of the dwellings;
 - (iv) the appropriate mix of parking types (e.g. unallocated, on-street, visitor etc).
- 9.43 Policy COM9 further states that cycle parking facilities should be provided where suitable private storage is not provided, at a ratio of one cycle space per 2 dwelling units.
- 9.44 As set out above, the Application Site is situated in a convenient, accessible location, close to and within walking distance of local amenities and readily accessible by public transport services.
- 9.45 In relation to vehicular access, the Design and Access Statement submitted in support of the application notes that the existing access from Dorchester Road was widened in 2015 from 3.850 metres to 6.075 metres to accommodate mini-buses used by Adult and Community Services, the proposal being that the access be reinstated to its original width so as *“to give the property more of a residential feel”*.
- 9.46 With regard to the demolition and construction period, the Design and Access Statement comments that:
 - (i) the existing access is adequate and suitable for a contractors access;
 - (ii) access for parking on the application site will be excluded during the works; and
 - (iii) the footway and bus stop adjacent to the site will be temporarily closed during the demolition phase and when the off-site constructed Residential Children’s Home is due to be crane lifted into its designated location, pedestrians being redirected to use the footway on the other side of the road.
- 9.47 Dorset Council’s Transport Development Liaison Engineer has indicated that the development proposals do not present a material harm to the transport network or to highway safety but has noted some concern relating to the suggested temporary footway closure. However, any such closure would require highway authority approval and hence is primarily a matter for regulation under highways, rather than, planning legislation.
- 9.48 The Application Site currently includes approximately 29 parking spaces, the proposal being for 9 car spaces including 2 accessible spaces plus stands for up to 10 bicycles, this reflecting anticipated operational requirements.
- 9.49 The Design and Access Statement further includes an Access Statement which, amongst other matters, indicates that:

- (i) the main and secondary entrance/exit doors will have level thresholds or be served by a suitable level platform with non-slip surfaces, and will have a minimum 30 points colour difference to the main structure;
- (ii) the existing level access to the existing building will be improved with a designated pedestrian access being separated from vehicular traffic;
- (iii) the proposed Residential Children's Home will have level access with access paths at accessible gradients of 1:21 or shallower and that steps and ramps if any required will comply with Part M of the Building Regulations;
- (iv) adequate signage will be provided throughout, all to comply with Part M of the Building Regulations;
- (v) the entrance lobby is suitable for wheelchair users;
- (vi) all internal doors to the new building will be a minimum 914 mm wide;
- (vii) internal floor finishes will be carpet or vinyl where appropriate with no trip hazards;
- (viii) toilet accommodation will be provided, including an accessible toilet on the ground floor;
- (ix) height of electrical switches, door handles and door openings etc. have all been considered in this design, but it is intended that when a child is placed in the new building, adequate/additional facilities will be provided to aid each individual child;
- (x) no lift will be provided, but appropriate/alternative accommodation for children with disabilities will be drawn up in a management plan by the end user, if required; and
- (xi) no particular provision has been made for people with hearing difficulties within the new building.

9.50 Accordingly, it is considered that policy requirements in respect of access, parking and accessibility have been addressed adequately.

Design, Character and Appearance

9.51 Paragraph 124 of the NPPF is clear that the creation of high quality buildings and places is fundamental to what the planning and development process should achieve and that good design is a key aspect of sustainable development, creates better places in which to live and work and helps make development acceptable to communities.

9.52 Amongst other matters, paragraph 127 of the NPPF provides that planning decisions should ensure that developments:

- (i) will function well and add to the overall quality of the area, not just for the short term but over the lifetime of the development;
- (ii) are visually attractive as a result of good architecture, layout and appropriate and effective landscaping;
- (iii) are sympathetic to local character and history, including the surrounding built environment and landscape setting, while not preventing or discouraging appropriate innovation or change;
- (iv) establish or maintain a strong sense of place;
- (v) optimise the potential of the site to accommodate and sustain an appropriate amount and mix of development; and
- (vi) create places that are safe, inclusive and accessible and which promote health and well-being, with a high standard of amenity for existing and future

users; and where crime and disorder, and the fear of crime, do not undermine the quality of life or community cohesion and resilience.

9.53 Paragraph 130 of the NPPF provides that:

“Permission should be refused for development of poor design that fails to take the opportunities available for improving the character and quality of an area and the way it functions, taking into account any local design standards or style guides in plans or supplementary planning documents. Conversely, where the design of a development accords with clear expectations in plan policies, design should not be used by the decision-maker as a valid reason to object to development.”

9.54 Policy ENV10 of the Adopted Local Plan provides that:

- (i) all development proposals should contribute positively to the maintenance and enhancement of local identity and distinctiveness and that development should be informed by the character of the site and its surroundings;
- (ii) development will provide for the future retention and protection of trees and other features that contribute to an area’s distinctive character, noting that such features may not always be designated or otherwise formally recognised;
- (iii) development should only be permitted where it provides sufficient hard and soft landscaping to successfully integrate with the character of the site and its surrounding area; and
- (iv) opportunities to incorporate features that would enhance local character, including public art, or that relate to the historical, ecological or geological interest of a site, should be taken where appropriate.

9.55 Amongst other matters, Policy ENV11 of the Adopted Local Plan provides that within existing settlements, development should ensure that provision is made for bin stores, recycling facilities, drying areas, cycle parking, mobility scooter storage and private amenity/garden space (and associated storage and composting facilities) appropriate to the uses proposed and character of the area and further provides that places should be designed to reduce opportunities for, and fear of, crime.

9.56 Policy ENV12 of the Adopted Local Plan addresses the design and position of buildings stating that development will achieve a high quality of sustainable and inclusive design and will only be permitted where it complies with national technical standards and where the siting, alignment, design, scale, mass, and materials used complements and respects the character of the surrounding area or would actively improve legibility or reinforce the sense of place. It is further explained that this means that:

- (i) the general design should be in harmony with the adjoining buildings and the area as a whole;
- (ii) the position of the building on its site should relate positively to adjoining buildings, routes, open areas, rivers, streams and other features that contribute to the character of the area;
- (iii) the scale, mass and positioning of the building should reflect the purpose for which the building is proposed;

- (iv) the quality of the architecture is appropriate to the type of building with particular regard to its architectural elegance, symmetry and rhythm, and richness of detail;
- (v) materials are sympathetic to the natural and built surroundings and where practical sourced locally;
- (vi) any alterations to or extensions of buildings should be well related to, and not overpower, the original building or neighbouring properties, unless they achieve significant visual enhancement to both the building and surrounding area;
- (vii) new housing should meet and where possible exceed appropriate minimum space standards.

9.57 Policy ENV15 of the Adopted Local Plan provides that development should optimise the potential of the site and make efficient use of land, subject to the limitations inherent in the site and impact on local character.

9.58 The Lodmoor Hill Conservation Area includes a range of residential, commercial and other uses and a diversity of building styles, but with the buildings that most define the character and significance of the designated mostly constructed as grand Victorian and Edwardian villas many of which have now been converted into flats or adapted for other uses. The area also includes some more recent buildings that have a negative impact on the character and appearance of the area.

9.59 Where buildings have been converted and altered within the Conservation Area, the plot pattern has generally been retained. Low brick front boundary walls are part of the setting of many of the historic buildings within the Conservation Area. Where the walls have been lost this has had a negative impact on the appearance of the Conservation Area. Although many buildings now have car parking areas to their frontage, some retain their original gardens, this generally being to the benefit of both character and appearance of the area.

9.60 The buildings at Nos 43, 45 and 47 Dorchester Road are not listed but form part of a wider cluster of surviving, albeit much altered, Victorian and Edwardian buildings of aesthetic notes and which also includes the Grade II listed Cranford House opposite the application and the now converted Old College Chapel to the south of Rickets Close. The significance of these assets resides primarily and roughly equally in their architectural and historic interest which tells of the growth of, an investment in, the Melcombe Regis area in the late 19th and early 20th century,

9.61 In relation to the historical context of the Application Site, the Design and Access Statement submitted in support of the application notes that:

“Buildings, such as 45 Dorchester Road, did not always follow a true Architectural style but were more about showing the wealth of the owner, hence the turrets and castellated elevations etc. A true reflection therefore, of history cannot always be achieved by copying what is there, too closely.

Many of the local buildings prior to this period were smaller cottages or terraced family properties, such as Sharraw Buildings, built circa 1830, which had a Stucco Render finish. Similarly Radipole Terrace, which was part of the Old Radipole Barracks, had a ‘Mathematical Tiles’ finish to its elevations.

As with the Old Weymouth College Building some of the older properties in the area have either been demolished, extended or converted, the latter usually as multi-use residential buildings.

The neighbouring building located at 47 Dorchester Rd, built at a similar time, to No. 45, has been vastly extended to create a three storey apartment block, circa 2005. This was created by mimicking the original building. However, between the original house and extension a full height glazed atrium was installed providing a clear visual break between the new and the old.

Other properties that have been erected in the area over recent years have been developed as a pastiche of earlier buildings. By doing this however, historical context can be lost over time by the continuation of this design method.”

- 9.62 The application proposal provides for the demolition of the modular building in the rear part of the site and for the demolition of the single storey link corridor that connects to the original building. None of the built form that would be lost to the proposed development is considered to make a positive contribution to the character and appearance of the Lodmoor Conservation Area, such that their demolition would of itself enhance the character and appearance of the designated area.
- 9.63 The Application Site has a number of large trees which are desirable to retain. The application provides for the removal of two poor quality with significant amount of decay and other tree works including crown lifting and reduction of lateral branches as recommended by the Council’s Arboricultural Officer, some works having now been undertaken so as to facilitate the safe demolition and removal of the modular building.
- 9.64 The proposed change of use of the remaining building would see the ground floor accessible for service use, whilst the upper floors would be reinstated to residential use, albeit in multiple, rather than single occupation. All bed-rooms would have an en-suite bathroom and all residents would have access to communal kitchen/dining/lounge facilities.
- 9.65 It is considered that the re-instatement of residential use to the former villa as proposed would be undertaken without material harm to character, appearance or amenity of the surrounding area and without unacceptable harm to the heritage significance of the building itself.
- 9.66 In relation to the new building, amongst other matters, the Planning Statement contained in the Design and Access Statement submitted in support of the application notes that:
- “1. The proposal is to demolish an existing modular building and replace with a new building to be sited forward of the demolished building but within the building line of the adjacent properties.
 2. The new building will be of an off-site construction has been designed to suit the surrounding properties and to sit comfortably within the local conservation area.

3. The external appearance of the new building has therefore been developed to compliment its surroundings and has not been designed to look like the main house or adjacent properties, which were Grand Edwardian Family Villas.
4. The new building is to have a subservient feel of a Victorian Terrace property, as per the houses of 5 – 8 Spring Court which are located between the properties of 41 and 43 Dorchester Road.
5. The new building is located between the main house of 45 Dorchester Road and the large extension of 47 Dorchester Road and would fit with the existing ribbon development style of this area.
6. In keeping with this theme, the rear of the property has been created to look like one of the coach houses to the main properties, such as the new build to the rear of the neighbouring 43 Dorchester Road.
7. The proposed finishes are of a modern design and use modern materials, in keeping with the off-site construction and up to date regulations, have been designed to appear as similar lesser properties in the area. The cement fibre rainscreen panels are to be fitted to present a stacked pattern, windows with a conservative design to compliment the walls will mirror the simple narrow sash windows of other properties within the neighbourhood. The roof will have a Welsh slate tile, or similar approved, finish to blend with some of the surrounding buildings.
8. It is intended to retain all of the existing trees on site except for 2 of poor quality, as detailed in the tree survey information.
9. As part of the re-development of the site there will be a re-organisation of the existing car park/tarmac area.
10. Revised/new landscaping will also be included in the works to improve the greenspace on site and to soften the impact of the new building.”

9.67 Elsewhere the Design and Access Statement variously comments that:

“The brief, from Dorset Council Children’s Services, was to create a building that would not be institutional but to have something that would feel like a home and give a sense of belonging. These vulnerable children require a building with privacy and a homeliness that they may not have found previously.

We have designed the building along these lines by locating the children’s bedrooms, with en-suite facilities on the first floor as you would find in any residential property. The lounge, Kitchen and Dining Area are located on the ground floor to suit, along with some ancillary rooms such as Staff Bedrooms, a Laundry and a Chill-out Room.

This will provide a self contained living space for these children and will offer a safe place to live and grow.

... This is a building with smaller proportions to that of its neighbours and the existing Edwardian Villa that is located within the boundary of the site. The size and mass of the building replicates some of the other 'lesser' buildings in the local area.

There are a few examples of properties constructed in the area that show they have been designed to be of a subservient style building to the grand buildings and villas that dominate the neighbourhood. One of these being the terrace of cottages known as Spring Grove Court. ...

The proposed new building has not been designed as a pastiche of existing buildings, it is clearly a new building of a contemporary style which does not try to copy adjacent architecture styles.

The elevations to the building are to be clad in a fibre cement rainscreen cladding this will be arranged in a stacked formation with a colour to suit the local area and to be agreed by Dorset Council, the Local Planning Officer and the Conservation Officer. The windows will be of a simple design to reflect the narrow sash windows of other smaller properties in the locale. The roof will be covered with a Welsh Slate, or similar approved, tile to complement its surroundings."

"These proposals follow the initial brief that was set out by Children's Services to provide a building with a homely, residential feel. We have followed guidance from Planning and Conservation Officers to offer a suitable design for the area. This new building is designed to stand amongst grander buildings and still make a statement, it will also provide a valuable service to the local community of Weymouth for years to come."

9.68 The site proposal further includes:

- (i) the partial conversion of existing car park area to landscaped gardens with ornamental, herb and vegetable planters, paths and designated sitting areas for the Children's Home;
- (ii) the creation of smaller pocket gardens to the front and rear of the surviving building with sitting for young people to relax;
- (iii) improvement of the existing vegetation and creation of additional green spaces and native planting for wildlife;
- (iv) improvement of existing fencing arrangement and installation of perimeter fencing and railings;
- (v) restoration of the the former vehicular access and gates with restored metal railing added to existing Dorchester Road boundary wall to match adjacent property;
- (vi) black metal railings and gates are to be added to the perimeter of the proposed Residential Children's Home;
- (vii) creating of a secure perimeter boundary, the low-level red brick boundary wall off Park Lane to be adjusted and repaired, and timber screen fencing to be added to match adjacent property fencing; and

- (viii) the rearrangement of on-site parking to provide spaces for 9 cars including 2 accessible spaces and cycle stands for up to 10 bicycles.

9.69 In relation to the landscape proposal, the Design and Access Statement notes that:

“The proposed landscape layout was designed for end-users; vulnerable children and young people of Dorset. The provision of a variety of safe outdoor spaces will create an opportunity for children's engagement with nature, an opportunity for outdoor learning and play areas on their doorstep. The landscaped garden will help children and young people to connect with nature, become more active, learn outdoors and have fun.

The inspiration for the materials used was taken from the existing site and adjacent properties. The colours, textures, style for the external materials are appropriate for both the Edwardian Villa and the new Residential Children's Home. Creation of the same style for both properties will give a feeling of unity between them. The brick planting beds are laid out geometrically and symmetrically, buff colour paving and resin-bound gravel is kept simple and not complicated. All proposed paths have accessible gradients. The colours of the proposed materials are complimentary to existing brick walls and the main building façade materials.

The proposed planting is simple, colourful and engaging. The low maintenance ornamental planting, herb & vegetable planting brings an element of fun with different shapes, colours and fragrances.

A mixture of grassed areas, planters, native planting with paving and resin-bound gravel gives variety of sensory experiences.”

9.70 In relation to impact on heritage and the Conservation Area, the submitted Design and Access Statement comments:

“The existing modular building in the grounds of the site has no relevant Architectural connection to its location. The demolition of this building and the brick wall that ‘hides’ it from the main road can only improve the negative impact that these structures project.

A large amount of the tarmac hardstanding will be removed and replaced with a softer residential style of landscaping. The site will then be left with the existing Edwardian Villa, the new Children's Residential Home and a fully landscaped garden surrounding the site, giving an appearance of how the original residential site would have been intended.

The new building will have the mass and scale of some of the subservient properties in the neighbourhood, being of a two storey design and of similar proportions to the terrace at Spring Grove Court, reflecting the fact that it stands within the grounds of the more important and historical building.

This new building will stand within the building line of the adjacent properties and well forward of the rear boundary, where new landscaping will create a rear garden for its residents.

The proposals for 45 Dorchester Rd. are to recreate a family home appearance and to remove the look, which it has at present, of a once characterful residential building being turned into private offices or an institutional campus. This will enhance the impact on the local heritage and Conservation Area.”

“The existing Edwardian property will have minimal works carried out externally, only remedial maintenance works, thus keeping its integrity and historical heritage intact.

The new building will have elevations that use simple contemporary materials that provide a clear statement that this is a new building while using the form of more traditional construction. This will create a building sympathetic with some of the more subservient terrace or cottage style properties in the neighbourhood.

A limited palette of materials has been chosen where the materials complement each other and create a contemporary expression. These will be harmonious with the location and the surrounding buildings, without resorting to pastiche.

The site as it is, does not impact kindly upon the Conservation area that it is located in and although a new/replacement building will be created, the project as a whole has been designed to compliment its surroundings. This will bring the heritage asset of the existing Edwardian Villa back to its original intentions.”

- 9.71 In response to the application proposal Dorset Council’s Conservation and Design Officer has indicated that there are no concerns in terms of the site and building layout, but expressed reservation that the building design and use of modular components does not conform with the traditional building form of dual pitched roofs and gable ends, and that the contemporary building technique is not considered to be compatible with traditional construction form.
- 9.72 It must, however be noted that the development plan does not preclude the use of contemporary building techniques and paragraph 127 of the NPPF is clear that planning decisions should ensure that developments are
- “... sympathetic to local character and history, including the surrounding built environment and landscape setting, while not preventing or discouraging appropriate innovation or change”.
- 9.73 The Weymouth Civic Society object to the design of the proposed buildings, commenting that the materials are “utterly inappropriate”; that the proposed building is totally out of keeping with the adjacent buildings; and that it does not respect the character of the Conservation Area or make any positive contribution to it.
- 9.74 In my opinion, the application proposal is sympathetic to the local character and historic environment and, subject to the careful selection, approval and use of appropriate external materials and finishes, would not harm either the character or appearance of the Lodmoor Hill Conservation Area nor detract from the setting of

any other designated heritage asset. Indeed, replacement of the existing, unsightly, and poor quality single storey elements with a detached, two-storey building sited between the taller neighbouring buildings and the associated landscaping proposals will enhance the character and appearance of the designated Conservation Area and not materially detract from the setting of the Grade II listed former Weymouth Technical College.

- 9.75 Accordingly, having regard to the content of the submitted Design and Access Statement and having particular regard to the desirability of preserving the setting of the Grade II listed former Weymouth Technical College and of preserving or enhancing the character or appearance of the Lodmoor Hill Conservation Area, I am satisfied the proposed design is acceptable and should be considered to be in accordance with both national and local design policy.

Impact on the Historic Environment

- 9.76 Paragraph 184 of the NPPF notes that heritage assets are an irreplaceable resource and should be conserved in a manner appropriate to their significance, so that they can be enjoyed for their contribution to the quality of life of existing and future generations.
- 9.77 Policy ENV4 of the Adopted Local Plan provides that the the impact of development on a designated or non-designated heritage asset and its setting must be thoroughly assessed against the significance of the asset, and that development should conserve and where appropriate enhance the significance.
- 9.78 As set out above, it is considered that the application proposal is sympathetic to the local character and historic environment and would not harm either the character or appearance of the Lodmoor Hill Conservation Area nor materially detract from the setting of the Grade II listed former Weymouth Technical College.
- 9.79 The archaeological potential of the Application Site is considered to be sufficiently limited that mitigation by recording is not considered necessary.
- 9.80 Accordingly, I am satisfied that the application is in accordance with local and national planning policy for the conservation and enhancement of the historic environment.

Impact on Amenity

- 9.81 Policy ENV16 of the Adopted Local Plan states that proposals for development should be designed to minimize their impact on the amenity and quiet enjoyment of both existing residents and future residents within the development and close to it and that, as such, development proposals will only be permitted provided:
- (i) they do not have a significant adverse effect on the living conditions of occupiers of residential properties through loss of privacy;
 - (ii) they do not have a significant adverse effect on the amenity of the occupiers of properties through inadequate daylight or excessive overshadowing, overbearing impact or flicker;

- (iii) they do not generate a level of activity or noise that will detract significantly from the character and amenity of the area or the quiet enjoyment of residential properties; and
- (iv) they do not generate unacceptable pollution, vibration or detrimental emissions unless it can be demonstrated that the effects on amenity and living conditions, health and the natural environment can be mitigated to the appropriate standard.

- 9.82 The proposal allows for residential and office use within a predominantly residential area and is considered unlikely to generate a level of activity or noise that would detract significantly from either the character and amenity of the area or the quiet enjoyment of neighbouring residential properties.
- 9.83 Some concern was expressed during pre-application discussions with third parties that the proposed building would impact on side facing, habitable room windows present in apartments at Kildare Court, with suggestions advanced that:
- (i) the proposed building should be moved further away from Kildare Court; and
 - (ii) that a hipped-roof should be used in preference to gable ends so as to reduce the physical mass of the proposed building.
- 9.84 These suggested changes have not been incorporated into the proposed design, but it is proposed to locate the new building centrally between the neighbouring buildings and the Design and Access Statement submitted in support of the application includes a shadowing assessment indicating only slight change at Kildare Court.
- 9.85 Having regard to the relative positioning of the proposed and existing building, I am content that the proposal would not have an unacceptable impact on residential amenity on account of increased over-shadowing and that the proposed development would not appear either unduly dominant or unacceptably over-bearing when viewed from the neighbouring properties. I am also satisfied that the proposed development would not have a significant adverse effect on the living conditions of occupiers of residential properties through loss of privacy.

Conclusion

- 9.86 For the reasons set out above, subject to the conditions set out in paragraph 10.1 below, it is considered that the application proposal is in general accordance with the development plan and that there are no material considerations warranting determination of the application other than in accordance with the development plan. Accordingly, planning permission can and should be granted.

10. Details for Inclusion in Decision Notice

10.1 Recommended Planning Conditions

Time Limit – Commencement of Development

1. The development hereby permitted shall be begun not later than the expiration of three years from the date of this permission.

Reason

In accordance with section 91 of the Town and Country Planning Act 1990 (as amended).

Development in Accordance with Approved Plans and Drawings

2. Unless otherwise required by the conditions of this permission the development hereby permitted shall be carried out in accordance with the following approved plans and drawings:
- (i) Dorset Property Drawing No. L101 Revision P1 dated 20.04.20 and titled Site Location Plan;
 - (ii) Dorset Property Drawing No. L102 Revision P1 dated 20.04.20 and titled Tree Constraints and Demolition Plan Site as existing;
 - (iii) Dorset Property Drawing No. L110 Revision P1 dated 07.07.2020 and titled Proposed Site Layout Landscape Strategy Plan;
 - (iv) Dorset Property Drawing No. A300 Revision P3 dated 15.07.2020 and titled Proposed GA Plans;
 - (v) Dorset Property Drawing No. A301 Revision P2 dated 15.07.2020 and titled Proposed Elevations and Site/Location Plan;
 - (vi) Dorset Property Drawing No. A302 Revision P1 dated 15.07.2020 and titled Proposed External Elevation Finishes Plan; and
 - (vii) Dorset Property Drawing No. 2 010 dated 16.07.2020 and titled Proposed Planning Plans.

Reason

To ensure appropriate control over the proposed development having regard to policies ENV2 (Wildlife and Habitats), ENV4 (Heritage Assets), ENV10 (The Landscape and Townscape Setting), ENV11 (The Pattern of Streets and Spaces), ENV12 (The Design and Positioning of Buildings), ENV13 (Achieving High Levels of Environmental Performance) and ENV16 (Amenity) of the adopted Weymouth and Portland Local Plan 2015.

Submission and Approval of External Materials

3. The erection on-site of the Residential Children's Home hereby permitted shall not commence unless and until details and samples of all external materials and finishes to be used in the construction of the building have been submitted to and approved in writing by the local planning authority. The Residential Children's Home shall be constructed using the materials and finishes as approved.

Reason

In the interest of the character and appearance of the locality having regard to policies ENV4 (Heritage Assets), ENV10 (The Landscape and Townscape Setting), ENV12 (The Design and Positioning of Buildings), and ENV16 (Amenity) of the adopted Weymouth and Portland Local Plan 2015.

Implementation and Maintenance of Landscape Proposals

4. Hard and soft landscaping shall be undertaken in accordance with the arrangements detailed on the approved plans and drawings listed in condition 2 of this permission. All planting and seeding comprised in the soft landscaping proposals shall be carried out before the end of the first planting season (October to March) following the substantial completion of any adjacent development hereby permitted. Any trees or plants that within a period of five years after planting are removed, die or become seriously damaged or defective shall be replaced as soon as practicable with others of species, size and number as originally approved.

Reason

In the interest of the character and appearance of the locality, amenity, biodiversity and climate change mitigation having regard to policies ENV2 (Wildlife and Habitats), ENV4 (Heritage Assets), ENV10 (The Landscape and Townscape Setting), and ENV11 (The Pattern of Streets and Spaces) of the adopted Weymouth and Portland Local Plan 2015.

Access and Parking Arrangements

5. Prior to the first occupation of the Residential Children's Home hereby permitted the access, turning and parking arrangements shown on Dorset Property Drawing No. L110 Revision P1 dated 07.07.2020 and titled Proposed Site Layout Landscape Strategy Plan shall be laid out and constructed in accordance the arrangements shown on that Plan. Thereafter these areas shall be kept free from obstruction and shall be made available and maintained for the purposes specified.

Reason:

To ensure the proper and appropriate development of the site having regard to policies ENV4 (Heritage Assets), ENV10 (The Landscape and Townscape Setting), and ENV11 (The Pattern of Streets and Spaces) of the adopted Weymouth and Portland Local Plan 2015.

Tree Protection and Implementation of Biodiversity Plan

6. The development hereby permitted shall be carried out in accordance with the Arboricultural Impact Assessment and Arboricultural Method Statement dated 19th May 2020 prepared by Dorset Council's Arboricultural Officer submitted with the application the biodiversity mitigation and enhancement measures documented in the Biodiversity Plan dated 30.06.20 prepared by Dorset Council's Natural Environment Team and submitted with the planning application shall be implemented in accordance with that Pan.

Reason

In the interest of biodiversity having regard to policy ENV2 (Wildlife and Habitats) of the adopted Weymouth and Portland Local Plan 2015.

10.2 Informative Notes to be Included on Decision Notice

Statement of Positive Involvement

1. In accordance with paragraphs 186 and 187 of the National Planning Policy Framework, Dorset County Council, as local planning authority, takes a positive and proactive approach to development proposals focused on solutions. The Council worked with the applicant/agent in a positive and proactive manner by:
 - (i) providing a pre-application advice service;
 - (ii)
 - (iii) updating the applicant's agent of issues as they arose in the processing of the application;
 - (iv) discussing possible solutions to material concerns raised; and
 - (v) providing the applicant with the opportunity to address issues of concern with a view to facilitating a recommendation to grant permission.

Reason for Granting Planning Permission

2. The reason for granting planning permission is set out in the Planning Officer's report which may be viewed online through the application webpages accessible by entering the application details at <https://planning.dorset.gov.uk/public-access/>.

Report Prepared By: Huw Williams MRTPI - Lead Project Officer
Economic Growth and Infrastructure, Dorset Council

Completed: 24 November 2020

Western and Southern area Planning Committee

3rd December 2020

Appeal Decisions

1. PURPOSE AND RECOMMENDATIONS

Purpose of Report: To inform Members of notified appeals and appeal decisions and to take them into account as a material consideration in the Planning Committee's future decisions.

Recommendations: It is **RECOMMENDED** that:
This report is for Information

Wards: Those covered by the area planning committee

2.0 Appeal Decision no. 1

Appeal Reference: APP/D1265/W/20/3254095

Planning Reference: WP/17/00836/FUL

Proposal: The construction of new vehicular and pedestrian access, surface water management ponds, open space and landscaping

Address: Land to the north west of Wessex Roundabout, Radipole Lane, Chickerell

- 2.1 The planning application was considered by the Western and Southern Area Planning Committee in July 2020. The case officer for the application recommended to the committee that the application be approved. The committee decision was to refuse planning permission for the following reason:

The development does not make adequate provision for pedestrians and cyclists with narrow pavements and no pavement to the south of the vehicular access, beyond the entrance to the site, meaning that pedestrians and cyclists would have to cross the access road to continue on a pavement into the site. Hence the proposal is contrary to Policy ENV11 of the West Dorset, Weymouth and Portland Local Plan (2015) and Paragraphs 91a and 110a of the National Planning Policy Framework (2019).

- 2.2 The applicant subsequently appealed the decision and the appeal proceeded by means of written representations.
- 2.3 The Inspector considered the main issue to be the effect of the development on pedestrians and cyclists. The Inspector considered that the nearby roundabout was well served by shared use pedestrian and cycle facilities and

it is reasonable to expect a demand for pedestrian and cycle movements to and from the site, irrespective of whether the adjacent proposed housing development occurs. The site is within 2.5km of the town centres and 8km cycle distance of the majority of Weymouth. Such distances to nearby residential areas, services and employment make sustainable travel a realistic alternative to private car use.

- 2.4 The Inspector notes that the scheme would require cyclists leaving the site toward the roundabout, to turn right out of the proposed access on-road and then join the shared use facilities at the roundabout. The alternative would be for cyclists to dismount when leaving the site, crossing the proposed access road to the short section of intended footway and walk along the proposed link to the roundabout, pushing their bicycle. This would be counter intuitive, likely increasing conflicting traffic movements from that which currently exists, particularly for those wishing to travel to or from the west or south of the site and would not encourage sustainable travel.
- 2.5 The Inspector considers that pedestrians wishing to access or egress the south of the adjacent site would need to cross the proposed access road and then back on themselves a short distance later, contrary to the natural desire line. That the appellant doesn't consider it feasible to construct a longer footway on the southern side of the proposed access does not make the proposal acceptable.
- 2.6 The Inspector considered he had insufficient information before him to consider that the lack of provision for pedestrians and cyclists would not lead to highway safety issues at or around the proposed access. The proposal does not cater for natural desire lines. The proposal would not facilitate adequate access to the nearby cycle facilities, requiring them to cross the road at closer proximity to the busy roundabout than that currently.
- 2.7 The inspector acknowledged that the proposal may result in betterment to visibility than at the current junction and create a new footway link to the roundabout. He also accepted that it would not adversely effect congestion or parking. The proposal as a whole does not cater sufficiently for pedestrians and cyclists and would not encourage sustainable travel. The proposal would not accord with Policy ENV11 of the adopted local plan, which amongst other things seeks to ensure development proposals are clear and simple for people to use and are well connected with the surrounding areas. The proposal would not accord with the NPPF, particularly paragraphs 91a and 110a which amongst other things seek to ensure that planning decisions should aim to achieve healthy, accessible places and allow for easy pedestrian and cycle connections.

3.0 Appeal Decision no. 2

Appeal Reference: APP/D1265/W/20/3254096

Planning Reference: WD/D/17/002597

**Proposal: Application for approval of reserved matters for access, appearance, landscaping, layout and scale in relation to outline approval
WD/D/14/001938**

Address: Wessex Stadium, Radipole Lane, Chickerell, DT4 9XJ

- 3.1 The application was considered by the Western and Southern Area Planning Committee in February 2020. The case officer for the application recommended to the committee that the application be approved. The committee decision was to refuse planning permission for the following reasons:
1. The proposed development by reason of its design and materials is not in keeping with nearby development. It is considered to be poor quality design with an urban character in a rural setting and is bland and lacking in distinctive character. Hence the proposed development is contrary to Policies ENV10 and ENV12 of the West Dorset, Weymouth and Portland Local Plan (2015) and paragraphs 127 and 130 of the National Planning Policy Framework (2019).
 2. The proposed development having only one access point lacks permeability and constitutes poor urban design with a lack of choice of routes into, out of and through the site contrary to Policy ENV11 of the West Dorset, Weymouth and Portland Local Plan (2015) and paragraph 127 of the National Planning Policy Framework (2019).
- 3.2 The appeal proceeded by means of written representations. The Inspector considered that the first main issue was the impact on character and appearance. The Inspector considered that the character and appearance of the area was reflective of an urban fringe and there was no established pattern to the built form or land use. The upper levels of large structures in the immediate area are also clearly visible from some distance. The Inspector considered that although the upper floors of the proposed apartment blocks would be visible from the B3157 there would be a degree of screening by virtue of proposed landscaping. Similarly, although relatively tall, when seen in the context of existing buildings nearby, including the Police HQ and that which they would replace, the scale of the proposed development would not be at odds with that in the immediate area.
- 3.3 The Inspector considered that the appearance of the buildings in the proposed development would incorporate a mixed design, breaking up the overall appearance of the built form of the site. He noted that the proposed materials are used in the closest residential areas, albeit there is no prevailing uniformity in appearance to the area given its mixed type and form.
- 3.4 The Inspector considered that whilst 2.5 storey dwellings were proposed and residential development in the area of 1.5 or single storey the proposed development sits well away from those buildings, separated by proposed landscape screening and the large utilitarian Police HQ. That the proposed buildings do not have chimney pots would not harm the character and appearance of the area. It was apparent that chimney pots were not a feature of several large residential sections of the Southill area to the east. The

Inspector considered that the landscaping proposals would screen the development at the boundaries and planting within the development would further punctuate the built form.

- 3.5 The Council highlighted to the Inspector recent development at Putton Lane. The Inspector considered that the appeal site was not in the same context as those sites.
- 3.6 The Inspector concluded that by virtue of the mixed pallet of materials proposed, the surrounding land use, presence of other existing tall buildings nearby and a clear separation between the proposed development and the nearest residential areas, the proposed development would not harm the character and appearance of the area. The Inspector considered that the development would accord with Policies ENV10 and ENV12 of the local plan and the NPPF.
- 3.7 The second issue considered by the Inspector was the proposed layout of the development. The Inspector noted that separate footways exist in parts of the proposed development however they generally feature on only one side of the road. This would necessitate the crossing of the proposed development's roads contrary to likely desire lines to move around within the development and to access or egress the site. The Inspector considered that those residents wishing to access the LEAP from the south and south-west would require an unnecessarily circuitous walk from their homes. An informal grassy path at the west of the site due to its position and stepped access would in the Inspector's view not be readily used. Furthermore it would be of unmade construction.
- 3.8 The location of parking spaces at the south of the site for apartments 10-27 would necessitate residents walking to and from their cars either in the road to cross the road to the footway opposite and back again which would be contrary to desire lines. The Inspector noted that this would be a particular issue for the disabled and other reliant on footways for travel.
- 3.9 The Inspector considered that permeability for pedestrians was further constrained when seeking to access or egress the site from properties in the south by virtue of only one footway leaving the site to the main access point. Those reliant on footways would have to cross the road twice to access their home. Whilst informal grasscrete paths are proposed to the eastern edge of the site they would lead to private land not in the applicant's control and would not connect to the nearby public right of way. As such residents wishing to use the right of way would have to walk a long distance through the site to double back on themselves at the main access.
- 3.10 The Inspector considered that off-road cycle facilities are not required in the proposal. However he considered the proposals did not sufficiently cater for likely pedestrian movements and desire lines. The Inspector that just because the development received no objections from the highway authority on road safety rounds does not mean the proposal is permeable or adequately serves pedestrians. The Inspector didn't consider the fact that the site only had one vehicular access as harmful.

- 3.11 The Inspector concluded that the development would not accord with Policy ENV11 of the Local Plan as the development was not well connected through the site and with the surrounding area. In that regard it would also not accord with paragraph 127(f) of the NPPF which intends that proposals should create accessible and inclusive environments, which also promote health and well-being. The Inspector noted that whilst the Council does not have a 5 year housing land supply as before him related to reserved matters of an existing outline approval this did not effect his decision.

4.0 Appeal Decision no. 3

Appeal Reference: APP/D1265/W/20/3252474

Planning Reference: WD/D/19/000805

Proposal: Erection of 1 no. dwelling

Address: Silver Mead, Firch Lane, Walditch, DT6 4LQ

- 4.1 The application was refused under delegated powers in November 2019 for the following reason:
1. Having regard to its remote location outside any settlement boundary, and the subsequent reliance on the occupants of the dwellings on the private car, it is considered that this scheme will have a significant, negative, impact on the environment resulting in an unsustainable form of development. There is no overriding need to allow a dwelling in this location, within a cluster of buildings which have no goods, facilities or services, nor does the application present a re-use of an existing building, provision of an essential rural workers dwelling, nor an affordable housing scheme. As such, it is contrary to the provisions of Loders Neighbourhood Plan LNP Policy E5, Policy SUS2 of the West Dorset, Weymouth & Portland Local Plan 2015. It would do little to assist in meeting the 5 year housing land supply and its adverse environmental impacts would significantly and demonstrably outweigh the any economic benefits contrary to advice contained within the NPPF (July 2019).
- 4.2 The site is outside of any DDB in the adopted local plan or the Loders Neighbourhood Plan. The proposal conflicts with Policy SUS in the Inspector's view. NP Policy E5 only allows new buildings outside DDBs in exceptional circumstances. There was no substantive evidence before the Inspector that the proposal would meet an identified local housing need. While the appellant proposes that the dwelling would be for a local family, there was no mechanism before the Inspector to limit the occupancy or the ownership of the dwelling in that way. The Inspector considered that whilst the proposal would contribute to housing supply, as supported by the Framework, the benefits of one additional dwelling would be limited and therefore attract limited weight.
- 4.3 The Inspector noted that Walditch has very little in the way of services and facilities, as such future occupiers of the proposed dwelling would have to travel to access the facilities needed for day-to-day living such as shops and schools. Services in Bridport are approximately 25 minutes walk from the site

which far exceed the 10 minute walkable distance set out in the National Design Guide. Although within a reasonable cycling distance the routes are narrow, unlit lanes and as such would not provide a safe and attractive option for cyclists outside daylight hours. There is a bus stop 200m from the site but no details of the times or frequency of the service were supplied to the Inspector. Routes to the bus stop would be via a narrow lane or public footpath across fields, both of which are unlit. The footpath is unsurfaced and considered by the Inspector to be unsuitable for everyday use, particularly in poor weather. As such the Inspector considered that the appeal site would not provide occupiers of the dwelling with a genuine choice of transport modes and they would be heavily reliant on the private car to meet their day-to-day needs. The proposal would not accord with Policy SUS2 of the local plan of paragraph 102 of the NPPF which seeks opportunities to promote walking, cycling and public transport use.

- 4.4 The Inspector concluded that whilst the proposal would boost housing supply as supported by the Framework it would not meet the Framework requirements to locate housing where it will enhance or maintain the vitality of rural communities, or limit the need to travel. Consequently, the adverse impacts of granting permission would significantly and demonstrably outweigh the benefits of the proposal when assessed against the policies of the Framework taken as a whole.

5.0 Appeal Decision no. 4

Appeal Reference: APP/D1265/W/20/3255970

Planning Reference: WD/D/19/000628

Proposal: Erection of 6 no. dwellings (outline)

Address: Land at Moreton Road, Owermoigne opposite no. 19 Moreton Road, DT2 8HT

- 5.1 The application was refused under delegated powers in February 2020 for the following reasons:

1. The application site lies outside of any defined development boundary in the adopted Local Plan. The proposed development is in an unsustainable location where occupants would be almost wholly reliant on private car journeys to meet their day-to-day needs and access services and facilities. This would contribute to an unsustainable pattern of development, contrary to the strategic objectives of the Local Plan. The proposed development is therefore contrary to policies SUS2 and INT1 of the adopted West Dorset, Weymouth & Portland Local Plan 2015 and paragraphs 78 and 103 of the National Planning Policy Framework 2019.
2. A proposed development of 6 dwellings on the site on the northern fringe of Owermoigne would be significantly visually harmful to the rural setting and landscape character of the area by building houses in a prominent location, with the effect of encroaching the urban edge of Owermoigne into the countryside. The proposed development is therefore contrary to policy ENV1 of the adopted West Dorset, Weymouth & Portland Local Plan 2015.

3. The proposed development as is indicated, although in outline form, is considered to result in less than substantial harm to the setting of the adjacent listed building at 12 and 14 Moreton Road and it is considered that the public benefits resulting from an approval of this proposal would not outweigh the identified harm to the setting of the listed buildings. As such the proposed development is therefore contrary to policy ENV4 of the adopted West Dorset, Weymouth & Portland Local Plan 2015 and contrary to paragraph 196 of the National Planning Policy Framework 2019. Section 66 (setting impact) of the Planning (Listed Buildings and Conservation Areas) Act 1990 is not considered to be met.
 4. In the absence of a satisfactory completed Section 106 agreement the scheme fails to ensure provision of the affordable housing on site and any necessary financial contribution for off-site provision, as well as contributions to satisfactorily mitigate and manage the Dorset Heathlands and Poole Harbour Nutrient Catchment Zone. The proposed development is therefore contrary to policies HOUS1 and ENV2 of the adopted West Dorset, Weymouth & Portland Local Plan 2015.
 5. A Biodiversity Mitigation and Enhancement Plan (BMEP) has not been submitted and therefore, in the absence of a BMEP, the Local Planning Authority cannot make an informed assessment of whether development on the land would avoid significant harm to nature conservation interests or be suitably mitigated. The proposed development is therefore contrary to policy ENV2 of the adopted West Dorset, Weymouth & Portland Local Plan 2015 and paragraphs 174 and 175 of the National Planning Policy Framework 2019.
- 5.2 The Inspector considered that in the absence of any completed planning obligation which would provide the necessary security and contributions the development would conflict with Policies HOUS1 and ENV2 of the local plan which requires that the development provide adequate provision of affordable housing and secures effective mitigation against the potential adverse effects of development on the Dorset Heathlands and Poole Harbour Nutrient Catchment Zone.
- 5.3 The Inspector noted that a biodiversity mitigation and enhancement plan had been submitted to the Council but no certificate of approval has been provided which confirmed whether the proposal would avoid significant harm in terms of biodiversity or would provide suitable mitigation. The Inspector said that he was not able to conclude that there would be no adverse impact on biodiversity at the site and that the proposal would conflict with Policy ENV2 of the local plan and would not accord with paragraphs 174 and 175 of the NPPF.
- 5.4 The Inspector concluded that the development would not be in a suitable location for residential development and the proposal would conflict with Policy SUS2 of the local plan. The appeal site is not suitably located with regards to access to services and that future occupants would be likely to be heavily reliant on private motor vehicles to access basic services such as a shop,

school or healthcare facilities. As such the scheme would not accord with the environmental dimension of sustainable development and would also conflict with Policy INT1 of the local plan and fail to accord with paragraphs 78 and 103 of the Framework.

- 5.5 The Inspector considered that as the appeal site was located outside of but adjacent to the periphery of Owermoigne, the proposal would be at odds with the existing pattern of development and would be seen as harmful encroachment into the countryside and would conflict with Policy ENV1 of the local plan.
- 5.6 The Inspector considered that the development would adversely effect the setting of adjacent listed buildings and would lead to less than substantial harm to the heritage assets. Accordingly, this harm has to be weighed against the public benefits of the scheme in line with paragraph 196 of the Framework. There would be public benefit in the dwellings contributing to local housing supply, but the number of homes proposed would be modest and this benefit is of modest weight. The proposal would be of economic benefit in creating employment during the construction phase but it would be limited by the scale of development. The Inspector considered that the modest benefits were not sufficient to outweigh the great weight attached to the identified harm to the setting of the heritage assets and as such the proposal conflicts with Policy ENV4 of the local plan and the relevant paragraphs of the Framework.
- 5.7 The Inspector's conclusion was that whilst there would be some benefits by boosting the supply of open market housing and there would be some economic benefits from the construction stage and future occupants spend within local businesses. However such benefits would be quite limited by reason of the scale of the proposed development.
- 5.8 The harm to the setting of the listed buildings, that the dwellings would not be suitably located with regards to services and facilities and that significant harm would be caused to the character and appearance of the area significantly and demonstrably outweigh the benefits mentioned above in the view of the Inspector.

6.0 Appeal Decision no. 5

Appeal Reference: APP/D1265/W/20/3256414

Planning Reference: WD/D/19/001897

Proposal: Demolition of double garage and erection of 1 no. dwelling and associated infrastructure

Address: Land off Garden Close, Litton Cheney

- 6.1 The application was refused under delegated powers in March 2020 for the following reasons:
1. The proposed development for a new open-market dwelling, by reason of its location outside of a Defined Development Boundary, away from essential facilities and services, is unsustainable, with any future occupiers

being reliant on a car to access wider services and facilities. The proposed development fails to meet the social, economic and environmental strands of sustainability as set out within the National Planning Policy Framework and is contrary to Paragraph 78 of the Framework. The resulting benefit of the proposal [a net increase of 1 dwelling] in the light of the Council currently not being able to demonstrate a 5 year housing land supply does not outweigh the harm caused by the unsustainable location. The proposal would therefore be contrary to the Council's spatial strategy for housing and contrary to policies INT1 and SUS2 of the West Dorset, Weymouth and Portland Local Plan (2015) and the provisions of the National Planning Policy Framework 2019.

2. The proposed development represents an uncharacteristic form of backland development at odds to the surrounding pattern of development as such the proposal would be contrary to policies ENV10 and ENV12 of the West Dorset, Weymouth and Portland Local Plan (2015) and the thrust of design guidance as set out Section 12 of the National Planning Policy Framework 2019.
- 6.2 The Inspector found the development to be in conflict with Policy SUS2 of the local plan, insofar as it acts to restrict new housing outside development boundaries. However the Inspector noted that the Council could not currently demonstrate a five-year supply of deliverable housing sites, so the policy is out of date. The Inspector then referred to paragraph 11 of the NPPF.
 - 6.3 The Inspector concluded that there would be no harm to the significance of the Conservation Area, the setting of the listed building or the scenic beauty of the AONB and that it was therefore necessary to assess whether the adverse impacts of the development would significantly and demonstrably outweigh the benefits.
 - 6.4 The Inspector found that occupants of the dwelling would be reliant on private vehicles to access some essential facilities and services, so there would be modest increase in the use of non-sustainable transport modes. The Inspector said this would conflict with the environmental objective of the Framework to promote sustainable transport.
 - 6.5 The Inspector considered that the development would deliver social benefit through the provision of an additional dwelling and that this would accord with the Framework's objective of significantly boosting the supply of homes. Future occupants would support existing village services which the Inspector said would accord with the Framework's aim to promote healthy and safe communities. There would be economic benefits through employment during the construction phase, which the Inspector said would accord with the Framework's aim to build a strong, competitive economy.
 - 6.6 The Inspector concluded that in view of the small scale of the proposal, the social and economic benefits would be modest. Nevertheless, the adverse impact of additional private vehicle journeys was also considered to be small and so when assessed against the policies in the Framework taken as a whole, the Inspector said it would not significantly and demonstrably outweigh

the benefits. Consequently the Inspector concluded that the presumption in favour of sustainable development applies, and the proposal accords with Policy INT1 of the local plan.

7.0 Appeal Decision no. 6

Appeal Reference: APP/D1265/W/20/3255712

Planning Reference: WP/20/00027/FUL

Proposal: Demolition of the existing dwelling and erection of a 7 unit residential flatted building with associated access and parking

Address: 56 Preston Road, Weymouth, DT3 6QA

7.1 The application was considered by the Western and Southern Area Planning Committee in June 2020. The case officer for the application recommended to the committee that the application be approved. The committee decision was to refuse planning permission for the following reasons:

1. The proposed development by reason of its layout, mass, scale and bulk would have an unduly dominating and overbearing impact on each of the side neighbouring properties at nos 54, & 58 Preston Road and 4 Furzy Close at the rear, that as a result would sit uncomfortably in relation to those neighbouring occupiers and would be detrimental to their amenity in respect of overshadowing and loss of light. Its mass, scale and bulk would be detrimental to the character and appearance of the area. As such the proposed development would be contrary to Policies ENV10; ENV12 & ENV16 of the adopted Weymouth & Portland and West Dorset Local Plan (2015); and Section 12 of the National Planning Policy Framework (2019) and in particular paragraph 127 which states amongst other things that decisions should ensure that developments provide a high standard of amenity for existing and future users.

7.2 The appeal proceeded by means of written representations. The Inspector considered that the first main issue was in respect of living conditions.

7.3 In respect of the side windows in no. 58 the Inspector considered that whilst there would be some reduction in light, it would not be to a significant extent that he would regard it as harmful to living conditions as a result. The overshadowing of the neighbour's amenity space was not considered by the Inspector as significant in its impacts to the living conditions of these neighbours.

7.4 The Inspector noted that there were no side elevation windows in no. 54 and as it is to the south of the appeal site its plot generally would not be overshadowed to any substantial degree.

7.5 The Inspector went on to say that as there was already a degree of overlooking of garden between properties he did not consider the overlooking that would result to be harmful in terms of loss of privacy to the occupants of nos 54 and 58.

- 7.6 Whilst the proposed development would have much more of a visual impact than the existing low profile bungalow the proposed development is not significantly taller than the houses either side and it is also set in from the side boundaries and as such the Inspector didn't regard it to have a dominating or overbearing impact to the neighbours in either of these properties.
- 7.7 The Inspector didn't consider the development to be overbearing or result in a significant reduction in outlook quality for the occupants at no. 4. The separation distance is also considered sufficient to ensure that the overlooking from rear windows in the development would not result in significantly harmful impacts to the privacy levels of no. 4. There may be some of loss light to no. 4 at certain times of the day but considering its higher ground level and the substantial separation distance the Inspector didn't consider this impact to be significantly adverse.
- 7.8 In respect of this first issue the Inspector concluded that whilst there would be some impact to the living conditions of neighbours they would not be a significant degree that they would be regarded as inappropriate and the proposal accords with Policy ENV16 of the local plan and paragraph 127 of the NPPF.
- 7.9 The second issue the Inspector considered was the impact on character and appearance. The Inspector noted that whilst the development would result in a large building it is set within a spacious plot and it would not appear cramped. The building would not be overly prominent within the street scene. The design of the front elevation, whilst differing from the houses to the side would not be overly prominent within the setting. There are a mix of house types and sizes within the street and other flat developments too. The Inspector regarded the context of the development to be the wider street scene and that the development accords with Policies ENV10 and ENV12 of the local plan.
- 7.10 The Inspector allowed the appeal subject to a number of planning conditions.

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