



# Western and Southern Area Planning Committee

**Date:** Tuesday, 2 February 2021  
**Time:** 10.00 am  
**Venue:** MS Team Live Event This meeting will be held remotely as an MS Teams Live Event [see link 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

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**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](mailto: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 link below:

[Link to observe Western & Southern Area Planning Committee - 2 February 2021](#)

Members of the public are invited to make written representations provided that they are submitted to the Democratic Services Officer no later 8.30am on Friday 29 January 2021. 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 Friday 29 January 2021.

**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

5 - 12

To confirm the minutes of the meeting held on 7 January 2021.

## 4 PUBLIC PARTICIPATION

13 - 14

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](mailto: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 Friday 29 January 2021.**

## 5 PLANNING APPLICATIONS

To consider the applications listed below for planning permission.

- a**      **WP/19/00919/OUT - Royal Manor Arts College, Weston Road, Portland, DT5 2DB**      15 - 78

Demolition of existing buildings and hardstanding and the development of up to 98 new homes with all matters reserved with the exception of site access.

- b**      **WP/20/00814/FUL - Mount Pleasant Park and Ride Car Park, Mercery Road, Weymouth, DT3 5FA**      79 - 98

Temporary use of land for the stationing of mobile accommodation units for rough sleepers and associated facilities with subsequent reversion to use of site for park and ride parking.

**6**      **APPEALS DECISIONS**      99 - 102

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.



## DORSET COUNCIL - WESTERN AND SOUTHERN AREA PLANNING COMMITTEE

### MINUTES OF MEETING HELD ON THURSDAY 7 JANUARY 2021

A recording of the meeting can be accessed using the link on the Committee page [here](#)

**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)

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

Anna Lee (Service Manager for Development Management and Enforcement), Ann Collins (Area Manager – Western and Southern Team), Philip Crowther (Legal Business Partner - Regulatory), Zoe Linton (Planning Business Support Officer), Kevin Perry (Senior Enforcement Officer), Emma Telford (Senior Planning Officer) and Denise Hunt (Democratic Services Officer).

**53. Apologies**

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

**54. Declarations of Interest**

Cllr John Worth declared that he had predetermined application WD/D/20/001703 - Land Adjacent to Buckland House, Buckland House Lane, Buckland Rippers, DT3 4FT. He would speak as the Ward Member and not take part in the debate or vote on this application.

Cllr Jean Dunseith declared that she had predetermined application WD/D/20/001703 - Land Adjacent to Buckland House, Buckland House Lane, Buckland Rippers, DT3 4FT. She would speak as the Ward Member and not take part in the debate or vote on this application.

**55. Minutes**

The minutes of the meeting held on 3 December 2020 were confirmed and would be signed at a future date.

56. **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.

57. **Planning Applications**

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

58. **WD/D/20/001703 - Land Adjacent to Buckland House, Buckland House Lane, Buckland Rippers, DT3 4FT**

*Cllr Jean Dunseith and Cllr John Worth did not take part in the debate or vote on this application.*

The Committee considered a retrospective application for use of land to site a toilet/shower block and erection of decking and steps.

The Senior Planning officer presented the proposal for a permanent toilet and shower block. A temporary block had been a condition of an original planning permission granted under officer delegation in 2019 in connection with use of the field for camping between 23 June - 8 September each year.

The Committee was advised that this was a new planning application for a permanent structure that needed to be considered on its own merits and was not a variation of conditions approved as part of the previous permission in 2019.

Plans and photographs showed the location and appearance of the toilet/shower block and its visual impact on the rural area, in particular, from different points along Nottingham Lane drawing nearer to the site.

The key planning issues were outlined including principle of development, visual amenity and biodiversity, as well as a summary of the conditions in connection with the application, if approved.

Public written representations received, some of which were also read out at the meeting, are attached to these minutes.

Cllr John Worth, speaking as the Ward Member - Chickerell, highlighted the lack of regard for the planning process or adherence to the original permission by the applicant; the permanency and increased size of the structure, impact on visual amenity and the weakness of the Covid pandemic as a reason for its size given its presence on the site since September 2019.

Cllr Jean Dunseith, also speaking as the Ward Member - Chickerell, highlighted that conditions existed to put a boundary around the planning permission and those attached to the original permission had been

disregarded. In her view this would be a judgement on the importance of conditions.

Whilst appreciating the desire to achieve an award winning camping site, the Committee expressed concerns relating to a lack of respect for the planning process in the way the development had been carried out; the need for a Biodiversity Plan including impact of lighting on wildlife ; the adequacy of the soakaway and septic tank to support a larger block and the need for disabled access.

Members requested additional conditions including the requirement for a Biodiversity Plan and disabled access.

The Committee was advised that the lighting associated with the block was switched off during periods when not in use and that the efficacy of the soakaway / septic tank would be a private matter for the applicant and that any complaints was a separate issue to be dealt with by the Environmental Health department.

Subject to the inclusion of the suggested additional conditions, it was proposed by Cllr Kate Wheller, seconded by Cllr Nick Ireland

**Decision:** That authority be delegated to the Head of Planning to approve subject to the planning conditions as set out in the officer's report and additional conditions regarding the submission and implementation of a biodiversity mitigation and enhancement plan, particularly in respect of small mammals and the impact of lighting, and a condition in respect of disabled access to the toilets and shower facilities, to comply with the wording of the Disability Act, with the conditions to be agreed between the planning officer and Chairman of the planning committee.

*Following consideration of the above application, the meeting was adjourned between 11.23-11.33am for a comfort break.*

59. **Update Enforcement Report - Homestead Farm, Main Street, Bothenhampton, Bridport, DT6 4BJ**

The Committee considered an update on enforcement action in respect of a breach of planning - demolition of the 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 (NMA) approvals WD/D/19/000355/NMA & WD/D/19/000624/NMA.

The Senior Enforcement Officer confirmed that a Section 78 appeal had been submitted by the applicants that would be dealt with by a planning inquiry. If this appeal was dismissed, the Planning Inspector would provide a view on the harm created by the development that could underpin any future enforcement action. He therefore advised that enforcement action should not be undertaken before the appeal decision was known.

The public written representations were read out at the meeting and are attached to these minutes. The Senior Enforcement Officer responded to the points raised during public participation.

The Committee expressed concern regarding the measurements contained in the various plans and were assured that the "as built" measurements were correct and that plans submitted as a result of the various NMAs and as part of the appeal documentation would be vigorously checked by officers over the coming weeks.

A request was made to not lose sight of the fact that the building footprint had altered meaning that it was closer to Main Street and higher up the slope.

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

**Decision:** That committee agrees that no formal enforcement action be taken at this time pending the determination of the appeal lodged by the owner, which if refused gives the Council support in taking formal enforcement action and being able to successfully defend that decision at any subsequent challenge.

Should the appeal be dismissed and the Council's refusal of planning permission be upheld, then a further report will be presented to the next available committee seeking authority to enforce against those elements refused consent, and/or, those elements identified by the Inspector's decision letter as being harmful to amenity.

60. **Urgent items**

There were no urgent items.

**Appendix - Decision List**

**Duration of meeting:** 10.00 am - 12.10 pm

**Chairman**

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**APPLICATION NUMBER:** WD/D/20/001703

**APPLICATION SITE:** Land Adjacent to Buckland House, Buckland House Lane, Buckland Rippers DT3 4FT

**PROPOSAL:** Use of land to site toilet/shower block and erection of decking and steps (retrospective).

**DECISION:** Delegate authority to the Head of Planning to approve subject to the planning conditions as set out in the officer's report and additional conditions regarding the submission and implementation of a biodiversity mitigation and enhancement plan , particularly in respect of small mammals and the impact of lighting, and a condition in respect of disabled access to the toilets and shower facilities, to comply with the wording of the Disability Act, with the conditions to be agreed between the planning officer and Chairman of the planning committee.

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

Site Plan - Drawing Number 17/154/07 Rev A received on 22/07/2020  
Proposed Floor plans and Elevations - Drawing Number 17/054/08 Rev A received on 22/07/2020

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

2) The toilet/shower block hereby approved shall only be operational and lit between 30th June and 1st September, inclusive, in any one year.

**REASON:** For the avoidance of doubt given its associated use with the use of the adjoining land as a camp site between those dates only and in the interests of the visual amenities of the locality.

3) Within 12 weeks of the date of this permission, the toilet/shower block hereby approved shall be wrapped in a matt, dark green non-metallic colour film and permanently maintained as such thereafter.

**REASON:** In the interest of visual amenity.

4) No additional external lighting to that listed in the email from the agent dated 11/09/20, shall be erected on the unit hereby approved without the prior consent of the Local Planning Authority. Thereafter, the development must be carried out in accordance with the agreed details.

**REASON:** In the interests of visual amenity.

5) Within 3 months of the date of this permission, a tree planting scheme shall have been submitted to and agreed in writing by the Local Planning Authority. The scheme will include details of the standard British native trees to be planted within the hedge along the western and north-west boundary (measuring approximately 147m long) of the hatched field as shown within the blue line on the plan 17/154/07 A, with the trees spaced about 20m apart. The approved scheme shall be implemented in full during the first planting season (November to March) following the date of this permission. The scheme shall include provision for the maintenance and replacement as necessary of the trees for a period of at least 10 years. The agreed planting scheme shall be retained thereafter.

REASON: In the interests of biodiversity and visual amenity.

6. The existing hedging along the western boundary, directly to the rear of the toilet/shower block shall be retained in perpetuity. If the hedging is found to be dead or dying the hedging will be replaced in the first planting season (i.e. November-March) in accordance with a scheme to be first submitted and agreed in writing by the Local Planning Authority.

REASON: In the interests of visual amenity.

Informatives:

1. NPPF Approval Statement

**APPLICATION NUMBER:** WD/D/19/003186

**APPLICATION SITE:** Homestead Farm, Main Street, Bothenhampton, Bridport, DT6 4BJ

**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.

**DECISION:**

That committee agrees that no formal enforcement action be taken at this time pending the determination of the appeal lodged by the owner, which if refused gives the Council support in taking formal enforcement action and being able to successfully defend that decision at any subsequent challenge.

Should the appeal be dismissed and the Council's refusal of planning permission be upheld, then a further report will be presented to the next available committee seeking authority to enforce against those elements refused consent, and/or, those elements identified by the Inspector's decision letter as being harmful to amenity.

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## Dorset Council

### **Covid-10 Pandemic – Addendum to the Guide to Public Speaking Protocol for Planning Committee meetings – effective from xx July 2020**

Due to the Covid-19 pandemic the council has had to put in place measures to enable the council's decision making processes to continue whilst keeping safe members of the public, councillors and council staff in accordance with the Government's guidance on social distancing by applying new regulations for holding committee meetings from remote locations.

The following procedures will apply to planning committee meetings until further notice, replacing where appropriate the relevant sections of the Guide to Public Speaking at Planning Committees:

1. While planning committee meetings are held remotely during the Coronavirus outbreak public participation will take the form of written statements (and not public speaking) to the committee.
2. If you wish to make a written statement it must be no more than 450 words with no attached documents and be sent to the Democratic Services Team by 8.30am two working days prior to the date of the committee – i.e. for a committee meeting on a Wednesday written statements must be received by 8.30am on the Monday. The deadline date and the email contact details of the relevant democratic services officer can be found on the front page of the committee agenda. The agendas for each meeting can be found on the Dorset Council website  
<https://modern.gov.dorsetcouncil.gov.uk/mgListCommittees.aspx?bcr=1>
3. During this period the council can only accept written statements via email and you should continue to bear in mind the guidance in the public speaking guide when preparing your representation.
4. The first three statements received from members of the public for and against the application (maximum six in total) will be read out together with any statement from the town and parish council, by an officer (but not the case officer), after the case officer has presented their report and before the application is debated by members of the Committee. It may be that not all of your statement will be read out if the same point has been made by another statement and already read to the Committee. This is to align with the pre-Covid-19 protocol which limited public speaking to 15 minutes per item, although the Chairman of the Committee will retain discretion over this time period as she/he sees fit. All statements received will be circulated to the Committee members before the meeting.
5. This addendum applies to members of public (whether objecting or supporting an application, town and parish councils, planning agents and applicants).
6. Councillors who are not on the Planning Committee may also address the Committee for up to 3 minutes by speaking to the Committee (rather than submitting a written statement). They need to inform Democratic Services of their wish to speak at the meeting two working days before the meeting.

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## 1.0 **Application Number** – [WP/19/00919/OUT](#)

**Site address:** Royal Manor Arts College, Easton, Weston Road, Portland, DT5 2DB

**Proposal:** Demolition of existing buildings and hardstanding and the development of up to 98 new homes with all matters reserved with the exception of site access.

**Applicant name:** Homes England

**Case Officer:** Penny Canning

**Ward Member(s):** Cllr. Cocking, Cllr Hughes, Cllr Kimber

Taking account of representations made during the course of the consideration of the application, the Head of Service considers that under the provisions of Dorset Council's constitution this application should be determined by the Area Planning Committee.

## 2.0 **Summary of Recommendation:**

2.1 Recommendation A: Delegate authority to the Head of Planning to grant subject to the completion of a S106 agreement to secure the following, and conditions as set out in Section 18 of the report.

- The delivery of affordable housing based on 25% of the dwellings being affordable with a tenure split of 70% rented and 30% intermediate;
- The management and maintenance of public open space;
- Payment of a financial contribution of £30,044 (to be applied on a pro rata basis) towards mitigating in full the impact on the Tout Quarries and King Barrow Quarries within the Portland Nature Park.
- Payment of a financial contribution of £7,840 towards mitigating the impact on local health services.

2.2 Recommendation B: Refuse permission, for the following reasons if the S106 legal agreement is not completed within 6 months of the committee resolution, or such extended time as agreed by the Head of Planning:

*The proposed additional housing would result in an unacceptable level of harm on the Isle of Portland Site of Special Scientific Interest (SSSI) and the Isle of Portland to Studland Cliffs Special Area of Conservation (SAC), of international importance, as a consequence of the increased recreational pressure that would be generated from the development. This includes impact on the nearby local nature reserves Tout Quarry (SSSI) and Kings Barrow Quarry (SSSI and SAC). With no formal mechanism in place to secure an appropriate level of mitigation, the proposed development fails to comply with policy ENV2 of the West Dorset Weymouth and Portland Local Plan (2015), Section 15 of the National Planning Policy Framework (2019), and the Conservation of Habitat and Species Regulations (2017).*

*In the absence of any formal mechanism, in the form of a legal agreement, to secure affordable housing, financial or any other relevant contribution to provide new or improved community infrastructure, in particular the provision of public open space and a contribution towards healthcare, to mitigate the impacts of the development, the proposed development would be contrary to planning Policies INT1, COM1, and HOUS1 of the West Dorset, Weymouth and Portland Local Plan (2015) and the National Planning Policy Framework (2019).*

**3.0 Reason for the recommendation:**

- The site occupies a sustainable location and would make effective use of a brownfield site, assisting in the delivery of affordable and open market housing.

**4.0 Table of key planning issues**

<b>Issue</b>	<b>Conclusion</b>
Principle of development	Acceptable, involving previously developed land within the defined development boundary and in accordance with the spatial distribution of development.
Impact on heritage assets	Less than substantial.
Impact on the character and appearance of the area	Positive.
Mineral safeguarding	The site does not lie within a Mineral Safeguarding Area and there would be no adverse impact on future mining of Portland Stone on adjoining sites.
Impact on sites of nature conservation importance	The proposal would deliver net biodiversity gains within the site. Off-site recreational impacts on Chesil Beach and the Fleet and two DWT reserves can be secured by financial contributions.
Highways	Acceptable.
Amenity	No unacceptable impact on the amenity of residents will arise.



## **5.0 Description of Site**

5.1 The site extending to 2.5 ha, comprises the former Royal Manor Campus which became vacant in 2016 when Southwell School and Royal Manor Arts School campus were consolidated at the Atlantic Academy. It is located on the north-western edge of Easton with the main access from Weston Road.

5.2 It is located within the built-up area and is bounded by residential properties on Pound Place to the south and St George's Road to the east. The Portland Red Triangle Cricket Club lies to the north. St George's Church (grade I listed) lies to the north-west.

## **6.0 Description of Development**

6.1 All matters other than access are reserved for future consideration. Up to 98 dwellings are proposed, comprising a mixture of open market and affordable homes. The mix of open market and affordable housing are in general accordance with the requirements of the Council's Housing Enabling Team which are summarised in Section 9.0 of this report.

6.2 Green infrastructure and public open space, shown located to the north of the site and laid mainly to grass, would also be provided. Its provision and management would be the responsibility of the developer and secured via a section 106 legal obligation.

6.3 In order to address the extant mining permission, the Applicant proposes that housing would be delivered in two Phases: 1 and 2 after initial site demolition and site preparations. This would involve demolition of the former college with areas of hardstanding also cleared.

6.4 It should be noted that the submitted documents refer to Phase 1 as being the demolition of the existing buildings, with Phase 2 and 3 referred to as the two phases of housebuilding. For clarity, this report refers to Phases 1 and 2 as the two phases of house building across the site.

6.5 Phase 1 - construction on the un-mined area (up to 41 dwellings)

6.6 This development will be located in the southern part of the site which contains the main college buildings and is not affected by mining permissions.

6.7 Phase 2 - construction on the mined area once backfilled (up to 57 dwellings)

6.8 This phase relates to the northern part of the site and would be developed following cessation of mining activities. This would also require the mined areas to have been backfilled.

6.9 Within each phase of construction 25% of the homes would be for affordable tenures and a local connection with Portland would be required. Magna, a local registered provider, has been selected to develop the affordable housing within the southern part of the site.

6.10 In addition, the Applicant has confirmed that Homes England would not claim vacant building credit which would have resulted in a significant reduction in affordable housing provision.

## **7.0 Relevant Planning History**

7.1 The school was established on the site in 1927 and it transitioned from a primary school to a secondary school in the late 1970s'. This included an area of hardstanding which formed the school playground together with a separate area used as a multi-use games area.

7.2 A key consideration raised by the proposal relates to the site's history of mining activity.

- Permission 07/0144/MINS. Underground mining of the Whitbed and Base Bed granted 27 March 2009.
- Permission WP/13/00745/DCC. Underground Extension beneath Tennis Courts, Royal Manor College, granted 13 February 2014.
- Permission WP/13/00297/DCC, was granted on 23 April 2013 to vary previous conditions on the original granted consent. The variation sought included reducing the extent of working limits within the existing permission to within 6m of the highway carriageway.
- Permission WP/15/00295/DCC. Eastern Extension to Underground Mining at Jordan's Mine, granted 14 September 2015.
- Permission WP/17/00880/DCC. Extension of Jordans Mine beneath the former Youth & Community Centre), granted 16<sup>th</sup> March 2018.
- Permission WP/17/00298/FUL. An underground mine extension from the face of the existing Jordans Mine below ground, linking underground into Bowers Mine, extending driveways beneath the highway and creating portals into the existing Bowers Quarry to extract dimension stone from Portland Freestones. Granted 15<sup>th</sup> February 2018.

7.3 The northern part of the site is subject to existing temporary mining permissions, Nos. PL\15885\13 (WP/13/00754/DCC) and subsequently PL\2260\17 (WP/17/00880/DCC).

7.4 Planning permission No. PL\1585\13 (WP/13/00754/DCC) permits an underground mine extension from the face of the existing mine below ground, beneath the existing highway north of the application site. Condition 2 imposed

on this permission states that minerals extraction at the site must have ceased and the mine backfilled by 30 September 2021.

7.5 Application No. PL\2260\17 (WP/17/00880/DCC) permitted a further extension of the mine to run beneath the former school hall within the site. This temporary permission is similarly conditioned requiring mining operations must cease, and mines backfilled prior to 30 September 2021.

## **8.0 List of Constraints**

8.1 The site lies within the settlement boundary for Easton. In terms of heritage nearby are:

- Church of St George, Reforne (Grade I; 1203132)
- Graveyard Wall, Church of St George (Grade II; 1280219)
- Lych Gate, Church of St George (Grade II; 1281838)
- George Inn (Grade II; 1203113)
- 135 Reforne (Grade II; 1206077)
- Portland (Easton) Conservation Area.

8.2 There is a statutory requirement under section 16(2) and 55(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 to have special regard to the desirability of preserving a listed building or its setting or any features of architectural or historic interest.

8.3 Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 applies to Conservation Areas and special attention must be paid to the desirability of preserving or enhancing the character of such areas.

8.4 The northern part of the site is subject to underground mining of Portland Stone. This requires a consideration of the backfilling of the mine and an agreed strategy for ensuring the stability of the ground prior to any built development on this part of the site.

8.5 There is evidence of low levels of ground contamination which would require remediation along with ensuring that the houses are adequately protected from radon gas.

8.6 The nature reserves in close proximity to the development site are designated as SSSI, a site of national importance for nature conservation, while a smaller proportion of the protected area is also designated as SAC, a site of international importance.

8.7 Two DWT reserves lie within the Nature Park: Tout Quarries and King Barrow Quarries. Both lie within the Isle of Portland Site of Special Scientific Interest (SSSI), whilst King Barrow also lies within the Isle of Portland to Studland Cliffs Special Area of Conservation (SAC).

8.8 The site of the proposal is shown to fall within Flood Zone 1, as indicated by the Environment Agency's (EA) indicative flood maps.

## 9.0 Consultations

**Housing Enabling Team** - There are currently over 1800 households on the Weymouth and Portland Housing Register. This demonstrates that there is a high level of housing need in the Weymouth and Portland area. The Housing Register demonstrates that a range of dwelling sizes is required.

West Dorset, Weymouth & Portland Local Plan 2015 Policy HOUS1 relates to the provision of affordable housing and states that where open market housing is proposed affordable housing will be required. To comply with policy HOUS1, 25% of the units should be affordable homes. Of the affordable homes a minimum of 70% should be for rent and 30% intermediate. The affordable homes will be secured through a S106 agreement. It is desirable that affordable housing should be proportionate to the scale and mix of market housing and are well-integrated and designed to the same high quality resulting in a balanced community of housing that is 'tenure neutral' where no tenure is disadvantaged.

The proposal suggests that the homes will comprise of a mix of 2 bed apartments and 2, 3, and 4-bedroom homes. Built over two phases the plan is to provide 36 x 2 bed apartments, 35 x 2 bed houses and 22 x 3 bed houses and 5 x 4 bed houses. The application is policy compliant offering 25% of the dwellings as affordable housing.

There is a high level of housing need in Weymouth and Portland for quality accommodation which this site would assist in meeting. It would be preferable to see a reduction in the number of 2 bed apartments and instead a higher number of 2 bed houses which would be more appropriate as family homes.

**Environmental Health** - Areas of the site lie within 250m of a known quarry.

No objection subject to the following conditions being imposed:

1. Before commencement of the development, all reasonable steps shall be taken to investigate the possibility of gas migration affecting the development site. The survey methods for this investigation shall first be agreed in writing with the Local Planning Authority and a copy of the results of the survey shall be submitted to the Local Planning Authority as soon as they are available. Where gas migration is confirmed, or there is evidence that migration is likely to occur, the development shall not commence until satisfactory remedial measures have been taken to control and manage the gas, to monitor the effectiveness of these measures and, where necessary, to incorporate adequate precautionary measures in the design and construction stages. Such measures shall be submitted to and agreed in writing by the Local Planning Authority before commencement of the development and shall thereafter be implemented and retained in accordance with approved details.

<p>2. A noise report shall be submitted in writing and agreed by the planning authority. The report should contain details of background sound measurements and the effect in particular of the road upon potential dwellings at the location. This report should surmise the likely external noise impact on the dwellings and should contain potential sound attenuation against external noise from the main road, with windows shut in all habitable rooms and with other means of ventilation provided.</p>
<p><b>Archaeology</b> - No objections. No further archaeological work is required and no archaeological condition is necessary.</p>
<p><b>Conservation Officer</b> - Supports the application subject to the northern end of the site (beyond the southern boundary of the tennis court) being designated as a no-build zone.</p>
<p><b>Dorset Wildlife Trust (DWT)</b> - No objection subject to a financial contribution being secured towards the management of two DWT reserves which lie within the Nature Park: Tout Quarries and King Barrow Quarries.</p>
<p><b>Historic England</b> - No objection.</p>
<p><b>Sport England</b> - Sport England raise no objection, noting that new sports provision has been provided at the Atlantic Academy, and that a contribution would also be made through the Community Infrastructure Levy towards the emerging Playing Pitch Strategy, creating improvements in pitches for the local community.</p>
<p><b>Lead Local Flood Authority</b> - No objection subject to the following conditions:</p> <p>CONDITION (1) No development shall take place for each phase until a detailed and finalised surface water management scheme for that phase, based upon the hydrological and hydrogeological context of the development, has been submitted to, and approved in writing by the local planning authority. The surface water scheme shall be implemented in accordance with the submitted details before the development of each phase is completed. Detailed drainage designs for both phases will need to be approved on a phase-by-phase basis. Based on current proposals the finalised drainage proposals for Phases 1 and 2 will need to be approved separately as each of these phases come forward for development.</p> <p>REASON To prevent increased risk of flooding and to improve and protect water quality.</p> <p>CONDITION (2) No development shall take place until details of maintenance &amp; management of both the surface water sustainable drainage scheme and any receiving system have been submitted to and approved in writing by the local planning authority. The scheme shall be implemented and thereafter managed and maintained in accordance with the approved details. These should include a plan for the lifetime of the development, 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.</p>

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

**Mineral Authority** - No objection but a preferred approach would be to enable the extraction of Portland Stone prior to the construction of houses.

In the light of the above the comments are set out in some detail below:

#### Application documents

The submitted Planning Statement refers to the current mining under the northern part of the proposed site. However, no reference is made to the mineral provision of the National Planning Policy Framework (National Planning Policy Framework – February 2019: Ministry of Housing, Communities and Local Government) or the Bournemouth, Dorset and Poole Mineral Strategy 2014 and its policies regarding Portland Stone.

#### The site and the relevant mineral and waste planning history

As noted in the submitted planning statement: *The northern part of the Site is subject to existing temporary mining permissions, PL\15885\13 (WP/13/00754/DCC) and subsequently PL\2260\17 (WP/17/00880/DCC). The presence of mining activity necessitates the phasing of development within this planning application. Phase two of the development (the mined area) will only come forward after September 2021 when mining operations have ceased, and the mines are backfilled in accordance with the planning conditions of the existing mining permissions (as set out by Dorset County Council).*

The Mineral Planning Authority notes that the proposed site, including the area currently being mined, is not within the Minerals Safeguarding Area as designated by Policy SG1 of the Minerals Strategy 2014.

#### Background

Portland Stone is a building stone of local, national and international significance.

The Minerals Strategy 2014 (paragraph 10.1) notes; *“Its quality freestones have famously been used for public buildings throughout Great Britain and internationally. It has a local, regional and national market for use in new build, repair and restoration, masonry, flooring, paving and rock armour. Portland Stone’s whiteness is its most recognisable characteristic. Quarrying on Portland is a long-established industry, with the stone having been used for many prestigious and now listed buildings outside Dorset, particularly in London. Notably, Sir Christopher Wren used Portland Stone in the re-building of many churches in London after the Great Fire, including St. Paul’s Cathedral.”*

In addition (paragraph 10.12, Minerals Strategy 2014) *“there is an ongoing local, regional and national demand for Portland Stone for the repair and restoration of historic buildings, new build, masonry and monumental uses. This must be achieved with reduced impact on*

*local amenity and the environment.”*

### Policy Basis

The Government is committed to ensuring that the planning system does everything it can to support sustainable economic growth and a sustainable future. The NPPF is clear in paragraph 205 that *“When determining planning applications, great weight should be given to the benefits of mineral extraction, including to the economy.”*

Paragraph 203 notes that *“it is essential that there is a sufficient supply of minerals to provide the infrastructure, buildings, energy and goods that the country needs. Since minerals are a finite natural resource, and can only be worked where they are found, best use needs to be made of them to secure their long-term conservation.”*

The Mineral Planning Authority, through Policy PD1 of the Minerals Strategy 2014, is encouraging a move away from surface quarrying of Portland Stone with its impacts on amenity, towards the mining of Portland Stone. The principle of mining the as yet unmined stone under this proposed development would be supported by this policy.

Paragraph 2014(c) and (d) of the NPPF notes that *“planning policies should:*

- (c) safeguard mineral resources by defining Mineral Safeguarding Areas; and adopt appropriate policies so that known locations of specific minerals resources of local and national importance are not sterilised by non-mineral development where this should be avoided (whilst not creating a presumption that the resources defined will be worked);*
- (d) set out policies to encourage the prior extraction of minerals, where practical and environmentally feasible, if it is necessary for non-mineral development to take place.”*

### Minerals safeguarding

Dorset Council as Mineral Planning Authority, as well as Local Planning Authority, has a statutory duty to ensure the continued provision of mineral for future use.

As the proposed development site is not within the Mineral Safeguarding Area as designated by Policy SG1 of the Minerals Strategy 2014, the stone under the site does not benefit from statutory safeguarding protection.

However, the stone is considered to be a mineral of national importance, as it is a *“local mineral of importance to heritage assets and local distinctiveness”* (Annex 2 – National Planning Policy Framework – February 2019: Ministry of Housing, Communities and Local Government). It may not be formally safeguarded but there is still a strong case against its unnecessary sterilisation.

The proposed development site was not originally included within the safeguarded minerals

as defined by Policy SG1 of the Minerals Strategy 2014 as it lay under building in regular use and occupancy.

Although mining has not yet been permitted under residential or occupied buildings, it has been permitted under other developed areas such as unoccupied buildings or roads.

The Mineral Planning Authority considers that given the importance of the Portland Stone, the existence of existing reserves under the site and the fact that the site will be temporarily unoccupied, this provides an opportunity to prior extract the stone before the site is developed for housing and the mineral under the surface is sterilised.

It is recognised that the prior extraction of the stone, in advance of the housing development, would lead to delays in surface construction. It is estimated that extraction of the remaining stone under the development site would take about 3 years. There could be opportunities to begin demolition and some construction work while mining was progressing, but this would need further investigation. There would be no mining infrastructure on the surface.

### Conclusion

The MPA believes that there are reserves of dimension stone beneath the application site that could be prior extracted by mining, provided planning permission was granted, before the housing development was completed and occupied. Although this stone is not safeguarded, there is still a strong case to be made for the prior extraction of this important building stone before it is sterilised by residential development, and the MPA therefore strongly recommends that prior extraction of the remaining stone under the site should be conditionally secured as part of any permission for housing that may be issued in response to this application.

It is accepted however that since the site lies outside the MSA, there is no policy basis for refusing permission before extraction has occurred.

**Highways** - No objection subject to the following condition:

1. Before the development is occupied or utilised the highway access, the geometric highway layout, the parking and turning areas shown on Drawing Number 16144\_RMS\_L02.01 Rev.P1 must be constructed, unless otherwise agreed in writing by the Local Planning Authority. Thereafter, these must be maintained, kept free from obstruction and available for the purposes specified.

Reason: To ensure the proper and appropriate development of the site.

**Natural Environment Team** - A Biodiversity Mitigation and Enhancement Plan (BMEP) has been approved by the Natural Environment Team. This should be secured by condition.



**Natural England** – A BMEP is required. In addition to the policy requirements for biodiversity net gain under paragraphs 8, 170 and 175 of the National Planning Policy Framework (NPPF) and that protected species are a material consideration in a planning application, Natural England have additional concerns over the impact of recreational pressures on the nearby designated site.

The application is for a relatively large number of dwelling for the area and is directly adjacent to the Isle of Portland Site of Special Scientific Interest (SSSI) which is protected under the Wildlife and Countryside Act 1981 (as amended). There is direct access from the development site to the designated site. Natural England would expect that a package of measures is secured to mitigate this increase in recreational pressure on the reserve to enable your authority to conclude no likely significant effect on the SSSI in accordance with paragraph 175 on the NPPF. It would be appropriate for this package of measures to be secured through the BMEP process and other legal mechanisms that your authority deem fit for access management contributions to the land managers of the reserve.

**Portland Town Council** - Strongly object. Due to the increase in number of dwellings compared to the previous outline, from 50 to 98 and the loss of the sports area. The development would also affect the setting of St Georges Church. It would also bring more people to the area than the infrastructure can support and it is against Policy CR1 in the draft Neighbourhood Plan.

**Urban Design** - No objection subject to restricting development on the northern third of the site with consideration given as to whether the total number of houses on the site should be reduced.

**Police Architectural Liaison Officer** - From reading the Design and Access Statement there is no mention of security so would strongly recommend that the security of the development meets the standards laid out in the Secured by Design Guidance: Homes 2019. This is the Police guidance on crime prevention in new developments and will assist with the sustainability of the development.

Some concerns in relation to a number of rear parking courts in Phase 2. There is no mention of lighting and rear parking courts can raise levels of crime and anti-social behaviour if they are not lit. Preferably rear access gates to gardens should be capable of being locked (operable by key from both sides of the gate) as a large number of burglaries occur at the rear of the premises so gates should be secure.

**Theatres Trust** - No comment

**WPA Environmental Consultants** - Recommend that any planning permission be subject to contaminated land conditions requiring a phase 1 and phase 2 site investigation, with a requirement to prepare a remediation scheme, to be approved by the Council.

**Dorset Clinic Commissioning Group** - The proposal is expected to add a further 98

dwellings with an estimated population in the region of 235 (based on current guidance of 2.4 persons per dwelling). This increase in population will impact on local NHS resources.

Should planning permission be granted a financial contribution should be secured to fund additional NHS infrastructure via the CIL or section 106 obligation, towards a surgery or number of surgeries in the local area of the Weymouth and Portland Primary Care Network.

For local primary care services, the estimated cost of creating an additional clinical room including increased ancillary space (i.e. corridors, waiting areas) is approximately £60,000.

Therefore, the development would be required to make a financial contribution of £7,840 based on the following calculation:

Cost of building 16m <sup>2</sup> clinical room (c£3,000 m <sup>2</sup> )	= £48,000
Plus 25% for ancillary costs	= £12,000
Total cost	= £60,000

Contribution required:

Number of patients per room	= 1,800
Number of dwellings proposed	= 98
Number of new patients	= 235
Number of clinical rooms needed	= 0.13
Financial contribution 0.13 x £60,000	= £7,840

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

## 10.0 Representations

24 comments received: 21 objections, 1 support and 2 neutral.

### Objections

The objections in summary raise the following points:

- The isle is served by one road and it is already congested which also causes substantial air pollution in Weymouth (boot Hill) and in Wyke Regis from Ford's Corner to Ferry Bridge.
- The Beach Road is sometimes blocked because of accidents, roadworks and extreme weather which can cause very long delays. The development will increase traffic and congestion because most residents will not work locally increasing rush hour traffic.
- The Easton health centre is at capacity and has difficulty recruiting replacement personnel. The development would give rise to unmanageable levels of demand.

- New housing should meet the needs of the working poor. The government's quotas for market housing should be reviewed and challenged.
- Portland is being over-developed to the detriment of wildlife and open spaces. Since Dorset Council and the town councils' have declared a climate change emergency, local plans should be reviewed.
- There is a need for a care home/nursing home for elderly Portland residents and this site would be highly suitable for this kind of development, being on a bus route and accessible from across the island.
- Too many houses are being built overloading local infrastructure.
- Local greenspace will be lost including risk to mature trees.
- Larger 4-bedroom houses are required to attract professionals to support the GP and pharmacies.
- There is a memorial tree within the site which should be protected.
- The houses will be small leading to an over-development of the site.
- Local streets are already congested which often restricts the emergency services. Parking will over-flow onto adjoining streets.
- The affordable homes must be truly affordable.
- The site should be developed for alternative uses including a community hub, social centre, primary school, new hospital, additional GP surgery and pharmacy, care and retirement homes.
- The existing buildings should be renovated and re-used. Green spaces should be provided with a focus on more low cost, affordable homes.
- The roads are unable to cope and there is a lack of amenities for new residents.
- There is a lack of on-street parking on local roads.
- Less than 32% of the site is occupied by buildings which is wholly within the southern part of the site. The rest provides a feeling of openness.
- It will involve over-development of the site harming the Conservation Area and the setting of St George's Church, which is grade I listed.
- The design of the dwellings fails to appreciate key features of the local area including layout, vernacular and massing. Local distinctiveness would be eroded.
- The original public consultation was not based on a development of 98 dwellings.
- The indicative plans suggest that some houses will be positioned no more than 10-metres from the front elevations of properties on St George's Road, giving rise to a loss of amenity and overshadowing.

- The demolition and site clearance appears acceptable but Phases 1 and 2 impact on mining operations and the northern part would be too close to existing houses.
- The existing access onto Channel View Road is wholly inadequate given existing road infrastructure and the number of trips caused by the scheme.
- If permission is granted a section 106 obligation requiring the widening of St George's Road.
- The scheme if allowed must include plenty of green space and the houses need to be eco-friendly.

### **Support**

- Some of the CIL money should be used to fund public transport improvements particularly a route serving such areas as Portland Bill, Weston Street, Wakeham, The Grove, East Weares, Charlestown and the Marina area.

### **Neutral**

- All houses should be carbon neutral.
- Ground source heat pumps should be used with houses orientated to maximise solar gain especially in winter.
- Mature trees on site should be retained.
- Affordable housing in each phase is welcomed but at 80% of market value, this will be beyond the reach of most local residents.
- Houses should be built to accord with Nationally Described Space Standards.
- Impacts on existing infrastructure should be adequately mitigated.
- The ecological report gave no indication that hedgehogs were found. However, they have been regularly sighted on the site and it is quite likely that they use the site for foraging, nesting and breeding. Harm to these animals must therefore be minimised including during construction and post-completion.

**Weymouth Civic Society** have also commented on the application, objecting to development within the northern portion of the site due to the impact on the setting of the Grade I Listed Church and Conservation Area, and the additional pressures placed on local services.

**Albion Stone Plc** has also commented raising the following points in two separate representations:

1<sup>st</sup> representation

- Portland Stone is probably the world's most important Dimension Stone as recognised by the international Global Heritage Stone Resource.
- The mineral safeguarding guidance states that since minerals are a non-renewable resource, non-minerals development should not needlessly prevent future extraction of minerals resources of local and national significance. Since Portland Stone is internationally important it should be protected from development that would needlessly sterilise the deposit.
- The company has mine faces abutting the application site and would subject to planning be ready to extract the stone on an accelerated timetable to ensure minimum delay to construction.
- Mineral royalties would be paid in line with the company's other sites, thereby providing income to the landowner which will offset delays to construction of the houses. Construction can commence at the same time as the mining.
- The mining void would be backfilled in line with best practice and as agreed with the Mineral Planning Authority.

2<sup>nd</sup> representation

- It is accepted that the site is not in the MSA, but this reflects a flawed process at the time safeguarding areas were delineated rather than the mineral resource not being worthy to be mined. The Planning Practice Guidance also confirms that safeguarding minerals below large regeneration projects can enable beneficial use of the mineral.
- The National Planning Policy Framework (a material consideration) para 204 requires definition of MSAs, but also that planning authorities should:
  - c) adopt appropriate policies so that known locations of specific minerals resources of local and national importance are not sterilised by non-mineral development where this should be avoided (whilst not creating a presumption that the resources defined will be worked);
  - d) set out policies to encourage the prior extraction of minerals, where practical and environmentally feasible, if it is necessary for non-mineral development to take place;

- While there is a focus on MSAs, the NPPF and PPG do not preclude safeguarding being applied to known resources outside of MSAs.
- The agent of change as advised in paragraph 182 of the NPPF is relevant. This states that new development should be integrated effectively with existing businesses and the latter should not have unreasonable restrictions placed upon them, such as noise or operational limitations due to the sensitivity of the proposed new development.
- The proposed development provides a window of opportunity for prior extraction during the demolition phase in particular.

## 11.0 Relevant Policies

### 11.1 Development Plan Policies:

In terms of the adopted West Dorset, Weymouth and Portland Local Plan (2015), the following policies are 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
ENV9	Pollution and contaminated land
ENV10	The landscape and townscape setting
ENV11	The pattern of places and streets
ENV12	The design and positioning of buildings
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

## **Bournemouth, Dorset and Poole Minerals Strategy (2014)**

Policy SS1	Presumption in favour of sustainable development
Policy SS2	Identification of sites in minerals sites plan
Policy PK1	Provision of Purbeck stone
Policy SG1	Mineral safeguarding area
Policy SG2	Mineral consultation area
Policy SG3	Safeguarding of mineral sites and facilities

### **11.2 Other Material Planning considerations:**

#### **Draft Portland Neighbourhood Plan**

The Portland Neighbourhood Plan has now been examined and changes to the submitted version recommended by the Examiner have been accepted by the Local Planning Authority.

Dorset Council as the planning authority have confirmed that the Plan could proceed to a local Referendum. However emergency regulations resultant from the Coronavirus Act 2020 state that no elections or referendums can take place until 6 May 2021, meaning that neighbourhood plans may come into force later than they would have done. In recognition of the frustration caused to communities that have dedicated significant time and effort to the neighbourhood planning process and who naturally want their plans to come into force as soon as possible, the Government have issued revised guidance. This guidance sets out that neighbourhood plans awaiting referendums can be given significant weight in decision-making, so far as the plan is material to the application.

Policy No. Port/ EN0	Protection of European sites
Policy No. Port/EN3	The Portland Quarries Nature Park
Policy No. Port/EN4	Local Heritage Assets
Policy No. Port/EN6	Defined Development Boundaries
Policy No. Port/EN7	Design and Character
Policy No. Port/HS1	Housing mix
Policy No. Port/TR3	Reducing parking problems
Policy No. Port/CR1	Protecting recreation spaces

#### **National Planning Policy Framework (2019)**

As far as this application is concerned the following sections from the NPPF are particularly relevant.

Section 2	Achieving sustainable development
Section 4	Decision-making
Section 5	Delivering a sufficient supply of homes
Section 7	Promoting health and safe communities
Section 11	Making effective use of land
Section 12	Achieving well designed places
Section 15	Conserving and enhancing the natural environment
Section 16	Conserving and enhancing the historic environment
Section 17	Facilitating the sustainable use of minerals

## **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.

## **14.0 Financial benefits**

14.1 There would be financial benefits to the local economy during construction. In addition, residents within the dwellings would spend some of their income locally in shops and supporting services. Additional council tax would also be raised. Therefore, the scheme would contribute towards economic development on the island.

## **15.0 Climate Implications**



15.1 The Applicant has confirmed that at reserved matters stage an appropriate number of electric vehicle charging points and their location would be agreed. In addition the application confirms that all dwellings would meet nationally described space standards as a minimum and that houses would be designed to allow for conversion of the roof space to provide residents with the opportunity to extend upwards in the future, thereby maximising use of the building fabric without necessarily requiring extensions. However this application is for outline planning permission only with all matters, save for access, reserved. All of the dwellings would meet or exceed current energy requirements, and where possible roofs have been orientated to allow for installation of renewable technologies. A condition is recommended to be imposed on the permission to require the provision of electric vehicle charging points within each phase of the development. The number and siting of the charging points would be agreed at reserved matters stage.

## **16.0 Planning Assessment**

### **The principle of development**

16.1 The application site falls within the settlement boundary for Easton, where the principle of development is supported by Policy SUS1 and SUS2 of the West Dorset, Weymouth and Portland Local Plan (2006), which seeks to direct development to larger settlements, which have greater services and employment opportunities.

16.2 The proposed scale of development is considered to be consistent to meet the needs of the local area in respect of both open market and affordable housing, and would be well served by the services and facilities of Easton. Whilst the affordable housing officer has queried the mix of house types in which affordable housing is delivered, the proportion and tenure mix is considered acceptable, and the house types could be reviewed at reserved matters stage to ensure the proposal remains compliant with the provisions of policy HOUS1.

16.3 At present, the Council has been unable to demonstrate a five year housing land supply in the West Dorset, Weymouth and Portland Local Plan area, and those policies within the Local Plan which seek to restrict the delivery of housing are considered out of date, and cannot be given full statutory weight. In such instances the presumption in favour of sustainable development as set out in para 11 of the NPPF applies.

16.4 In this case, the principle of development on this site would nevertheless accord with the Council's spatial strategy and given the proposed development falls within a settlement boundary, the policies relating to the delivery of housing as set out within the West Dorset Weymouth and Portland Local Plan, would not seek to resist development in this location. The support offered by Policy SUS2

in this case accords with the objectives of the NPPF, and significant weight can still be given to the development plan policies in this regard.

16.5 The principle of housing on this site would in turn accord with para 59 of the NPPF which outlines the Government's objective of significantly boosting the supply of homes, and emphasises that it is important that a sufficient amount and variety of land can come forward where it is needed, that the needs of groups with specific housing requirements are addressed and that land with permission is developed without unnecessary delay.

16.6 Paragraph 68 of the NPPF also confirms that small and medium sized sites can make an important contribution to meeting the housing requirement of an area and are often built out relatively quickly. The scheme would accord with this advice, particularly paragraph 68 c) which advises local planning authorities to support the development of windfall sites, giving 'great weight' to the benefits of using suitable sites within existing settlements for homes. It would therefore make a contribution towards the government's objective of significantly boosting the supply of homes (paragraph 59 of the NPPF) in accordance with the adopted spatial strategy.

#### **Impact on heritage assets**

16.7 Policy ENV4: Criterion i) of the Local Plan requires that the impact of development on a designated heritage asset and its setting must be thoroughly assessed and development should conserve and where appropriate enhance its significance.

16.8 Criterion ii) states that applications affecting the significance of a heritage asset or its setting will be required to provide sufficient information to demonstrate how the proposals would positively contribute to the asset's conservation.

16.9 Criterion iv) states that any harm to the significance of a designated heritage asset must be justified. Applications will be weighed against the public benefits of the proposal.

16.10 Paragraph 184 of the NPPF states that heritage assets are an irreplaceable resource and should be conserved in a manner appropriate to their significance. Paragraph 189 requires an applicant to describe the significance of any heritage assets including the contribution made to their setting. Paragraph 190 requires LPAs to also identify and assess the particular significance of any asset affected by a proposal and this should be taken into account when considering the impact and to avoid or minimise any conflict between the heritage asset's conservation and any aspect of the proposal.

16.11 Paragraph 192 identifies matters which LPAs should take into account when determining applications:

- *the desirability of sustaining and enhancing the significance of heritage assets and putting them to viable uses.*
- *the positive contribution that conservation of heritage assets can make to sustainable communities; and*
- *the desirability of new development making a positive contribution to local character and distinctiveness.*

16.12 Paragraph 193 confirms that great weight should be given to an asset's conservation and the more important the asset the greater the weight should be.

16.13 Paragraph 196 deals with circumstances where development will lead to less than substantial harm. Such harm should be weighed against the public benefits.

16.14 Policy No. Port/EN4 of the Draft Neighbourhood plan also states that development proposals that maintain or enhance the character and setting of any designated or non-designated heritage asset and which enable the asset to be used in a manner commensurate with its heritage significance will be supported. It also states that development proposals in proximity to a heritage asset should provide a clear assessment of the significance and impact of the proposal on the asset and its setting and justify the design approach taken

16.15 In respect of the application a detailed assessment of the impact on heritage assets has been provided by the Council's Conservation Officer. Under this issue a number of interrelated points arise

(a) the impact of the proposed development on the setting of the following designated heritage assets:

- Church of St George, Reforne (Grade I; 1203132)
- Graveyard Wall, Church of St George (Grade II; 1280219)
- Lych Gate, Church of St George (Grade II; 1281838)
- George Inn (Grade II; 1203113)
- 135 Reforne (Grade II; 1206077)
- Portland (Easton) Conservation Area

(b) the impact of the proposed development on the significance of the following non-designated heritage asset(s):

- a. remains of medieval ridge-and-furrow field system.
- (c) if harm is identified to designated heritage assets, the public benefits of the scheme that could outweigh any harm caused, along with any other relevant tests in national or local policy; and
- (d) if harm is identified to non-designated heritage assets, a balanced judgement taking into account the significance of the asset(s) and the scale of any harm or loss.

16.16 In respect of issue (a), the principal concern relates to development on the northern part of the site, an area which is currently open and the impact upon the setting of St George's Church and the Conservation Area. The former is a Grade I listed building and 'great weight' needs to be given to its conservation, which includes its setting. In this regard the indicative development shown on the Parameter Plan (drawing no. 16144\_RMS\_L02.03\_P1), reduces the scale and location of development on the northern part of the site. The proposal has therefore been amended to reduce the visibility and massing impact in views of the Church north along Weston Road and to the south along Wide Street, and also in views from the east and west along Reforne to and from St George's Church. For the Conservation Area, part of its setting is defined by the openness of St George's Rd to the west and the views into and towards it across the site, where the 19<sup>th</sup> and early 20<sup>th</sup> century buildings along the road can be appreciated.

16.17 The Council's Conservation Officer raised an initial concern that the northernmost section of the indicative layout (Plots 82-98) extended the development too far into the wide open space that currently forms part of the extended setting of St George's Church and has done for nearly 350 years. This block would increase the visibility of the development in long views of the church from Wide Street and also views of the church from within the churchyard. In addition, the extension of development north of the current buildings impacts on the views into the Conservation Area, insofar as its open aspect forms part of its westernmost boundary at St George's Road, and of the concomitant visual experience of The George Inn and 135 Reforne.

16.18 This would have given rise to a moderate impact within the less than substantial harm range on the Church of St George, the Graveyard Wall and Lych Gate. In respect of the George Inn, 135 Reforne and the conservation area, the impact would be at the lower end of the less than substantial harm range.

16.19 Thus while the Conservation Officer does not raise an objection to the development of 'up to' 98 dwellings, taking into account the great weight to be given to these settings of designated heritage assets, it is advised that the amount of building to the north of the current school buildings is minimised as this will in turn minimise the changes to the *status quo*.

16.20 However it has been agreed as part of the negotiations with the Applicant that development on the northern part of the site would be restricted in accordance with a parameter plan which is subject to a condition which would be imposed on the permission, which defines the extent of built development and this would also accord with the advice received from the Council's Urban Design Officer which is discussed below. On this basis the impact on the Church of St George, Graveyard Wall and Lych gate is judged to be reduced to the lower end of less than substantial in nature and there would be no harm to the George Inn, 135 Reforne or the conservation area.

16.21 Nonetheless, reducing the development on the northern part would still give rise to less than substantial harm, albeit at the lower end of the scale. Such harm must be given great weight.

16.22 Having regard to para. 196 of the NPPF, in this case, there are a number of identifiable public benefits associated with the proposed development. Not only would it contribute to the provision of both affordable and open market housing, it would in turn contribute to the vitality and viability of the local area, and bring some short term economic benefits during the house build. It would also regenerate an area of previously used land, and bring a net gain in biodiversity.

16.23 When weighing the harm caused against the benefits of the scheme, in line with para 196 of the NPPF, the benefits are considered to outweigh the harm caused in this case. In light of this, there are no clear policies within the Framework that offer clear reasons for refusing the development proposed on heritage grounds.

16.24 In respect of (b) the Council's Senior Archaeologist confirms no objection to the development having received further information from the Applicant regarding the depth of ridge and furrow earthworks. No further archaeological work is considered to be required and no archaeological condition is necessary. Consequently, no impact on the ridge and furrow system is judged to arise.

16.25 In respect of sub-issues (c) and (d), as confirmed above, Policy ENV4 of the adopted Local Plan and Policy Port/EN4 of the Neighbourhood Plan, state that the impact of development on a heritage asset and its setting must be thoroughly assessed. Development should conserve and where appropriate enhance its significance (Criterion i). Any harm to the significance of a designated heritage asset must be justified with applications being weighed against the public benefits. This is considered further in the Planning Balance section of the report.

#### **The impact on the character and appearance of the area**

16.26 The site has been vacant for a number of years and as conformed by the Applicant, has been subject to vandalism and has to a significant degree fallen

into disrepair. As a largely previously developed site within the urban area it is suitable for redevelopment and has the potential to enhance the character and appearance of the local area.

16.27 The application seeks outline permission with all matters other than access reserved for future consideration.

16.28 Thus, the appearance, landscaping, layout and scale of development will be subject to consideration as part of the submission of reserved matters. Nonetheless the Applicant has provided details within the Design and Access Statement regarding the principles which will be adopted in terms of appearance and landscaping.

16.29 The Applicant confirms that the proposed development would be designed to respond to the urban form, character, architecture details and landscape features that are locally distinctive to the surrounding area. The new dwellings are proposed to be of a similar scale to adjacent houses. It is proposed that they would be of a contemporary design and would reflect Easton's character and sense of place through the use of locally distinctive materials including slate, stone and render, and reflect local details such as ornate doorways and porches.

16.30 The buildings would be designed to minimise energy use in accordance with building regulations and allow for the future installation of renewable energy systems where possible. Internal space standards would meet the National Space Standards, with good storage space. They would also be designed to allow for the possibility for residents to convert their lofts into another room to reflect changing family requirements in the future.

16.31 The landscape strategy proposes the use of hard landscape materials that reflect local precedents and reinforce the design of the shared space street, and to create a pleasant, natural environment with planting which would soften the streetscape whilst helping to define spaces within the development and increasing biodiversity. The design includes space for on street planting beds with simple, low maintenance plant species, using a mix of native and non-native species that would help to support wildlife as well as looking attractive.

16.32 Street trees would be located at key points within the development, creating focal points and enriching the natural elements of the scheme whilst providing habitat for birds and insects. Front gardens include a private planted area to each plot offering residents the opportunity to grow plants and personalise their frontages, thereby enhancing the street scene. Additional biodiversity enhancements to the site would include provision for birds, bats, invertebrates, bees, and hedgehogs. Bird and bat boxes would be provided within the building structures and planting would include species which would encourage bees. Bug hotels and hedgehog openings within boundary fences would help to enhance biodiversity further.

16.33 The Council's Urban Design officer is supportive of the scheme subject to appropriate conditions provided development on the northern part of the site is restricted. Both the Urban Design and Conservation Officers have identified this part of the site as being the most sensitive in townscape and heritage terms.

16.34 As a consequence, and in discussion with the Applicant, further details have been provided by the Applicant which demonstrates that with the exclusion of the northern part of the site comprising approximately 1,500 sq.m. it is reasonable to maintain the maximum quantum of housing proposed. Table A below sets out the differential change in density as a consequence:

16.35 Table A: Comparison of net density between original proposal and revised developable area

	Site Area (ha)	Density (dph)
98 dwellings		
Total Site (gross developable area)	2.46	39.8
Original Layout Plan (net developable area)	1.98	49.5
Current Parameter Plan (net developable area)	1.83	53.6

16.36 The Urban Design officer has suggested that a maximum of up to 86 dwellings should be permitted. However, it is considered that the Applicant has provided sufficient information to ensure that up to 98 dwellings could be accommodated at reserved matters stage. And it is important to recognise that paragraph 117 of the NPPF seeks to promote the effective use of land in meeting the need for homes. Paragraph 118 further states that planning decisions should encourage the multiple benefits of re-using brownfield land and delivering environmental gains.

16.37 The gross density which would result is comparable with other densities within the local area and would not result in a significant change to the character and appearance of the locality. It is therefore capable of delivering good design, which is a key aspect of sustainable development, functioning well and adding to the overall quality of the area. Therefore, subject to a condition which incorporates the parameter plan and defines the area within which new housing can be built, the proposal would comply with Policies ENV10 and ENV11 of the Local Plan and section 12 of the NPPF.

### **Safeguarding mineral resources**

16.38 Section 10 of the Bournemouth, Dorset and Poole Minerals Strategy (2014) recognises the importance of Portland Stone:

“Portland Stone is a limestone recognised as a principal source of building stone in England. Its quality freestones have famously been used for public buildings throughout Great Britain and internationally. It has a local, regional and national

market for use in newbuild, repair and restoration, masonry, flooring, paving and rock armour.”

16.39 Policy PD1 of the Minerals Strategy outlines a presumption in favour of underground mining and high wall extract of the material and the strategy recognises the ability to backfill the voids with waste rock from mining operations.

16.40 While no part of the site falls within the Minerals Safeguarding Area (MSA) identified in Policy SG1 of the Minerals Strategy, the northern part is subject to temporary permissions which expire in September 2021, which permit extraction of the stone and backfilling of the site. Thus, the principle of mining the stone under the site is supported by Policy PD1. Paragraph 204 of the NPPF also seeks to ensure that mineral resources of local and national importance are not sterilised by non-mineral development, with prior extraction being encouraged where non-mineral development is planned.

16.41 Therefore, while the application site is not located within a MSA, since the stone is of national importance because it is a ‘local mineral of importance to heritage assets and local distinctiveness’ there is a presumption in ensuring that it is extracted and the void backfilled before development is progressed. The Neighbourhood Plan at paragraph 3.19 also confirms the importance of ensuring that worked land is reclaimed at the earliest opportunity and that high quality restoration is secured.

16.42 The Applicant has indicated that development in Phase 2 would not commence until after September 2021 when mining operations have ceased. However, the Mineral Planning Authority confirms that extraction of existing reserves under the site is likely to take approximately 3 years.

16.43 The application therefore raises a number of issues which require resolution.

**Issue 1: The principle of permitting housing on the site having regard to mineral reserves**

16.44 Policy SG1 - Mineral Safeguarding Area within the Bournemouth, Dorset and Poole Mineral Strategy 2014 states:

*The Mineral Planning Authority will resist proposals for non-mineral development within the Mineral Safeguarding Area, as shown on the Policies Map, unless it can be demonstrated that the sterilisation of proven mineral resources will not occur as a result of the development, and that the development would not pose a serious hindrance to future mineral development in the vicinity.*

*Where this cannot be demonstrated, and where there is a clear and demonstrable need for the non-minerals development, prior extraction will*



*be sought where practicable and where it would not leave the site incapable of non-mineral use.*

16.45 Paragraphs 14.6 and 14.7 of the Strategy make it clear that the MSA was drawn, not to include the whole resource, but only to encompass those parts of the resource considered 'worthy of safeguarding'. The resource which lay underneath existing buildings was not included within the MSA because it was considered incapable of being mined.

16.46 Paragraph 14.8 explicitly notes that the MSA excludes "land within settlement boundaries and proposed urban extensions".

16.47 The site is not located within the MSA as designated under Policy SG1 of the Bournemouth, Dorset and Poole Minerals Strategy 2014. Consequently, there is no statutory protection of the stone under the site.

16.48 Currently the northern part of the site referred to as Phase 3 in the planning application (but in effect is the second of two development phases), is underlain by existing mines with extraction required to cease by the end of 2021. This relates to the area under the Youth and Community Centre. Phase 2 (the first development phase), which involves the southern part of the site, is an area where Albion Stone Ltd would wish to mine and it is understood that discussions have been held with the Applicant on this matter. Albion Stone Ltd operate two mines: Bowers Mine to the south-west and Jordans mine to the north. The Jordans Bowers Link Mine provides access to the stone under the cemetery to the west of the application site.

16.49 The Council granted temporary permission for mining under the playing fields at the site as a windfall opportunity. This was considered appropriate at the time given the closure of the school. In granting temporary permission for mining under WP-17-00880-DCC, it was concluded that:

*"This "windfall" site would contribute to meeting the housing need in accordance with policies ENV 15 and SUS 1 of the West Dorset, Weymouth and Portland Local Plan. There is therefore a need to ensure that the mining operation within this area is undertaken so that it would not unduly delay the re-development of the land surface."*

16.50 Nonetheless it is accepted that Portland Stone is of local and national importance, being important to heritage assets and local distinctiveness, as set out in the Glossary to the NPPF. Paragraph 204 (c) and (d) of the NPPF advise that such minerals should not be sterilised by non-mineral development and prior extraction should be encouraged where practical and achievable. Dorset Council as the Mineral Planning Authority for the area also has a statutory duty to ensure the continued provision of the mineral for future use.

16.51 At the time the MSA was designated in the 2014 minerals strategy, no mining had occurred under buildings on Portland and it was concluded that such

mining was unlikely to occur. While the NPPF advises that nationally important minerals should be protected through the use of appropriate policies within development plans, there is no protection afforded to the stone under the application site within Policy SG1. Such protection would have to be considered as part of any review of the 2014 Minerals Strategy.

16.52 The advice within paragraphs 293 and 295 of the NPPF in ensuring that great weight should be afforded to mineral extraction particularly those of local and national significance, is a material planning consideration. However, in the absence of the site being included within the MSA, there can be no in-principle policy objection to the development of housing on the site, and the development plan does not provide a basis for refusing planning permission. The suggestion by Albion Sone Ltd that under such circumstances housing development should be delayed by between 10-15 years in order to enable the mineral to be extracted, is considered unreasonable given the benefits associated with delivering housing in a sustainable location, the need for more affordable housing and making maximum re-use of previously developed land within the urban area, which is not within a MSA. Indeed it is relevant to note that the Bowers and Jordans mines link can continue to provide opportunities to mine the stone irrespective of housing being provided on site.

## **Issue 2: Can housing be constructed safely having regard to mining activity under part of the site**

16.53 Mining has been undertaken in the immediate vicinity and beneath the area proposed to be developed as Phase 2. Extraction beneath the Phase 2 is ongoing. No mining has been undertaken beneath the Phase 1 and no permission exists for extracting the stone beneath this part of the application site.

16.54 The timescales associated with mining and backfilling operations that are defined within the relevant planning consents are as follows:

- Royal Manor Extension (Permission WP/13/00745/DCC) – Mining beneath northern and central parts of the Phase Two site. Extraction completed by September 2021. Backfilling completed within 6 months of cessation of mining.
- Youth and Community Centre (Permission WP/17/00880/DCC) – Mining beneath the Youth and Community Centre in the south eastern corner of the site. Abstraction and backfilling completed by September 2021.
- Bowers Mine Extension (Permission WP/17/00298/FUL) – Mining to the west of the site, with access drives at undefined locations beneath parts of the Phase Two site. Extraction completed by September 2038. Backfilling completed by September 2040.

16.55 The consents associated with extraction beneath the site are based on requirements to backfill the mine voids to within 0.3 to 0.5m of the roof. When backfill is completed, there will therefore be a limited void space into which collapse of the mine roof can migrate.

16.56 The Applicant has assessed the risk of building over former mining areas based on guidance in CIRIA Special Publication 32 Building Over Abandoned Mine workings. The analysis assumed a ratio of rock cover above the mine to seam thickness of >10 metres (based on the rock cover of 11m and that the seam thickness is 1m following filling to 0.5m of the roof. The analysis allows for 0.5m of settlement of the fill assuming the porosity of any collapsing ground is no greater than 30%). Based on CIRIA Special Publication 32, the surface settlement would be expected to be negligible.

16.57 The Applicant confirms that whilst monthly survey of the mine roof is completed by the mine operator, and movements have been confirmed to be less than operational predictions, completion of backfilling and long-term assessment of surface ground movement has not yet been undertaken. However, the modelling is based on conservative rock mass characteristics and a worst-case ground model that includes for a partial collapse of the roof of the mine prior to completion of the mine backfilling. On this basis, the assessment of surface settlement is considered by the Applicant, to be conservative.

16.58 The application therefore proposes a phased construction with Phase 1 within the areas south of the planned mine extension where extraction works have not occurred and are not proposed. The stand-off between the planned mining and this part of the development boundary is 6m and only the access road will be along this boundary. The residential development will be set back from the boundary by a further 10m giving at least 16m between the planned mine extension and the nearest dwelling. On the basis of this and the precedence that have already been set within the extant mining consents around existing roads and properties, the risk of mine related instability affecting the development Phase 1 is assessed by the Applicant to be Low.

16.59 Phase 2 of the development is defined as the area overlying the ongoing Jordan's Mine Extension abstraction, and the forthcoming Youth and Community Centre abstraction. Development within the Phase 2 area will not take place until the mine workings and subsequent backfill have been completed. In advance of this, ground investigation works will be required to be undertaken to assess the nature of the cap rock above the mine and stability assessment undertaken to assess the potential ground settlements. Based on the Applicant's technical assessment, it is not expected that there would be any significant issues with the

ground settlement significantly affecting the development in Phase Two once the mine reinstatement works are completed and it is estimated that the risk of mine related settlement post mining operations is Low to Medium.

16.60 Thus, the development proposals include for phased development with Phase 1 being in the south of the site where underlying mineral abstraction has not occurred. The standoff zones between the consented mineral abstraction and the proposed Phase 1 development adhere to the precedents established around other pre-existing development and the risks of mine related ground instability affecting the Phase 1 development area are very low.

16.61 Where the existing mining and planned mine extension is beneath the northern and central parts of the site (Phase 2 development area) the development will not take place until the mining is completed and the mine voids reinstated by filling to within 500mm of the roof of the mine voids. The timing of backfilling works defined within the extant permissions identify completion of the large majority of backfilling by 2021. The only residual void left after this time will be the access drives associated with the off-site Bowers Mine Extension. To adhere to pre-existing precedents, development will not progress where open mine voids /access drives are situated within 16m of new dwellings.

16.62 Based on the above, and subject to the imposition of conditions, it is concluded that phased development of housing across the site is achievable and would not give rise to any unacceptable risk to the residents living within the dwellings.

### **Issue 3: Whether housing would adversely affect future mining activity on adjoining land**

16.63 Consideration has been given to concerns raised about the potential impact the development of housing could have on future mining of Portland Stone as a consequence of noise and other impacts leading to complaints which would interfere with mining activities.

16.64 As confirmed above the permissions relating to the extraction of the stone on adjoining land, is undertaken underground. Thus, the impact from noise, dust, vibration and general activities associated with such extraction, is considered to be materially less than that associated with surface level quarrying. The Council's Environmental Health Officer has confirmed that subject to imposing a condition relating to the submission of a noise assessment detailing the nature and extent of any mitigation which would be required, the proposal is acceptable.

16.65 Therefore, the proposal is not considered to conflict with Policy SG1 and would ensure that the amenity of residents on the site were protected in accordance with Policy ENV16 of the adopted local plan.

### **Impact on sites of nature conservation importance**

16.66 Chesil Beach and the Fleet is designated as a Special Area of Conservation (SAC), Special Protection Area (SPA) and Ramsar site, in recognition of its exceptional ecological importance.

The primary reasons for the designation of the SAC are the following habitats:

- Coastal lagoon
- Mediterranean and thermos-Atlantic scrubs
- Perennial vegetation of stony banks
- Annual vegetation of drift lines

16.67 The shingle beach encloses a brackish lagoon called the Fleet, which is the largest lagoon in England occupying 495ha and supports the greatest diversity of habitats and species of any lagoon in the UK. Due to the salinity gradient, peculiar hydrographic regime, and associated reedbed and intertidal habitats, the Fleet is extraordinarily rich in wildlife with outstanding numbers of aquatic plants and animals present.

16.68 Chesil Beach represents a large area of 'perennial vegetation of stony banks' habitat which supports the most extensive occurrences of the rare sea-kale and sea pea in the UK, together with other grassland and lichen-rich shingle plant communities typical of more stable conditions.

16.69 In addition, Chesil beach is also one of two representatives of Annual vegetation of drift lines on the south coast of England. The inner shore of the beach supports extensive drift-line vegetation dominated by sea beet and orache *Atriplex*.

16.70 The Chesil Beach and the Fleet SPA occupies the Fleet lagoon and immediate surroundings which support saltmarshes and reedbeds. The SPA supports over wintering bird species such as the Dark Bellied Brent Goose. In Spring and Summer, Chesil Bank is an important breeding ground for the Little Tern which feed in the shallow waters of the lagoon. The site also provides a habitat for bird species which do not breed at this location, such as Wigeon.

16.71 Chesil and the Fleet is also a designated Ramsar site in recognition of its international importance as a wetland.

16.72 The National Planning Practice Guidance (NPPG) 'Guidance on the use of Habitats Regulations Assessment' (July 2019) makes clear that:

*All plans and projects (including planning applications) which are not directly connected with, or necessary for, the conservation management of a habitat site, require consideration of whether the plan or project is likely to have significant effects on that site. This consideration – typically referred to as the 'Habitats Regulations Assessment screening' – should*

*take into account the potential effects both of the plan/project itself and in combination with other plans or projects. Where the potential for likely significant effects cannot be excluded, a competent authority must make an appropriate assessment of the implications of the plan or project for that site, in view the site's conservation objectives. The competent authority may agree to the plan or project only after having ruled out adverse effects on the integrity of the habitats site. Where an adverse effect on the site's integrity cannot be ruled out, and where there are no alternative solutions, the plan or project can only proceed if there are imperative reasons of over-riding public interest and if the necessary compensatory measures can be secured.*

16.73 The NPPG confirms that:

*A significant effect should be considered likely if it cannot be excluded on the basis of objective information and it might undermine a site's conservation objectives. A risk or a possibility of such an effect is enough to warrant the need for an appropriate assessment.*

And:

*Where it cannot be concluded that there will be no adverse effects on a site's integrity, there is a need to consider potential mitigation. Mitigation measures are protective measures forming part of a project and are intended to avoid or reduce any direct adverse effects that may be caused by a plan or project, to ensure that it does not have an adverse effect on the integrity of a habitats site(s).*

16.74 As part of considering the application therefore an Assessment/Appropriate Assessment must be undertaken to comply with the Conservation of Habitats and Species Regulations (2017). NE has confirmed that this should be based upon:

- The likely increase of visitors to the international sites resulting from the development alone and in combination with planned development within the locality.
- The effectiveness of ongoing recreational management efforts and whether additional measures may be required.
- Any measures that may be required to ensure the recreational mitigation measures in place have sufficient resources to ensure they can be relied on for perpetuity.
- Whether the development is willing to comply with the Interim Strategy for mitigating recreational impacts on the Chesil & the Fleet suite of designated sites.

16.75 An Appropriate Assessment has been undertaken by Dorset Council 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 NERC Act 2006 to the purpose of conserving biodiversity.

16.76 In accordance with *People Over Wind & Sweetman v Coillte Teora nta* (Case C-323/17), Dorset Council has concluded that, discounting any mitigation, the above application would have a likely significant effect on the Isle of Portland to Studland Cliffs SAC and Chesil and the Fleet European wildlife sites (including Ramsar sites). Consequently there is a statutory requirement to provide mitigation and this is discussed below.

#### **(a) Chesil Beach and the Fleet**

16.77 Natural England (NE) has adopted an Interim Strategy for mitigating the effects of recreational pressure on Chesil Beach and the Fleet SAC, SPA and Ramsar. It has advised that a five-kilometre buffer zone should be applied to housing developments coming forward within this area based on an average of 2.4 residents per dwelling. NE has identified various sources of ecological impact relating to increased recreational use of the area and costed appropriate mitigation delivery measures. These total £191,673 per annum.

16.78 Dorset Council Cabinet in July 2020 considered the Interim Strategy and required mitigation costs in respect of Chesil Beach and The Fleet where recent research and publication of updated Natural England advice demonstrated that new development in the vicinity would have an adverse impact on the integrity of the site. Using CIL as a mechanism for recovering the cost of this mitigation provides Dorset Council with an interim strategy that ensures that planning applications affecting this protected area can be appropriately assessed, in turn, helping to ensure the delivery of sustainable development.

16.79 Dorset Council has committed to using CIL to fund the interim mitigation strategy agreed with Natural England. The likely annual cost of mitigating the protected area is approximately £192,000 per annum. Mitigation in respect of Chesil Beach and the Fleet will be addressed via the CIL payment.

16.80 Mitigation of impacts based on NE's Interim Strategy are set out in Table B:

#### **Table B: Interim mitigation measures adopted by NE to address impacts of recreational pressure on Chesil Beach and the Fleet**

<b>Ecological Impact</b>	<b>Source of Impact</b>	<b>Mitigation measure</b>
Land based disturbance to breeding Little Terns	Dogs and walkers	<ul style="list-style-type: none"> <li>- Little Tern wardening, fencing, monitoring, volunteer co-ordination</li> <li>- Visitor Centre presence for dissuading inappropriate activities and source of information for users</li> <li>- Chesil Beach Carpark spaces and charges review</li> <li>- Expansion of Dorset Dogs</li> <li>- Interpretation; leaflets, signage (land and water), smartphone app,</li> <li>- Infrastructure projects</li> <li>- Seasonal by-laws to reinforce encouragement of positive behaviour</li> <li>- Provision of alternative strategic green space</li> <li>- Policy based major development (10 dwellings or equivalent) within 400m of the designated site to provide bespoke infrastructure mitigation measure</li> </ul>
Water based disturbance to Little Terns	Recreational watercraft	<ul style="list-style-type: none"> <li>- Little Tern Wardening, fencing, monitoring, volunteer co-ordination</li> <li>- Interpretation; leaflets, signage (land and water), smartphone app.</li> <li>- Review of water access points</li> <li>- Use of existing watercraft permit system</li> </ul>
Land based disturbance of wintering birds	Rambling, dog walking, wildlife watching and jogging	<ul style="list-style-type: none"> <li>- Wardening of activity hotspots</li> <li>- Interpretation; leaflets, signage (land and water), smartphone app.</li> <li>- Provision of alternative strategic green space</li> <li>- Infrastructure projects</li> <li>- Expansion of Dorset Dogs</li> </ul>
Trampling of vegetation	Footfall	<ul style="list-style-type: none"> <li>- Wardening of hot spots</li> <li>- Provision of alternative green space</li> </ul>



		<ul style="list-style-type: none"> <li>- Engagement with user groups</li> </ul>
Pollution of habitats	Littering and dog fouling	<ul style="list-style-type: none"> <li>- Provision of bins for dog waste</li> <li>- Infrastructure projects</li> <li>- Expansion of Dorset Dogs</li> </ul>
Damage to sub-tidal habitats	Fishing	<ul style="list-style-type: none"> <li>- Engagement with user groups and agree codes of conduct where appropriate</li> <li>- Wardening of activity hotspots</li> <li>- Introduce permits where appropriate to enable control of activity locations/methods</li> </ul>
Deliberate damage to plants and animals	Harvesting And beachcombing	<ul style="list-style-type: none"> <li>- Engagement with user groups and agree codes of conduct where appropriate</li> <li>- Wardening of activity hotspots</li> <li>- Introduce permits where appropriate to enable control of activity locations/methods</li> </ul>

16.81 The proposal will increase the number of residents which in turn will increase recreational pressure not only in respect of Chesil Beach and the Fleet but also in respect of Tout Quarry and King Barrow Quarry, which includes an area within the Portland to Studland Cliff SAC. As confirmed above mitigation of the impact on Chesil Beach and the Fleet will be secured via the CIL, thereby complying with Policy ENV1 in the Local Plan and Policy No. Port/EN0 of the draft Neighbourhood Plan.

16.82 In respect of the two quarries DWT have requested a financial contribution of £90,875.58 reflecting increased annual management costs to the two reserves (Tout Quarry: £43,042.46 and King Barrow Quarry £47,833.13), incurred from the anticipated increased footfall as a result of the proposed development. As set out in Table C below, the anticipated increase in annual visitor numbers (visits) attributable to the development is estimated by DWT to be 4,291 per annum.

**Table C: Estimated additional costs of managing the reserves and mitigating the impact associated with the proposed development**

	<b>Tout Quarry</b>	<b>King Barrow Quarry</b>
No. of visits per annum	25,000	15,000
New homes proposed on application site	98	98
Total occupants (2.4 people per dwelling)	235.2	235.2

Visitation rate per day	7.056	4.704
Yearly visits	2,575	1,716
Estimated visitor numbers post-development per annum	27.575	16.717
% increase in visits	10.3	11.4
Current visitor safety and site management costs per annum	£5,224	£5,224
Additional annual costs incurred as a consequence of the proposal	£538.03	£597.91
Projected additional costs based on 80-year life of proposed development (no inflation)	£43,042.46	£47,833.13

16.83 The Applicant in response has confirmed that the total CIL liability associated with the scheme is £615,000. The Applicant states that while it is a matter for the Council to determine how the CIL is spent. If a percentage is allocated towards mitigating the impact on the two quarries, then no additional financial contribution should be made via the section 106 obligation on the basis that this would result in 'double taxation'. Since the viability of the scheme is marginal, the Applicant has suggested providing a 'Nature Plan' which would be provided to new residents and would seek to educate and change behaviour. This could be secured by condition or as part of a section 106 obligation.

16.84 In addition, the Applicant has queried the total of £90,857.58 sought by DWT and provided an alternative estimate based on the anticipated net additional quarry visits by residents from the development based upon the current quarry visitor numbers as a proportion of Portland residents. This results in a total number of visits to the two quarries by residents living within the development of total contribution of £19,817 (see Table D for the methodology). The Applicant states that the number of visits to the site per day/per annum are likely to have been over-estimated highlighting the fact that the most obvious routes most likely to be used by future residents are to the north-west where it links with the South West Coast Path. The latter skirts the edge of the Tout Quarry reserve.

**Table D: Applicant's estimate of visitor numbers and mitigation management costs**

		Tout Quarry	King Barrow Quarry	Total

Current Quarry visitor numbers p.a.	-	25,000	15,000	40,000
Number of Portland residents	12,797	-	-	-
Quarry visits per head (all Portland residents)	-	2.02	1.21	
RMAC development: No. of dwellings First Phase	41	-	-	-
Phase 1: anticipated new residents (2.4 people per dwelling)	98	-	-	-
Phase 1: Quarry visits per annum	-	198	119	317
RMAC development: No. of dwellings Second Phase	57	-	-	-
Phase 2: anticipated new residents (2.4 people per dwelling)	137	-	-	-
Phase 2: Quarry visits per annum	-	276	165	441
<b>Total additional Quarry Visits PA from the proposal</b>		<b>474</b>	<b>285</b>	<b>759</b>
% increase in visits	-	1.9%	1.9%	-
Current annual running costs	-	£5,224	£5,224	£10,448
Estimated annual running costs	-	£5,323	£5,323	£10,646
Annual additional cost per site	-	£99	£99	£198
Annuity cost @ 1% interest rate	-	£9,909	£9,909	<b>£19,818</b>

16.85 The Applicant has also said that a proportion of the CIL contribution should be allocated to the two reserves and if this were confirmed, there would be no additional requirement to provide a financial contribution via a section 106 obligation. However, as confirmed above it is not possible for the Council to guarantee that a proportion of the CIL contribution would be 'ring fenced' for mitigating the impact.

16.86 In response to the revised calculation of £19,817, the DWT calculation considers visits due to the proximity of the development to the two reserves, rather than the average number of visits or overall usage by Portland residents to the Portland Quarries Nature Park. DWT has welcomed the provision of a

'Nature Plan' but remains concerned that an appropriate financial contribution to mitigate the impact on the two quarries should be secured either via CIL or in the form of a separate section 106 contribution.

16.87 Two issues arise. The first relates to whether it is necessary and reasonable to request a financial contribution to mitigate the impact of the proposal having regard to paragraph 56 of the NPPF. The latter advises that it must also be directly related to the proposal. The Applicant has acknowledged that some form of mitigation is necessary and based on the information supplied by DWT, it is agreed that future residents will have the opportunity to visit Portland Quarries Nature Park within which Tout Quarries and King Barrow Quarries are located.

16.88 The Ecological Assessment provided on behalf of the Applicant states that the location and direction of footpaths in the vicinity of the site are unlikely to generate significant additional pressure on the two reserves relative to existing use. However, DWT confirm based on its own surveys, that both reserves are already subject to recreational pressures, noting that they are crossed by a number of desire lines which are well used. Therefore, it is considered to be necessary to secure a financial contribution towards the management of the two reserves in order to adequately mitigate increased visitor numbers.

16.89 Natural England has confirmed the need for a contribution as follows:

*“DWT hold the nature reserves on a medium term lease and have already invested considerable time and money to bring the nature conservation features into favourable management, as well as enhancing the sites for the local community through the removal of fly tipping, works to remediate and ongoing monitoring of geo hazards associated with the old quarries, and addressing the not insignificant recreational pressure they are already under, most notably from uncontrolled use by motorbikes. The additional houses coming forward through this scheme will undoubtedly exert more recreational pressure on the reserves and thereby increase the ongoing costs to the reserves managers, we therefore recommend that further contributions are sought from the developer to address the additional costs that DWT will incur from the anticipated additional footfall stemming from the occupants of the new properties. Uncompensated increased management costs associated with running the nature reserves may reduce the viability of the nature reserves for DWT and thereby risk increased recreational impacts to both the SSSI and SAC features long term. Any such deterioration of the sites, for example through increases in the use of off road motorbikes, would also reduce the safety and aesthetic appeal of the site to local users, including the future residents of the new*

*development. In order to avoid these potential impacts Natural England supports the need for additional financial contributions for the management of the nature reserves over and above the CIL contributions for Green Infrastructure in the wider Portland Quarry Nature Park. Natural England would be happy to discuss how these might be achieved.”*

16.90 The second issue is the scale of the financial contribution required to achieve the planned mitigation. As stated above, DWT has requested a contribution of £90,875.58 compared with the Applicant's estimate of £19,817. DWT confirm that its estimate is based on a previously agreed methodology associated with a previous application which would impact on the Lorton Valley Nature Park at Weymouth. DWT's assessment is based on estimating the number of additional visits and calculating an appropriate management cost based on current levels of expenditure. The annual cost to manage each reserve is £5,224 per annum (2019-20 figures). This includes expenditure on:

- Ensuring visitor safety
- Clear ups after acts of anti-social behaviour e.g. litter, fly tipping, vandalism.
- Eyesore removal
- Maintaining safe access routes
- Habitat management
- Monitoring and visitor management

16.91 The Applicant, as confirmed in Table C above, has estimated based on a pro-rata visitation rate to the two reserves based on the total population on Portland (12,797 residents) that the number of residents living on the application site, would result in significantly fewer visits equating to a total of 759 per annum.

16.92 This results in an additional annual cost of running and managing both sites of £198 per dwelling which equates to a total 80-year cost with an allowance of 1% for inflation, of £19,817.

16.93 However, it is not considered that the Applicant's assessment fairly reflects the proximity of the application site to the two reserves when compared with the entirety of the Isle of Portland. Tout Quarry lies a short distance (c600 metres) to the north-west of the site and is conveniently accessible on foot via a 8-10 minute walk. King Barrow Quarry lies further to the north at a distance of about one kilometre and a walking time of approximately 15 minutes. DWT's estimate therefore includes a slightly greater visitation rate to reflect the proximity of the two quarries and is under the circumstances, considered reasonable.

16.94 Due to the alternative estimates provided by DWT and the Applicant, further advice has been sought from Natural England (NE).

16.95 NE consider that residents would be more likely to access footpaths and reserves within walking distance of their home, compared with the wider population across the island which may require a car to gain access. It is acknowledged that this would not always be the case, but on the balance of probability, the footpaths, and reserves within 15 minutes-walk from the proposed development are considered likely to be more frequently utilised by the proposed residents compared to the wider population. NE therefore agree with the approach that DWT have taken in terms of their assessment which is based on the assumption that a higher proportion of visits would be made to the two reserves by residents living closer to the site. As a consequence any financial contribution should be directly related to the development and should be reflective of the proportionate difference in levels of attraction and use.

16.96 With no site specific survey data available, DWT have relied on the Monitoring Engagement in the Natural Environment survey (MENE) and this supports the above proportionate approach.

16.97 The MENE data suggests that approximately 15% of the Dorset population will visit green infrastructure 1 or more times a day, with a further 30% visiting green infrastructure sites several times a week. When applied to the proposed development, this would equate to approximately 35 daily trips, and based on residents visiting just twice a week, this would equate to an additional 20 daily visits, equating to 55 daily visits from the development.

16.98 The MENE data relates to all green infrastructure sites, and as per above, NE are content that the development should only seek to mitigate the impact on the nature reserves. DWT have assumed 21% of those visits to green infrastructure would be to their nature reserves, and NE have confirmed that it considers this to be a reasonable estimate.

16.99 NE have therefore reviewed the DWT figures and conclude as follows:

- The figures include habitat management costs which are not justified on Portland.
- The other management costs appear reasonable, given the liabilities of health and safety works in old quarries.
- With regards to the apportionment of visitors the applicant has suggested that the assessment should be based on the relative increase the development would have on the current Portland population (estimated at 12 700 residents). I.e. a 1.85% increase in the Island's population. However, the Monitoring Engagement in the Natural Environment (MENE) survey data highlights the importance of Green Infrastructure (GI) sites within 1 mile or 2 miles from home (which in Dorset equates to

approximately 28% and 27% of visits to GI sites, respectively. Approximately 45% of these visits would be expected to be on foot. It is therefore likely that the communities in close proximity to the reserves will contribute a far higher proportion of visitors than those further afield and this is likely to be particularly true on Portland which contains a relatively large number of alternative GI options in close proximity to the different settlements.

- The DWT estimate that 5% of the new residents i.e. 5% of 235.2 occupants in the development once fully occupied in total, will make daily visits to one or other of the reserves. This equates to 11.76 new visits per day, or 4292.4 per annum.
- In comparison the Dorset MENE data suggests that approximately 15% of the Dorset population will visit GI sites one or more times a day, with a further 30% visiting GI sites several times a week. It can therefore be expected that the development will generate at least 35 daily visits to GI sites i.e. 15% of the 235.2 occupants. Applying the assumption that the additional 30% of residents that visit “several times a week” visit GI sites just twice a week than a further 70.56 new residents will on average have 0.286 additional visits per day (2 visits a week / 7 days). This equates to 20 additional daily visits. Therefore NE predict that the scheme can be expected to generate on average at least 55 new visits to GI sites per day. NE advise that it is not unreasonable for DWT to conclude that at least 21% of those visits i.e. 11.76 per day will be to their nature reserves which are attractive and lie in close proximity and easy access to the development.

16.100 On the basis of the above NE therefore estimate the financial contribution which should be sought to mitigate the impact on the two reserves to be as follows:

- Total management costs excluding habitat management costs = £3,500 p.a.
- Total number of visitors to both reserves before development = 40000 p.a.
- Based on the DWT assessment on average c5% of new occupants will visit one or other of the reserves per day resulting in a total increase in visits to either reserve = 11.76 per day, or 4292.4 visits per year
- Therefore estimated numbers of total visits to both reserves after the development = 44292.4, giving a percentage increase of visitors to the reserves of 10.73%
- 10.73% of total visitor management costs = (£3500 / 10.73%)
- = £375.55p.a. x 80 years (in perpetuity costs) = **£30,044**

16.101 Accordingly, it is recommended that a financial contribution of £30,044 is secured within the section 106 obligation, since mitigation of the impact on the two reserves cannot be guaranteed as part of the CIL payment. Mitigation is

directly and reasonably related to the proposed development and is considered to be proportionate to the predicted impact over an 80-year period. Payment should be phased in accordance with the rate of development across the site. The first quarter payment would be made on completion of the 25<sup>th</sup> unit, with 50% paid on completion of the 50<sup>th</sup> unit and 100% payment on completion of the 98<sup>th</sup> unit.

16.102 The figure of £30,044 has been agreed with the Applicant.

16.103 Finally, in relation to planned mitigation of impacts on biodiversity and the ability to enhance the overall biodiversity across the site post-development, the Applicant has submitted a Biodiversity Mitigation and Enhancement Plan (BMEP). An Ecological Masterplan has also been submitted. The BMEP provides the following mitigation in respect of species and habitats within the site:

#### Breeding Birds

In order to safeguard any birds or nests which might be present, wherever possible semi-mature/mature vegetation will be removed outside the peak bird nesting period (which runs from March to September inclusive). Any vegetation and / or building demolition that is to proceed during the nesting period will only be completed after a nesting bird check is undertaken by a suitably qualified ecologist (no sooner than 48 hours prior to clearance / demolition), to safeguard any active bird nests which might be present.

#### Hedgehogs

The following mitigation for hedgehogs will be applied: • In order to minimise the risk of direct killing or injury, precautionary hand-searching for hedgehogs prior to vegetation clearance in areas of suitable habitat (i.e.at the base of shrubs or other potential nesting sites) would be undertaken by a suitably qualified ecologist under an Ecological Watching Brief;

Provision of suitable natural nesting sites within the scheme (e.g. creation of log piles and brushwood heaps within areas of open space), supplementary shrub planting to thicken existing tree-lines; installation of artificial nest sites in suitable locations and maintenance of sufficient foraging habitat within the scheme in around the built extent); and;

Use of hedgehog friendly fencing both into and within the site: where closed board timber fencing or other impermeable boundaries are used within the development, 10cm x 10 cm holes will be incorporated at regular intervals to allow hedgehogs through (but be are too small for most pets).



## Bats

Demolition of the former RMAC buildings will result in the loss of five confirmed summer / transitional and potentially hibernation roosts for common pipistrelle, serotine, and grey long-eared bats. An EPS licence will be required from Natural England to allow this to lawfully proceed. An overview of the proposed avoidance, mitigation and compensation measures in relation to bats has been provided below, as far as can be determined at the current outline planning stage. Further details will be provided within the subsequent EPSL licence application.

Tree removal will lead to some habitat loss at the site for foraging and commuting bats, and changes to the night-time lighting environment could result in severance of flight lines and reduction in habitat quality. To mitigate for this the proposals will include:

- new landscape planting to provide additional foraging and commuting habitat within the site. This will include the provision of trees and vegetated links along the southern and western site boundaries, allowing continued bat movements around and across the Site; and
- a sensitive lighting strategy in accordance with Guidance Note 08/18 Bats and Artificial Lighting in the UK, Bats and the Built Environment series BCT/ILP (2018) will be implemented to protect a relatively dark corridor around mature and semi-mature boundary vegetation at the Site and contribute to maintaining habitat suitable for use by foraging and commuting bats post-redevelopment. The lighting strategy will be approved by an ecologist.
- No lighting will be installed inside the roof area of the new bat house, on any external access points and flight paths

## Habitats

The most important habitats within the site, comprising boundary trees and semi-mature vegetation, will be largely retained and enhanced within the proposed redevelopment.

- Tree loss will be minimised as far as practicable as part of the proposed redevelopment. Retained vegetation will be protected during construction activities through the implementation of suitable Root Protection Zones (RPZs) in line with recommendations made under the Site Arboricultural Impact Assessment Report (Treeworks Environmental Practice, 2019).

- It will be necessary to remove/prune some mature/semi-mature trees within the Site to facilitate construction works. None of these are classed as notable, veteran or ancient trees. The outline redevelopment design provides capacity for new landscape planting, particularly along the Site boundaries, which will mitigate for this habitat loss. Finalised landscape designs will incorporate a range of native species and those of known wildlife value. Following the Dorset Biodiversity Appraisal Guidance (Dorset Council NET 2018) on the basis that trees (of various diameter) would be lost to the development, a total of at least 153 new trees would be planted. These would comprise 75% native species, and 50% would be large canopy trees.
- In addition the finalised landscape proposals will include shrubs/scrub and species-rich grasslands of varying sward height to provide sheltered microclimates.
- Cotoneaster stands within the site will be removed and disposed of as part of site clearance, in accordance with applicable legislation.

16.104 The Natural Environment Team has issued a Certificate of Approval for the BMEP.

16.105 In summary, the Appropriate Assessment undertaken by Dorset Council as Competent Authority concludes that with appropriate mitigation as detailed in this section, there will be no adverse effect on the integrity of the designated sites.

### **Highways and transportation**

16.106 The Application is accompanied by a Transport Assessment (TA) and Framework Travel Plan. The TA confirms that:

- There is a good quality footway network in the vicinity of the site that ensures future residents of the development will be able to access local facilities and amenities on foot.
- The local road network is considered to be appropriate for cycling due to the residential nature of the locality and the low speed limits in place.
- The site is located within an established area with appropriate access routes via the local highway network.
- There is an existing bus stop along Weston Road immediately to the west of the site that is served by the Number 1 service. This service provides a frequent connection to other settlements on the Isle of Portland as well as the larger settlement of Weymouth to the north. The service operates almost 24 hours a day, with buses stopping close to the site every 15 minutes for much of the day, Monday to Saturday. The service could be

easily used by future residents of the site for commuting to other parts of Portland and Weymouth town centre to the north.

- The stop is also served by the Number 701 service which connects settlements on the Isle of Portland with Kingston Maurward College in Dorchester. This represents an excellent opportunity for future residents to access further education facilities.
- The site is well positioned to access a variety of the local facilities and amenities which are readily accessible by walking, cycling and public transport modes.
- A review of highway safety across the study area has shown that there are unlikely to be any inherent highway safety issues on the surrounding network that could be exacerbated by the proposed development. In terms of predicted trip generation rates, in the AM peak (08.00-09.00) this would equate to 114 arrivals and 33 departures by car/vans) and 25 arrivals and 12 departures in the PM peak (17.00-18.00) over a 12-hour period (07.00-19.00) the total arrivals would be 166 with 171 departures. This is contrasted with the trips generation rates associated with its use as a school which were predicted to be 113 arrivals in the AM peak and 78 departures with 15 arrivals at the PM peak and 24 departures.

16.107 The analysis demonstrates that the proposed development is forecast to generate significantly fewer vehicle trips during the weekday AM peak hour and a decrease of approximately 2 two-way vehicle trips during the PM peak hour

16.108 Overall, the TA concludes:

- It is proposed that vehicular access to the site will be gained via the existing priority T junction at Weston Road as per the current situation.
- The access strategy seeks to integrate the site with the surrounding development and the existing pedestrian facilities.
- The anticipated multi-modal trip generation of both phases of the proposed development has been forecasted using information derived using the TRICS and TEMPro databases. The trip generation assessment undertaken has been based on 99 dwellings rather than the 98 dwellings actually proposed, so the assessment can be considered robust.
- The forecast (worst case) vehicle trip generation of the proposed development has been compared against the former site use as a secondary school with 696 pupils. The results show that the redevelopment of the site for residential use will result in a significant reduction in traffic movements generated during the weekday peak hours.

16.109 The Highway Authority has assessed the TA and has confirmed that there is no in principle objection to the proposal on highway grounds.

16.110 While some residents have raised concerns regarding the impact on car parking and congestion, adequate on-site car parking can be provided at reserved matters stage. The TA demonstrates that the existing road network can accommodate the predicted vehicular trips and that the site is accessible by a choice of means of transport. It therefore complies with Policies COM7 and COM9 of the adopted local plan, together with paragraphs 102 and 108 of the NPPF. It is also compliant with Policy No. Port/TR3 in ensuring that there is adequate space for off-street parking, taking into account the type of development, the accessibility of the site and local parking standards.

16.111 The applicant has also submitted a Framework Travel Plan with the application which demonstrates a commitment to combine a range of hard and soft measures such as information provision, marketing and raising awareness in order to reduce private trips associated with the development by promoting more sustainable alternatives to the car including car sharing, public transport, walking and cycling.

16.112 In light of the above, the proposed development is considered to accord with Policy COM7, and paragraph 111 of the NPPF.

### **Amenity**

16.113 The site is embedded within the urban area and some concerns have been raised by local residents regarding impact on visual amenity and privacy. As confirmed in this report, despite the exclusion of a proportion of the northern part of the site (c1,500 sq.m.) from built development, it is considered that an adequate density would be capable of being achieved which would not give rise to any over-bearing impacts or loss of amenity to existing residents in terms of reduced privacy or other visual effects. The precise appearance, siting and scale of development would be addressed at reserved matters stage. Thus, the proposal complies with Policy ENV16 of the local plan and paragraph 127 of the NPPF.

### **Ground contamination**

16.114 The Application is accompanied by information on ground contamination. Radon has been identified as a potential site wide contaminant and radon protection measures will be required to be incorporated into the new buildings. This will remove the pathway for radon migration and a suitable condition is recommended to be imposed on the planning permission.

16.115 The Applicant's study has identified that localised potential of on site sources of contamination in the form of possible localised areas of made ground, electrical substations and the site of a former oil storage tank could result in a locally Low risk to human receptors, specifically construction workers and future residents. In addition, off-site potential sources include backfilled quarries and

the backfilling of mine workings which could be sources of ground gas resulting in a Low risk to human receptors. The study has identified a Very Low risk to all other identified receptors.

16.116 Where a Low risk has been estimated, it is possible that harm could arise to a designated receptor from an identified hazard, but it is likely that this harm, if realised, would at worst normally be mild. A Very Low risk has been estimated, and there is a low possibility that harm could arise to a receptor. In the event of such harm being realised it is not likely to be severe.

16.117 As part of the permission a condition is recommended requiring the provision of a geo-environmental investigation together with a strategy for mitigation.

### **Loss of recreational facilities**

16.118 Policy COM5 of the West Dorset, Weymouth and Portland Local Plan seeks to resist the change of use of open spaces of public value and recreational facilities including school playing fields. Criterion 3 of the policy states that the loss or change of use will be permitted where alternative and/or suitable replacement of outdoor or indoor provision of equal or better recreational quality or value has been provided.

16.119 As confirmed in this report, the former college has been closed for a number of years with facilities concentrated as part of the Atlantic Academy. It is considered that in this instance the facilities provided at the former Royal Manor College have already been replaced elsewhere through the investment at the replacement school, therefore meeting criterion 3 of Policy COM5. In turn, Sport England have raised no objection.

16.120 Portland Town Council has objected to the loss of recreational facilities. Policy No. Port/CR1 in the draft Neighbourhood Plan identifies a number of sports and recreational buildings and land which are very important to the local community because of their sports and recreational value. It should be noted however that Map 13 in the draft Neighbourhood Plan does not identify any part of the application site as containing sports or recreational facilities of value to the local community.

### **Financial contribution towards mitigating the impact on local health services**

16.121 The Dorset Clinical Commissioning Group has commented that the proposal is expected to add a further 98 dwellings with an estimated population

in the region of 235 (based on current guidance of 2.4 persons per dwelling). This increase in population will impact on local NHS resources.

16.122 Should planning permission be granted a financial contribution should be secured to fund additional NHS infrastructure via the CIL or section 106 obligation, towards a surgery or number of surgeries in the local area of the Weymouth and Portland Primary Care Network.

16.123 The Commissioning Group has estimated that a contribution of £7,840 is required based on a total of 98 dwellings with each having an average occupancy of 2.4 persons per household. Policy COM1 of the adopted local plan states that where new development will generate a need for new or improved community infrastructure which will not be met through CIL, a suitable financial contribution should be sought.

16.124 It is considered that the financial payment is fairly related to the scale and needs of the development given the increased use of local health services as a consequence of the residents who will live within the development. This will require improved/new clinical treatment space and the financial contribution will be used towards such provision.

### **The planning balance**

16.125 As considered above, although significant weight can still be applied to Policy SUS2 in this instance, which seeks to support development within the settlement boundaries, by virtue of the absence of a 5-year supply of housing land the policy is out of date. Policy INT1 advises that under such circumstances three matters should be taken into account:

- the extent to which the proposal positively contributes to the strategic objectives of the local plan;
- whether specific policies in that National Planning Policy Framework indicate that development should be restricted; and
- whether the adverse impacts of granting permission could significantly outweigh the benefits.

16.126 Addressing the first bullet point and the eight strategic objectives of the Local Plan set out in paragraph 1.3.1, the position as set out in Table E is judged to be as follows.

**Table E: Compliance with Strategic Objectives in the adopted Local Plan**

<b>Strategic Objective</b>	<b>Comment</b>	<b>Compliance or conflict</b>
Support the local economy to	The scheme would	Neutral

provide opportunities for high quality, better paid jobs	provide employment opportunities during the course of construction although the degree to which they would be high quality, better paid jobs is not clear.	
Meet local housing needs for all as far as is possible	<p>The scheme would deliver 25% of the units as affordable and it is acknowledged that there is a shortage of affordable units.</p> <p>In addition, the absence of a 5-year supply of deliverable sites would assist in boosting housing.</p>	Compliance
Regenerate key areas	Although the site is not identified as a key area for regeneration, the proposal would make more effective use of vacant land. It would therefore subject to the restriction on housing on the northern part of the site, enhance its overall appearance and make effective use of the land in accordance with paragraph 117 and 118 c) of the NPPF.	Compliance
Support sustainable, safe and healthy communities with accessibility to a range of services and facilities	The site occupies a sustainable location close to a range of services and facilities. It would provide a safe living environment for residents and appropriate financial contributions can be made towards improving local health care	Compliance

<p>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</p>	<p>facilities.</p> <p>There would be no adverse impact on the natural environment within the site. Indeed, there would be a net gain in biodiversity. The quality of the built environment would also be enhanced. This is confirmed by the BMEP.</p> <p>In respect of the Chesil Beach and the Fleet designated as a Special Area of Conservation (SAC), Special Protection Area (SPA) and a Ramsar site, the impact of an increase in use of this area by residents within the development, will be mitigated via the CIL.</p> <p>To mitigate the impact on the two DWT reserves one of which partly falls within the Portland to Studland Cliffs SAC, an appropriate financial contribution will be secured via the section 106 obligation.</p>	<p>Compliance subject to mitigation</p>
<p>Reduce vulnerability to the impacts of climate change, both by minimising the potential impacts and by adapting to those that are inevitable– this will be the over-riding objective in those areas of the plan which are at highest risk</p>	<p>The site lies within Flood Zone 1 and in accordance with Policy ENV5, a suitable drainage strategy can be provided which will ensure that surface water run-off is controlled. Nor is there any impediment to the development being</p>	<p>Compliance</p>



	constructed to appropriate environmental standards. This objective is met.	
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	The site occupies a sustainable location which is accessible by a choice of means of transport. While future residents to a degree would be dependent on car use for meeting the majority of their needs, alternative opportunities exist to access local shops, services, schools and other facilities.	Compliance
Achieve high quality and sustainability in design, reflecting local character and distinctiveness of the area.	<p>Criteria a) and c) of paragraph 127 of the NPPF require that planning decisions should ensure that developments will function well and add to the overall quality of the area and be sympathetic to local character and history including the built environment and landscape setting.</p> <p>All matters other than access are reserved for future consideration. However, the site offers scope to provide buildings of high quality which would reflect the local character and distinctiveness of the area, while respecting the setting of heritage assets.</p>	Compliance

16.127 Thus, the local plan objectives are considered to be met along with those in the Neighbourhood Plan.

16.128 Turning to the NPPF paragraph 8 states 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. These are:

- An **economic objective** which includes ensuring that enough land of the right types is available in the right places and at the right time to support growth.
- A **social objective** which includes securing strong, vibrant, and healthy communities and that a sufficient number and range of homes can be provided to meet the needs of the present and future generations. Well-design and safe environments should be secured.
- An **environmental objective** which includes protecting and enhancing our natural, built, and historic environment including making effective use of land.

16.129 Paragraph 9 makes clear that these objectives should be delivered through the preparation and implementation of plans and the application of policies in the Framework. This reinforces the plan-led approach to development and the determination of applications and appeals and the paragraph emphasises that planning policies and decisions should play an active role in guiding development towards sustainable solutions, to reflect the character, the needs, and opportunities of each area.

16.130 Paragraph 11 sets out the **presumption in favour of sustainable development**. For decision taking this means:

- c) approving development proposals that accord with an up-to-date development plan without delay; or
- d) where there are no relevant development plan policies, or the policies which are most important for determining the application are out-of-date<sup>1</sup>, granting permission [the ‘tilted balance’] unless:
  - i. the application of policies in this Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed; or
  - ii. any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole.

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<sup>1</sup> Footnote 7 advises that this includes situations where the local planning authority cannot demonstrate a five-year supply of deliverable housing sites or where the Housing Delivery test indicates that the delivery of housing was substantially below (less than 75% of) the housing requirement over the previous three years.

16.131 Footnote 6 to paragraph 11(d)(i) identifies policies within the Framework which protect areas or assets of particular importance. These include designated heritage assets. Where such a policy applies, that policy must be considered before looking at whether the tilted balance is engaged. Where circumstances indicate that the harm to heritage assets is outweighed by the public benefits, then a second stage is required. Namely, to assess whether the adverse impact of the development significantly and demonstrably outweigh its benefits when assessed against the policies in the Framework as a whole i.e. to apply the tilted-balance.

16.132 Table F sets out an assessment of the public benefits.

**Table F: Suggested benefits of the proposal and response**

	<b>Benefits</b>	<b>Response</b>
<b>Social</b>	Affordable housing provision	The scheme would deliver affordable housing which is a significant benefit. The District has a combination of house prices well above the national average and below average wages reflecting in part the quality of the environment and the number of second homes.  This benefit attracts significant weight.
	Would support the demographic profile of Portland	The scheme would enable new residents to live on Portland contributing to the local community and supporting the demographic profile of the area.  This attracts moderate weight.
	Would address shortfall in five-year supply	It would contribute to improving the supply of housing to address the 5 year shortfall. It will assist in supporting the Government's objective, set out in paragraph 59 of the Framework, of significantly

		<p>boosting the supply of homes. This paragraph goes on to say that it is important that a sufficient amount and variety of land can come forward where it is needed</p> <p>Having regard to the judgment in <i>Phides Estates (Overseas) Ltd v Secretary of State for Communities and Local Government</i> [2015], the benefits of additional market housing attract significant weight despite the magnitude of the shortfall being relatively modest.</p>
<b>Economic</b>	Would support shops, pub	<p>The scheme as a simple consequence of providing more housing would afford the opportunity for people to use the local facilities and contribute to the vitality and viability of the local area.</p> <p>This benefit attracts moderate weight.</p>
	Earnings during construction phase	<p>There would be earnings generated during construction and this also attracts moderate weight.</p>
<b>Environmental</b>	No landscape or other site-based harm	<p>The proposal would regenerate a vacant, under-used area of land within the settlement boundary. No landscape or site-based harm would arise and this attracts significant weight.</p>
	Biodiversity and additional landscaping	<p>There would be a net gain in biodiversity within the site which also attracts significant weight.</p>

16.133 Cumulatively these benefits attract significant weight. The impact on heritage assets has been set out in the report. The proposed parameter plan which would be incorporated into the permission would ensure that development on the northern part of the site would be restricted in extent thereby reducing the harm to the setting of St George's Church by reducing the visibility and massing of built development in views of the church along Weston Road. The impact on the setting of the conservation area which in part is defined by the openness of St George's Road to the west would also be limited. This harm together with the identified impact on other heritage assets including The George Inn, 135 Reforne, the Graveyard Wall and Lych Gate must be attributed significant weight. However it is considered that the raft of public benefits as identified above significantly outweigh the identified harm and consequently paragraph 196 of the NPPF is considered to be satisfied.

### **Heritage and Public Benefit Balance**

16.134 The harm to heritage assets has been assessed as being less than substantial but in accordance with sections 66 and 72 of the Planning (Listed Building and Conservation Areas) Act 1990. Considerable weight must be attached to the harm. The balancing exercise in paragraph 196 does not provide a basis for refusing permission because the public benefits, which are considered to be cumulatively significant, are considered to outweigh the less than substantial harm. As a result, there is no clear reason to refuse permission under paragraph 11d) of the NPPF and therefore the 'tilted balance' under paragraph 11(d)(ii) falls to be considered.

### **Tilted balance: conclusion**

16.135 Policy INT1 and paragraph 11 of the NPPF give a presumption in favour of sustainable development unless the harm caused by the development would clearly outweigh the benefits. The adverse impacts include the inability to extract Portland stone from under Phase 2 of the site, the effect on the Tout Quarries and King Barrow Quarries nature reserves, the impact on Chesil Beach and The Fleet and the effect on the setting of heritage assets. The impact on nature conservation interests within the Tout and King Barrow Quarries would be mitigated through the provision of a financial contribution within the section 106 obligation. The CIL would enable mitigation as necessary to Chesil Beach and the Fleet. Impact on heritage assets is outweighed by the significant public benefits and would be minimised through compliance with a parameter plan which would limit development on the northern part of the site.

16.136 The adverse impacts do not therefore, significantly and demonstrably outweigh the benefits when assessed against the policies in the NPPF as a whole.

16.137 Accordingly, it is concluded that the proposal involves a sustainable form of development compliant with Policy INT1 and the NPPF.

## 17.0 Conclusion

17.1 The site occupies a sustainable location and would make effective use of a brownfield site, assisting in the delivery of affordable and open market housing.

17.2 The adverse impacts have been assessed in respect of the designated heritage assets. The balancing exercise required under paragraph 196 of the NPPF does not provide a basis for refusing permission because the public benefits outweigh the harm. The test in paragraph 196 of the Framework is not therefore met and the presumption in paragraph 11(d)(ii) of the NPPF is passed.

17.3 The absence of a five-year supply of deliverable housing sites therefore requires an assessment as to whether the totality of the adverse impacts significantly and demonstrably outweigh the benefits.

17.4 As detailed in section 16 above it is considered that the adverse impacts do not significantly and demonstrably outweigh the benefits when assessed against the policies in the NPPF as a whole.

17.5 Additionally, the proposal is not predicted to have a significant adverse impact on the amenity of existing residents. It would provide on site open space which would be available to future occupiers and existing residents thereby providing opportunities for recreation and exercise.

## 18.0 RECOMMENDATION

### **A) DELEGATE TO HEAD OF PLANNING TO GRANT PERMISSION SUBJECT TO THE COMPLETION OF A LEGAL AGREEMENT UNDER SECTION 106 OF THE TOWN AND COUNTRY PLANNING ACT 1990 (AS AMENDED) IN A FORM TO BE AGREED BY THE LEGAL SERVICES MANAGER TO SECURE THE FOLLOWING:**

- The delivery of affordable housing based on 25% of the dwellings being affordable with a tenure split of 70% rented and 30% intermediate;
- The management and maintenance of public open space;
- Payment of a financial contribution towards mitigating the impact on the Tout Quarries and King Barrow Quarries within the Portland Nature Park
- Payment of a financial contribution of £7,840 towards mitigating the impact on local health services.

And the following conditions (and their reasons):

1. Before any development within each phase is commenced details of 'Reserved Matters' for that phase, (that is any matters in respect of which details have not been given in the application and which concern the siting, design or external appearance of the building(s) to which this permission and the application relates, or to the means of access thereto or the landscaping of the site) shall be submitted to and approved in writing by the Local Planning Authority.

REASON: To ensure the satisfactory development of the site.

2. An application for approval of any 'reserved matter' must be made 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 92 of the Town and Country Planning Act 1990.

3. The development to which this permission relates must be begun not later than the expiration of two years from the final approval of the reserved matters or, in the case of approval on different dates, the final approval of the last such matter to be approved.

REASON: This condition is required to be imposed by Section 92 of the Town and Country Planning Act 1990 (as amended).

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

Location plan	Figure 1 Rev A	7 November 2019
Site Location Plan	16144_RMS_L01.01	7 November 2019
Ecological Masterplan	Figure 1 Rev A	7 November 2019
Phasing Plan	16144_RMS_L02.03 P5	13 January 2021

REASON: For the avoidance of doubt and to clarify the permission.

5. Details of the phasing of development shall be submitted to and approved in writing by the Local Planning Authority prior to the submission of any reserved matters application, and the development thereafter, carried out in accordance with those details as have been agreed.

REASON: To ensure the satisfactory development of the site.

6. Any application for the approval of Reserved Matters on any phase of the development, hereby approved, shall be in accordance with the following Parameter Plan submitted as part of the outline planning application:

'Parameters Plan' No. RMC-LHC-00-DR-UD-L02.03 Rev P5

REASON: To ensure the satisfactory development of the site; to reflect the sites sensitive position in an exposed location and within the setting of a listed building.

7. No development shall be commenced until a strategy for the disposal of foul water drainage has been submitted to and approved in writing by the Local Planning Authority in consultation with Wessex Water acting as the sewerage undertaker:
  - a drainage scheme shall include appropriate arrangements for the agreed points of connection and the capacity improvements required to serve the proposed development phasing;
  - the drainage scheme shall be completed in accordance with the approved details and to a timetable agreed with the local planning authority.

Thereafter, no part of the development shall be occupied or brought into use until the approved scheme has been fully implemented.

REASON: To ensure that proper provision is made for sewerage of the site and that the development does not increase the risk of sewer flooding to downstream property.

8. No development shall take place within each phase until a detailed and finalised surface water management scheme for that phase, based upon the hydrological and hydrogeological context of the development, has been submitted to, and approved in writing by the local planning authority. The surface water scheme shall be implemented and completed in full in accordance with the approved details before the development of each phase is completed. Detailed drainage designs for all phases will need to be approved on a phase-by-phase basis.

REASON: To prevent increased risk of flooding and to improve and protect water quality.



9. No development shall take place until details of maintenance & management of both the surface water management scheme and any receiving system have been submitted to and approved in writing by the local planning authority. The scheme shall be implemented and thereafter managed and maintained in accordance with the approved details. These should include a plan for the lifetime of the development, 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.

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

10. Before any works commence on site a detailed Arboricultural Method Statement shall be produced, submitted to and approved in writing by the Local Planning Authority. The statement will include details of how the existing trees are to be protected and managed before, during and after development and shall include information on traffic flows, phased works and construction practices near trees. The development shall thereafter proceed in strict accordance with the approved Method Statement.

REASON: To ensure thorough consideration of the impacts of development on the existing trees.

11. Before any works commence on site, a scheme indicating the positions, design, materials and type of boundary treatment and a timetable for implementation shall be submitted and approved in writing by the Local Planning Authority. The approved scheme shall be carried out in accordance with the approved details and timetable for implementation.

REASON: In the interests of the amenities of the area.

12. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any Order revoking and re-enacting that Order) (with or without modification) no garages, sheds or other outbuildings permitted by Class E of Schedule 2 Part 1 of the 2015 Order shall be erected or enlarged, nor shall any means of enclosure be constructed within the land shown edged red on drawing 16144\_RMS\_L01.01.

REASON: To safeguard the appearance and amenity of this area in accordance with Policies ENV10, ENV11 and ENV16 of the West Dorset, Weymouth, and Portland Local Plan (2015) and the NPPF.

13. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any Order revoking or re-enacting that Order) (with or without modification) no enlargement, improvement or other alteration permitted by Class A, B, C or D of Schedule 2 Part 1 of the 2015 Order shall be erected or constructed, other than those expressly authorised by this permission.

REASON: To safeguard the appearance and amenity of this area in accordance with Policies ENV10, ENV11 and ENV16 of the West Dorset, Weymouth and Portland Local Plan (2015) and the NPPF.

14. The development hereby permitted shall not commence until a Construction Traffic Management Plan has been submitted to and approved in writing by the Local Planning Authority. The Plan shall include a programme of works, construction vehicle details (number, size, type and frequency of movement), vehicular routes, delivery hours and contractors' arrangements (compound, storage, parking, turning, surfacing, drainage and wheel wash facilities). The approved Plan shall be implemented on commencement of site preparations and thereafter the development shall be carried out strictly in accordance with the approved Plan.

REASON: In the interests of road safety and Policy COM9 of the West Dorset, Weymouth, and Portland Local Plan (2015) and the NPPF.

15. Before commencement of the development, an investigation of the possibility of gas migration affecting the development site shall be carried out and submitted to the Local Planning Authority. The survey methods for this investigation shall first be agreed in writing with the Local Planning Authority and a copy of the results of the survey shall be submitted to the Local Planning Authority as soon as they are available. Where gas migration is confirmed, or there is evidence that migration is likely to occur, the development shall not commence until satisfactory remedial measures have been taken to control and manage the gas, to monitor the effectiveness of these measures and, where necessary, to incorporate adequate precautionary measures in the design and construction stages. Such measures shall be submitted to and agreed in writing by the Local Planning Authority before commencement of the development and shall thereafter be implemented and retained in accordance with approved details.

REASON: In order to secure the amenity and safety of future residents in accordance with Policy ENV16 of the West Dorset, Weymouth, and Portland Local Plan (2015) and the NPPF.

16. Before commencement of development, a noise report shall be submitted to, and agreed in writing by, the local planning authority. The report should contain details of background sound measurements and the effect in particular of the road upon potential dwellings at the location. The report should summarise the likely external noise impact on the dwellings and should set out potential sound attenuation measures against external noise from the main road for consideration and approval in writing by the Local Planning Authority. Thereafter the scheme shall be implemented and maintained in accordance with the approved details.

REASON: In order to secure the amenity and safety of future residents in accordance with Policy ENV16 of the West Dorset, Weymouth, and Portland Local Plan (2015) and the NPPF.

17. Before the development is occupied or utilised the highway access, the geometric highway layout, the parking and turning areas shown on Drawing Number 16144\_RMS\_L02.01 Rev.P1 must be constructed, unless otherwise agreed in writing by the Local Planning Authority. Thereafter, these must be maintained, kept free from obstruction and available for the purposes specified.

REASON: To ensure the proper and appropriate development of the site in accordance with Policy COM7 of the West Dorset, Weymouth, and Portland Local Plan (2015) and the NPPF.

18. No development shall commence until a geotechnical ground investigation report (to be carried out in accordance with best practice and the requirements of 8S5930:2015 Code of practice for ground investigations), stability assessment and method statement, has been completed and submitted to, and agreed in writing by, the Local Planning Authority.

In particular, the geotechnical ground investigation and stability assessment should provide information on the following in order to inform the method statement:

- The distribution, thickness and geotechnical properties of the Superficial Soils and Made Ground likely to be present and the potential of gullies to be present to ground surface.
- The rock quality of the cap rock above the mine together with the rock quality of the mine pillars to include assessment of rock strength.
- Re-evaluation of the stability assessments presented within the mining operator's applications using site specific rock mass characteristics to

assess potential surface settlement in the event of mine roof failure into the completed backfill.

- Record if groundwater is present at shallow depth across the site generally.

The method statement shall incorporate any mitigation measures set out in the stability assessment. It shall also require all foundation excavations to be inspected by a competent engineering geologist or geotechnical engineer to observe for evidence of gullies extending to foundation formation level. The method statement shall set out measures to deal with any such gullies, and these measures shall be implemented in the event evidence of gully extensions are identified.

The stability assessment shall also consider foundation and infrastructure design. Unless otherwise agreed, the method statement shall require the use of reinforced concrete strip or trench fill foundations for all buildings.

The investigation report, stability assessment and method statement shall be submitted to, and agreed in writing by, the Local Planning Authority prior to commencement of any development. The approved method statement including any mitigation measures shall be implemented prior to commencement of any building works on site, and thereafter, development shall proceed in strict accordance with the agreed details.

REASON: To ensure that living conditions of future residents are acceptable having regard to Policy ENV16 of the West Dorset, Weymouth, and Portland Local Plan (2015) and the NPPF.

19. Prior to the commencement of the development hereby approved the following documents shall be submitted to and agreed in writing by the Local Planning Authority:

1. a 'desk study' report documenting the site history.
2. an intrusive ground investigation report detailing ground conditions, a 'conceptual model' of all potential pollutant linkages, a programme of chemical analysis of soil and (if present) groundwater, and incorporating risk assessment.
3. a remediation scheme detailing the following:
  - (a) any remedial works and measures to be taken to avoid risk from contaminants/or gases when the site is developed.
  - (b) a detailed phasing scheme for the development and remedial works (including a time scale).

(c) a monitoring and maintenance scheme to include monitoring the long-term effectiveness of the proposed remediation over a period of time.

The Remediation Scheme, as agreed in writing by the Local Planning Authority, shall be fully implemented before the development hereby permitted first comes in to use or is occupied. Thereafter, the development shall proceed in strict accordance with the scheme as has been agreed.

REASON: To ensure potential land contamination is addressed, and to ensure that living conditions of future residents are acceptable having regard to Policy ENV9 and ENV16 of the West Dorset, Weymouth, and Portland Local Plan (2015) and the NPPF.

20. Prior to the construction of any part of the development above damp proof course level details of the number and location of charging points for plug-in and other ultra-low emission vehicles in safe, accessible and convenient locations, within the development, along with a timetable for their provision, shall be submitted to and approved in writing by the Local Planning Authority. Thereafter the development shall be carried out in accordance with the approved details and timetable.

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

21. The detailed biodiversity mitigation, compensation and enhancement/net gain strategy set out within the approved Biodiversity Mitigation and Enhancement Plan certified by the Dorset Council Natural Environment Team on 3<sup>rd</sup> Sep 2020 must be implemented in accordance with any specified timetable and completed in full prior to the substantial completion, or the first bringing into use of the development hereby approved, whichever is the sooner. The development shall subsequently be implemented entirely in accordance with the approved details. Thereafter, unless otherwise agreed in writing by the local planning authority, the mitigation, compensation and enhancement/net gain measures shall be permanently maintained and retained.

REASON: To mitigate, compensate and enhance/provide net gain for impacts on biodiversity.

**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 COMMITTEE RESOLUTION  
OR SUCH EXTENDED TIME AS AGREED BY THE HEAD OF  
PLANNING**

1. The proposed additional housing would result in an unacceptable level of harm on the Isle of Portland Site of Special Scientific Interest (SSSI) and the Isla of Portland to Studland Cliffs Special Area of Conservation (SAC), of international importance, as a consequence of the increased recreational pressure that would be generated from the development. This includes impact on the nearby local nature reserves Tout Quarry (SSSI) and Kings Barrow Quarry (SSSI and SAC). With no formal mechanism in place to secure an appropriate level of mitigation, the proposed development fails to comply with policy ENV2 of the West Dorset Weymouth and Portland Local Plan (2015), Section 15 of the National Planning Policy Framework (2019), and the Conservation of Habitat and Species Regulations (2017).
2. In the absence of any formal mechanism, in the form of a legal agreement, to secure affordable housing, financial or any other relevant contribution to provide new or improved community infrastructure, in particular the provision of public open space and a contribution towards healthcare, to mitigate the impacts of the development, the proposed development would be contrary to planning policies INT1, COM1, and HOUS1 of the West Dorset, Weymouth and Portland Local Plan (2015) and the National Planning Policy Framework (2019).

## 1. Application Details

Reference: [WP/20/00814/FUL](#)

Site Location: Mount Pleasant Park and Ride Car Park, Mercery Road, Weymouth DT3 5FA

Proposal: Temporary use of land for the stationing of mobile accommodation units for rough sleepers and associated facilities with subsequent reversion to use of site for park and ride parking.

Applicant: The Bus Shelter Dorset

Case Officer: Huw Williams

Ward Members: Cllr Peter Barrow  
Cllr David Gray

The application relates to land owned by Dorset Council and is reported to Committee in accordance with Dorset Council's Constitution.

The application, the plans and further information about the application may be inspected online on the application webpages accessible by entering the application reference at <https://planning.dorset.gov.uk/public-access/>.

## 2. Recommendation

2.1 Grant planning permission subject to the conditions set out in paragraph 11.1 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 of 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 adopted West Dorset, Weymouth and Portland Local Plan 2015 ('the Adopted Local Plan').
- 3.3 The Policies Map of the Adopted Local Plan shows the park and ride car park to be located outside but adjacent to the defined development boundary for Weymouth and not subject of any site specific policies or land use allocations. Policies INT1 and HOUS2 allow for the development of affordable housing beyond the defined development boundary.
- 3.4 The application proposal provides for the temporary use of the application site to provide a specialist form of supported housing and associated services for which there is a recognised local need with subsequent reversion to use for park and ride parking.

- 3.5 The application site is well-located in relation to service need and could be utilised without any material impact on existing transport services without any unacceptable impact on the character, appearance or the amenities of the locality. The site is at low risk of flooding and benefits from access to mains services and other infrastructure. Through the delivery of proposed mitigation and enhancement measures, the proposed development would provide for net gain for biodiversity.
- 3.6 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.

#### **4. Background**

- 4.1 The Bus Shelter Dorset ('the Applicant') is a registered charity whose charitable objects are:
- "To relieve the need of people who are rough sleeping in Dorset by providing shelter, warmth, food and support."
- 4.2 The charity believes that if people have their basic needs of sleep, food, water, warmth and safety met, they will be able to work positively on achieving their goals and improving their future.
- 4.3 In 2018 the charity converted a double decker bus into temporary accommodation ('the Bus Shelter') to provide rough sleepers with safe 'first stop' accommodation. Between June 2018 and the spring of 2020, the Bus Shelter and associated facilities were stationed at the Preston Beach Road Car Park, Weymouth. During that time, the Bus Shelter provided accommodation for a total of 50 guests, roughly a third of whom moved on successfully to other accommodation, with roughly a fifth remaining as guests 'on the Bus'.
- 4.4 Following the declaration of the COVID-19 emergency, owing to concerns over the safety of communal sleeping arrangements and the lack of a mains water supply at the Beach Road Car Park, the project relocated temporarily to The Riviera Hotel and is currently operating from Swanage Youth Hostel. Use of the Youth Hostel is likely to continue until March 2021 but a longer-term base is needed if the Bus Shelter is to remain operational, preference being for a site within or close to Weymouth with scope for providing or accommodating individual units of accommodation and associated facilities.
- 4.5 Following discussions with various officers of Dorset Council, land within the Mount Pleasant Park and Ride Car Park was identified as potentially suitable and potentially available for medium-long term use.
- 4.6 Funding is available through the government's Next Steps Accommodation Programme that would allow for the purchase and stationing of new, purpose built mobile accommodation units that could be utilised in conjunction with the existing bus and other associated facilities to provide individual units of accommodation and additional and improved service facilities.



- 4.7 In addition to the requisite form, certificate, fee and location plan (Drawing No. 20201028\_ParkRide\_Layout\_9C Sht 2), the application includes:
- (i) a Design, Access and Planning Statement that explains the application proposal and which addresses relevant planning policy and other material considerations:
  - (i) a Biodiversity Plan prepared in accordance with the Dorset Biodiversity Appraisal Protocol; and
  - (ii) plans and drawings illustrating the application proposal comprising:
    - an indicative Site Plan (Drawing No. 20201028\_ParkRide\_Layout\_9C Sht 1) showing the envisaged site layout and servicing arrangements;
    - indicative Elevation Drawings (Drawing Nos. 20201028\_ParkRide\_Layout\_9C Shts 3 and 4); and
    - indicative specifications for the accommodation units (NewSpace Drawing No. FPR-BS-48x10-17-9 and Phase 2 Accommodation Image).

## **5. The Application Site and Surrounding Area**

- 5.1 The Mount Pleasant Park and Ride Car Park is situated on the urban fringe of Weymouth to the east of the Mount Pleasant Business Park and to the north of playing fields at Weymouth Rugby Club. The Lorton Valley Nature Park lies to the north and east.
- 5.2 Vehicular access to and egress from the park and ride is via Mercery Road which connects to the A354 Weymouth Relief Road at the Veasta Roundabout. Mercery Road also provides access to the Mount Pleasant Business Park and the adjacent Sainsbury's supermarket.
- 5.3 Pedestrian and cycle access to the park and ride is available from the A354 and from the Jurassic Cycle Trail (Weymouth Trail) which passes between the park and ride and the Mount Pleasant Business Park.
- 5.4 The car park has capacity for over 1,000 vehicles and includes a tarmacked parking area measuring approximately 1.3 hectares and a gravelled overflow parking area measuring approximately 1.6 hectares, the tarmacked area being mostly to the north of the bus pick-up/drop-off and turnaround around area, the gravelled overflow area being to the south.
- 5.5 The application site comprises approximately 1,400 sqm of land within the north-western section of the gravelled overflow parking area to the south of the bus turnaround area.
- 5.6 At its nearest point, the application site is approximately 25 metres from the Jurassic Cycle Trail, approximately 90 metres from Mount Pleasant Business Park, approximately 120 metres from the Lorton Valley Nature Park and approximately 140 metres from the playing fields. The nearest residential properties are more than 300 metres from the application site.

## **6. The Proposed Development**

- 6.1 The application proposal provides for the temporary use of the application site to provide a specialist form of supported housing and associated services with subsequent reversion to use for park and ride parking.
- 6.2 It is intended that the temporary use be developed in two phases.
- 6.3 In the initial phase, 3 purpose-built mobile accommodation units, a separate kitchen unit, a communal social space, a learning centre, a workshop, a storage container and the converted bus would be stationed on the application site with the accommodation units, learning centre and bus sited to create an inward-looking perimeter enclosing courtyard areas around the communal social space, workshop and kitchen. The accommodation units would be 14.6 metres long and 3 metres wide with each unit being sub-divided to provide four 6.5 sqm bedrooms, each bedroom having a 2.75 sqm en-suite shower room equipped with an electric shower, basin and toilet.
- 6.4 Subject to funding, phase 2 would involve the stationing of up to 5 further accommodation units to the south of the phase 1 development, these units measuring 9.1 metres by 3 metres and each unit being configured as a self-contained micro flat.
- 6.5 All the accommodation units would be constructed from Corten Steel and outwardly would have the appearance of shipping containers but would incorporate UPVC windows and doors, would be well insulated and would be suitable for year-round use.
- 6.6 Each unit would be stationed on temporary pad foundations, with the top of the units being approximately 3.5 metres above ground level. Although the units would be designed and constructed to be suitable for stacking, no stacking of units is proposed.
- 6.7 The accommodation units and other facilities would be connected to existing mains infrastructure (water, electricity and sewerage). The existing bus would not be used to provide accommodation, but being synonymous with the project, would be repurposed to provide an office, interview space and storage.
- 6.8 The application makes clear that the intention is for the proposed use to operate in very much the same way as the charity previously operated at the Beach Road Car Park, with the application site providing 'first stop' accommodation for rough sleepers and those at risk of rough sleeping. As now, guests would be referred to the Bus by Dorset Council, The Lantern Trust and Julian House.
- 6.9 Stays in the Phase 1 accommodation would not be time limited but guests would be expected to engage with staff and set realistic individual goals and participate in regular support reviews. Stays within a micro flats would be limited to a maximum of 2 years during which time guests would be supported to find work and accommodation and be required to contribute to running costs in preparation for independence.

- 6.10 Following a successful stay in a micro flat, the expectation is that individuals will feel enabled to live independently and away from the Bus community. Should a stay in a micro flat prove unsuccessful, guests could be reintegrated back into one of the individual accommodation units.
- 6.11 All guests would have allocated tasks and responsibilities to undertake and all guests would be required to abide by the 3 simple rules currently embedded in the structure of the Bus – no smoking in any indoor facilities and no alcohol or drugs on the compound or the immediate surrounding area. Guest behaviour would also continue to be managed through the use of an established warning and eviction protocol.

## **7. The Development Plan and Other Material Considerations**

- 7.1 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.
- 7.2 Section 38(6) of the Planning and Compulsory Purchase Act 2004 (as amended) provides that if regard is to be had to the development plan for the purpose of any determination to be made under the planning Acts the determination must be made in accordance with the plan unless material considerations indicate otherwise.

### The Development Plan

- 7.3 The development plan includes the adopted West Dorset, Weymouth and Portland Local Plan 2015 ('the Adopted Local Plan'), which set out a vision for Weymouth and Portland and provides a basis for planning decisions in the plan area for the period to 2031.
- 7.4 There is no made neighbourhood plan and no post-examination draft neighbourhood plan material to the application.
- 7.5 The Policies Map of the Adopted Local Plan shows the park and ride car park to be located outside but adjacent to the defined development boundary for Weymouth and not subject of any site specific policies or land use allocations.
- 7.6 The Lorton Valley Nature Park is identified on the Policies Map and comprises 194 hectares of land that links the Lodmoor Nature Reserve, Two Mile Copse and Lorton Meadows (all Sites of Special Scientific Interest) and two areas of land provided as habitat restoration sites in conjunction with the construction of the Weymouth Relief Road. Parts of the Nature Park are identified as being of Local Landscape Importance.
- 7.7 Having regard to the location of the application site and to the nature of the proposed development, the most relevant policies of the Adopted Local Plan are:

- INT1 – Presumption in Favour of Sustainable Development;
- SUS2 – Distribution of Development;
- HOUS2 – Affordable Housing Exception Sites;
- HOUS4 – Development of Flats, Hostels and Houses in Multiple Occupation];
- ENV1 – Landscape, Seascape and Sites of Geological Interest;
- ENV2 – Wildlife and Habitats;
- ENV5 – Flood Risk;
- ENV9 – Pollution and Contaminated Land;
- ENV10 – The Landscape and Townscape Setting;
- ENV11 – The Pattern of Streets and Spaces;
- COM7 – Creating a Safe and Efficient Transport Network; and
- COM9 – Parking Standards in New Development.

7.8 Each of the above policies is addressed in the appraisal presented in section 11 of this report.

#### Local Finance Considerations

- 7.9 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.
- 7.10 The application proposes a use of land rather than the erection or alteration of a building such that the proposal is not subject to the Community Infrastructure Levy.
- 7.11 Although accessed by Dorset Council, the Government funding available through the Next Steps Accommodation Programme has been awarded to the Applicant not a relevant authority, so does not constitute a local finance consideration for the purpose of section 70.
- 7.12 Accordingly, there are no local finance considerations that are material to the determination of the application.

#### Other Material Considerations

- 7.13 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. Material in this instance are:
- (i) government planning policy set out in the National Planning Policy Framework (‘the NPPF’) and associated planning practice guidance (‘PPG’);
  - (ii) the Government’s Rough Sleeping Strategy published in August 2018;
  - (iii) the Dorset Homelessness Strategy Annual Update 2018 to 2019; and
  - (iv) written representations made about the application.

## **8. Consultations**

### **8.1 Dorset Council Ward Members**

No response received.

### **8.2 Weymouth Town Council**

Responded advising that the application was considered by Planning and Licensing Committee on 1st December 2020.

Reported that Members agreed this is an essential service to support people to move on with their lives, but queried location of proposed units. Comment this is an innovative design and similar schemes run elsewhere in the South-West. Some Members were concerned that development might be located too far from town centre, and therefore be less attractive to potential service users. Others felt that proposed site is close to shops and public transport, and that it is not too long a walk to town centre. Noted that application for temporary use of land, but unclear how long "temporary" meant.

Members felt current scheme is well managed and has helped people get on their feet. It is supported by local businesses and works with local partners. Proposed scheme is modest and is quite remote from residential houses. If proposed scheme runs in same way as current bus shelter, it will not create disturbance. The Bus Shelter selects service users carefully and has rules that have to be adhered to.

Suggested that Dorset Council supports initiative by offering space in car park, but Members wondered what other locations have been considered.

It has been confirmed that where service users are from outside Weymouth, aim is to rehouse them in an area where they have close connections.

Members voted unanimously in favour of application and to submit a comment of "no objection" but would like to support the idea that it is a temporary provision and would recommend a period of 5 years. The Council welcomes this innovative and essential service.

### **8.3 Dorset Council Transport Development Management**

No objection.

### **8.4 Dorset Council Environmental Health Officer**

No comment.

### **8.5 Dorset Council Pollution Control**

No response received.

### **8.6 Dorset Council Property Services**

The Commissioning Team for waste services manages the closed landfills operated by the previous local authorities in Dorset, including Lodmoor North where the Park

and Ride is located. This site is a former landfill and is not managed or monitored under an Environmental Permit. No monitoring for the presence of landfill gas is currently carried out on this site. Recommend that a full landfill gas risk assessment is carried out by a technically competent person before any development of this site is considered.

8.7 Dorset Council Streetscene Manager

No response received.

8.8 Dorset Police Crime Prevention Design Adviser

No objection.

8.9 Dorset and Wiltshire Fire and Rescue Service

No response received.

**9. Publicity and Other Representations**

9.1 The application was advertised by site notice displayed on 20<sup>th</sup> November 2020. One further representation was received commenting that:

- proposal will confer significant benefit to the local area;
- project provides invaluable support to individuals with a history of rough sleeping and homelessness;
- approving proposal will allow a small cohort of individuals to continue their journey from social exclusion to integration and autonomy;
- project will stop individuals returning to homelessness and or rough sleeping in unauthorised parts of Weymouth;
- approval is the ethical response and also a sensible use of finance;
- siting has been considered carefully; and
- proposed site will have a low impact on local community while being hugely beneficial to service users.

**10. Appraisal**

10.1 The main issues in the determination of the application relate to:

- (i) the acceptability in principle of the proposed development;
- (ii) socio-economic impact;
- (iii) the suitability of the site for the proposed use having regard to ground conditions;
- (iv) impact on biodiversity;
- (v) flood risk and climate change;
- (vi) design and impact on the character, appearance and the amenities of the locality;
- (vii) impact on amenity; and
- (viii) equalities and human rights.

Principle of Development

10.2 The NPPF is 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 – economic, social and environmental – 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 NPPF further provides 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 that decision-makers at every level should seek to approve applications for sustainable development where possible (paragraph 38).

- 10.3 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 (paragraph 10), which, for decision taking, amongst other matters, means:

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

- 10.4 Although pre-dating the current version of the NPPF, Policy INT1 of the Adopted Local Plan similarly provides that there will be a presumption in favour of sustainable development that will improve the economic, social and environmental conditions in the plan area.
- 10.5 Policy SUS2 of the Adopted Local Plan addresses the distribution of development in the plan area directing most development to the main towns (Weymouth and Dorchester) and to other settlements with defined settlement boundaries within which residential, employment and other development to meet the needs of the local area will normally be permitted. Outside of the defined development boundaries, policy SUS2 states that development is to be strictly controlled, having particular regard to the need for the protection of the countryside and environmental constraints, and is restricted to specified forms of development identified to include affordable housing.
- 10.6 The application site is located outside but close to the defined development boundary for Weymouth and comprises already developed land that is not subject to any site specific development plan policy land use allocation and which is not subject to any statutory landscape, heritage or nature conservation designations. The Environment Agency’s Flood Risk Map for Planning shows the application site to be in Flood Zone 1 and consequently to be at very low risk of flooding from rivers or the sea.
- 10.7 Policy HOUS2 of the Adopted Local Plan refers specifically to affordable housing exception sites and provides that small scale sites for affordable housing adjoining settlements may be permitted provided that:
- the council is satisfied that the proposal is capable of meeting an identified, current, local need within the town, local parish or group of parishes, which cannot otherwise be met;
  - the scheme is of a character, scale and design appropriate to the location; and
  - there are secure arrangements to ensure that the benefits of affordable housing will be enjoyed by subsequent as well as initial occupiers.

- 10.8 The impact of the proposed development on the character and appearance of the surrounding area, flood risk and biodiversity are considered later in this appraisal.
- 10.9 Affordable housing is defined in the Adopted Local Plan to include a range of housing supply models provided to eligible households whose needs are not met by the market. The proposed development provides for a specialist form of affordable accommodation such that the application site may be regarded as an exception site.
- 10.10 As the housing authority for the area, Dorset Council is required to have in place a homelessness strategy that sets out the authority's plans for the prevention of homelessness and for ensuring that sufficient accommodation and support are or will be available for people who become homeless or who are at risk of becoming so. The continued operation of the Bus Shelter comprises a key element of the Rough Sleeper Initiative identified within the latest annual review of the Dorset Homelessness Strategy evidencing need for the proposed accommodation. Submission of the application follows a review of potential alternative sites that did not identify any other land as being suitable, available and preferable to the use of the application site. I am therefore satisfied that the proposal is capable of meeting an identified, current, local need for specialist supported accommodation that might otherwise not be met.
- 10.11 As with the applicant's previous use of the Beach Road Car Park, use of the application site would be under lease from Dorset Council with the lease regulating the nature of the use and including provision for early its termination on notice from either party. Secure arrangements would therefore exist to regulate the use of the site so as to maintain the purpose and benefits of the proposed development.
- 10.12 The application does not specify a maximum period for the operation of the proposed temporary use, but the duration of the temporary use may be limited by planning condition. When planning permission to develop land is granted for a limited period, planning permission is not required for the resumption at the end of that period of its use for the purpose for which it was normally used before the permission was granted. In this instance, reversion to the ongoing lawful use would not be contrary to the development plan and is not considered to be either contentious or objectionable.
- 10.13 I am therefore satisfied that the application proposal is acceptable in principle.

#### Socio-Economic Impact

- 10.14 Through the provision of a specialised form of accommodation and associated support services for which there is a clearly recognised need, the social economic benefits associated with the proposed temporary use weigh heavily in favour of granting planning permission.
- 10.15 Ensuring that a sufficient number and range of homes can be provided to meet the needs of present and future generations is a key objective of the planning system. Rough sleeping is a dangerous and isolating experience, with people that rough sleep more likely to be victims of crime and prolonged periods of rough sleeping commonly having a significant impact on both mental and physical health. Many people who rough sleep suffer violence and abuse and many develop issues with



drugs and alcohol. The longer someone experiences rough sleeping for, the more likely it is they will develop additional mental and physical health needs, substance misuse issues and have contact with the criminal justice system (collectively known as complex needs) and the more complex needs someone has, the more help they are likely to need to move on from homelessness and to rebuild their lives.

- 10.16 The government's Rough Sleeping Strategy recognises that the human cost of rough sleeping is unacceptable and sets out a vision for halving rough sleeping in England by 2022 and ending it by 2027. The government's strategy is reliant on central and local government, as well as business, communities, faith and voluntary groups and the general public working together in new ways and specifically recognises the value of sufficient and good quality supported housing.
- 10.17 As well as access to safe accommodation, guests on the Bus would benefit from a registered address so that they are able to apply for work, register with a GP and make benefit claims and Bus Shelter staff work collaboratively with other local support agencies to help and encourage guests to:
- (i) address issues having a negative impact on their lives;
  - (ii) access specialist services;
  - (iii) move into suitable accommodation;
  - (iv) reconnect with family and build positive support systems; and
  - (v) integrate or re-integrate into society.
- 10.18 Accordingly, for as long as the need for the Bus Shelter persists, the proposed temporary use of the application site would be likely to make an important contribution to meeting housing need and to improving the social and economic conditions in plan area.

#### Site Suitability

- 10.19 Dorset Council's Commissioning Team for Waste Services has noted that the application site comprises a former landfill and that no monitoring for the presence of landfill gas is currently carried out on this site. In consequence, it has been recommended that a full landfill gas risk assessment is carried out by a technically competent person before any development of this site is considered.
- 10.20 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).
- 10.21 Paragraph 179 of the NPPF provides that where a site is affected by contamination or land stability issues, responsibility for securing a safe development rests with the developer and/or landowner, but paragraph 178 of the NPPF states that planning decisions should ensure that a site is suitable for its proposed use taking account of ground conditions and any risks arising from land instability and contamination, ensuring that adequate site investigation information is available to inform assessment of suitability and mitigation.

- 10.22 Policy ENV9 of the Adopted Local Plan similarly provides that planning permission for development on or adjoining land that is suspected to be contaminated will not be granted unless it can be demonstrated that there is no unacceptable risk to future occupiers of the development, neighbouring uses and the environment from the contamination.
- 10.23 The landfill underlying the application site is understood to be contained within a methane barrier overlain with clean (uncontaminated) cover material to a minimum depth of 1 metre. No development is proposed to be undertaken at a depth beneath the methane membrane, the intention being that the use and all ancillary operations including the installation of site services will be undertaken so as not to impact the membrane.
- 10.24 Ground conditions at the application site are very similar to those at the Beach Road Car Park which were assessed and deemed suitable for use. The Applicant has commissioned a two-stage ground-gas assessment and investigation similar in scope to that undertaken for the Beach Road Car Park. The assessment and investigation is ongoing but, having regard to available information and the similarity of the site contexts, it is expected that the assessment will identify practicable impact avoidance and other risk mitigation measures.
- 10.25 In the circumstances, it is considered that requirements for the submission and approval of the commissioned ground-gas assessment and investigation reports and for the approval and implementation of any recommended mitigation measures can reasonably be secured by planning condition.

#### Biodiversity

- 10.26 Regulation 9(3) of the Conservation of Habitats and Species Regulations 2017 places a duty on planning authorities 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.
- 10.27 Policy ENV2 of the Adopted Local Plan provides for 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.
- 10.28 Amongst others matters, paragraph 170 of the NPPF provides that planning decisions should contribute to and enhance the natural and local environment by minimising impacts on and providing net gains for biodiversity.
- 10.29 The Biodiversity Plan submitted in support of the application has been prepared in accordance with the Dorset Biodiversity Appraisal Protocol such that conditioning its implementation is considered adequate to secure regulatory and policy compliance. An appropriate condition requiring implementation of the mitigation and enhancement measures set out in the Biodiversity Plan is recommended.

### Flood Risk and Climate Change

- 10.30 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, amongst other matters, helping to minimise vulnerability and improve resilience.
- 10.31 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.
- 10.32 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.
- 10.33 The proposed accommodation units are designed and manufactured to be suitable for year-round occupation and the availability of mains services at the park and ride is environmentally preferable to the permitted arrangements at the Beach Road Car Park.
- 10.34 The Environment Agency's Flood Risk Map for Planning shows the application site to be in Flood Zone 1 and consequently to be at very low risk of flooding from rivers or the sea.
- 10.35 The park and ride car park is largely contained by landscape areas which operate as swales created as part of the surface water management regime for the former landfill site and which incorporate a number of balancing and attenuation ponds. The existing surface water management infrastructure also includes storage cells that are located under the overflow car park area and which discharge at a controlled rate to an attenuation pond to the east of the car park.
- 10.36 No change is proposed to the existing surface water management arrangements and the existing surface water infrastructure would not be materially impacted by the proposed development. In consequence, the proposed use would not result in a material increase in the risk of flooding either at the application site or elsewhere and is considered to be in accordance with policy ENV5.

### Design and Impact on Character, Appearance and Amenity of Locality

- 10.37 Paragraph 91 of the NPPF provides that planning decisions should aim to achieve healthy, inclusive and safe places which:
- (i) promote social interaction;
  - (i) are safe and accessible; and
  - (ii) enable and support healthy lifestyles, especially where this would address identified local health and well-being needs.

10.38 Paragraph 124 of the NPPF is clear that the creation of high quality 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.

10.39 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.

10.40 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.”

10.41 Policy ENV1 of the Adopted Local Plan provides that development should be located and designed so that it does not detract from and, where reasonable, enhances the local landscape character and 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.

- 10.42 Amongst other matters, Policy ENV11 of the Adopted Local Plan provides that within and adjoining 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. Policy ENV15 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.
- 10.43 Policy HOUS4 of the Adopted Local Plan provides that proposals for flats, hostels and houses in multiple occupation should be compatible with the character of the area; not result in a cramped form of development; and provide sufficient private amenity space within the site for the likely future occupants.
- 10.44 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.
- 10.45 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).
- 10.46 Policy COM9 further states that cycle parking facilities should be provided where suitable private storage is not provided.
- 10.47 The application site is readily accessible by road, by bus, by bike and on foot and benefits from ready access to the adjacent nature park as well as convenient links to both the seafront and Weymouth town centre.
- 10.48 The indicated site layout incorporates space for staff/visitor parking, cycle parking, refuse bins and other service requirements and the enclosed courtyard area, the bus and the indoor social space would function as amenity space for guests and visitors.
- 10.49 Vehicular movements associated with the proposed temporary use are unlikely to have any material impact on highway efficiency, safety or amenity and the proposed use would be confined to small part of the overflow car park area which is not currently in regular use for park and ride parking with no impact on the existing transport services with the remainder of the overflow car park remaining available for use for vehicular parking as and when required.

- 10.50 The proposed use is consciously high density and the proposed site layout deliberately inward looking, an arrangement that suits the project ethos, the indicated site layout planned to help engender a feeling of community togetherness and also minimise impact on potential concurrent use of the park and ride.
- 10.51 The proposed accommodation units and the associated facilities are somewhat utilitarian in design, but the application site is some distance from the nearest existing buildings which have a commercial or light industrial character. The application site is not located within a designated landscape area and there are no designated heritage assets either within or in the immediate vicinity of the park and ride car park, the nearest designated heritage asset being the Radipole Conservation Area approximately 0.7 km to the west. When viewed from locations beyond the application site, it is considered that the site would have the appearance of a temporary works compound of the form commonly found on or near to development sites. As such, whilst perhaps neither echoing or reinforcing local distinctiveness, it is considered that the proposed use would not appear unduly incongruous in the park and ride. No trees or other features that make a positive contribution to the character and appearance of the surrounding area would be lost to the proposed development and it is considered that the park and ride and already contains sufficient landscaping to successfully integrate the proposed use into the character of the site and its surroundings.
- 10.52 Internal space provision within the accommodation units would not be in accordance with the Government's Technical Housing Standards, but the accommodation units would be built to a high specification, be well insulated and would provide a safe and secure environment far preferable to sleeping rough.
- 10.53 Overall, the design of the accommodation units and the layout of the associated facilities are considered to be adequate for the purposes of the proposed development, satisfactory and broadly in accordance with the development plan.

#### Impact on Amenity

- 10.54 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.

10.55 With the nearest residential properties being more than 300 metres from the application site, the proposal is considered to be in accordance with Policy ENV16.

### Equalities and Human Rights

10.56 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;
- (i) advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it; and
- (ii) foster good relations between persons who share a relevant protected characteristic and persons who do not share it.

10.57 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.

10.58 Being focussed on the provision of specialist accommodation and associated services, it is considered that the proposed development would help to advance equality of opportunity and assist in fostering good relations.

10.59 The Human Rights Act 1998 imposes an obligation on public authorities not to act incompatibly with the European Convention on 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.

10.60 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.

10.61 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.

10.62 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.

10.63 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.

10.64 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.

10.65 I am further 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.

10.66 Having considered the impact of the development, as set out in the appraisal above as well as the rights of the applicant and the general interest, the opinion is that any effect on human rights does not outweigh the granting of the permission in accordance with adopted and prescribed planning principles.

### Conclusion

10.67 For the reasons set out above, subject to the conditions set out in paragraph 11.1 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.

## **11. Details for Inclusion in Decision Notice**

### **11.1 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).

#### Use of Land in Accordance with Proposed Arrangements

2. Use of the land edged red on the application Site Location Plan (Drawing No. 20201028\_ParkRide\_Layout\_9C Sht 2) for the stationing of mobile accommodation units and associated ancillary facilities shall be in accordance with the arrangements detailed in the Planning Design and Access Statement dated 6<sup>th</sup> November 2020 submitted in support of the application with the accommodation units and associated facilities stationed in accordance with the indicative Site Plan (Drawing No. 20201028\_ParkRide\_Layout\_9C Sht 1). No accommodation unit or other facility shall be stationed on top of another accommodation unit or facility.

#### Reason

In accordance with the application proposal and to regulate to the use of the application site in the interest of visual amenity having regard to to policies ENV1 (Landscape, Seascape and Sites of Geological Interest), ENV10 (The



Landscape and Townscape Setting) and ENV11 (The Pattern of Streets and Spaces) of the adopted Weymouth and Portland Local Plan 2015.

#### Landfill Gas Investigation and Assessment

3. Prior to the use of the application site for the stationing of mobile accommodation units, a landfill gas investigation and assessment report shall be submitted to and approved by the local planning authority and all risk mitigation and avoidance measures detailed in the approved report shall be implemented in accordance with the approved arrangements.

#### Reason

To ensure that appropriate risk mitigation and avoidance measures are implemented prior to the first use of the application site for the stationing of mobile accommodation units having regard to Policy ENV9 (Pollution and Contaminated Land) of the adopted Weymouth and Portland Local Plan 2015.

#### Implementation of Biodiversity Plan

4. The biodiversity mitigation and net gain measures set out within the Biodiversity Plan submitted in support of the application as certified by Dorset Council's Natural Environment Team on 04 December 2020 shall be implemented in accordance the certified arrangements.

#### Reason

To adequately mitigate biodiversity impact and to secure net gain for biodiversity having regard to policy ENV2 (Wildlife and Habitats) of the adopted Weymouth and Portland Local Plan 2015.

#### Limit on the Duration of the Proposed Temporary Use

5. Unless permitted to remain under a further grant of planning permission, use of the application site for the stationing of mobile accommodation units and associated ancillary facilities shall cease no later than 31<sup>st</sup> January 2028.

#### Reason

In limit the duration of the proposed temporary use of the application site in accordance with the application proposal.

#### Site Clearance

6. Within 3 months of the permanent cessation of use of the application site for the purposes of stationing mobile accommodation units and associated ancillary facilities, the application site shall be cleared of all accommodation units and associated facilities.

#### Reason

In the interest of visual amenity having regard to to policies ENV1 (Landscape, Seascape and Sites of Geological Interest) of the adopted Weymouth and Portland Local Plan 2015.

### 11.2 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) updating the applicant of issues as they arose in the processing of the application;
- (iii) discussing possible solutions to material concerns raised; and
- (iv) 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: 22 January 2020

## Western and Southern area Planning Committee

2<sup>nd</sup> February 2021

### Appeal Decisions

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#### 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/20/3257683**

**Planning Reference: WP/19/00516**

**Proposal: Erection of 13 No. houses and 6 No. flats**

**Address: Land off Roman Road and Spa Road, Weymouth, DT3 5JH**

- 2.1 The planning application was considered by the Western and Southern Area Planning Committee in May 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:

The site is outside of the defined development boundary and the Council has declared a climate emergency, as such the development is therefore contrary to Policy SUS2 of the West Dorset, Weymouth and Portland Local Plan (2015). The site is a currently undeveloped green space with a copse and is within the Conservation Area. The site is considered to make a positive contribution to the character of the Conservation Area by virtue of its openness, trees and copse and the development would neither preserve or enhance the character of the Conservation Area contrary to Policies ENV2 and ENV4 of the West Dorset, Weymouth and Portland Local Plan (2015) and the National Planning Policy Framework (2019).

In the absence of a completed planning obligation the scheme would not ensure the affordable housing and affordable housing financial contribution are provided, nor the ecological financial contribution and nor would the replacement public footpath be provided and maintained. As such the development is contrary to Policies HOUS1, ENV2 and ENV11 of the West

Dorset, Weymouth and Portland Local Plan (2015) and 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 As part of the appeal submissions the appellant provided a planning obligation that makes contributions to the enhancement of the Weymouth Way Ecological Corridor, affordable housing, and secures delivery of a footpath through the site together with its futures maintenance. The Inspector was satisfied that the provision of the obligation addressed the second reason for refusal.
- 2.4 The Inspector considered that the main issues were the effect on the character and appearance of the Conservation Area and whether the site is in an appropriate location for the development with regard to accessibility and development plan policy.

Character and appearance:

- 2.5 The Inspector considered that given the physical severance of this site from the surrounding undeveloped landscape there would be only localised harm to the character and appearance of a very small part of the conservation area. He considered that it would result in the loss of only a small sliver of land on the opposite side of Weymouth Way to buildings within the conservation area, which would still retain a distinctly rural setting. As such, the Inspector concluded that there would be very low level, less than substantial harm to the significance of the heritage asset as a lightly developed historic settlement within a rural landscape.
- 2.6 The Inspector considered that due to the presence of Weymouth Way the proposal's strong relationship to the existing built form on Roman Road and Spa Road, the shortcomings in detailed design would not harm the significance of the conservation area nor the setting of listed buildings within it. The limited harm to the character and appearance of the conservation area and less than substantial harm to its significance, in the Inspector's view, arose solely from the placing of buildings on the hitherto undeveloped land.
- 2.7 In accordance with Paragraph 196 of the NPPF the Inspector had to weigh the harm identified against the public benefits of the proposal. The Inspector noted that the Council is unable to demonstrate a 5 year supply of deliverable housing land and that whilst the shortfall is not large, a development of the scale proposed, including a contribution to affordable housing, would be of substantial benefit. In light of the land supply situation and with regard to the very low level of harm, the Inspector found that the substantial benefits outweigh the harm to the heritage asset in this case.

Location

- 2.8 The Inspector states that the site is well related to existing built form within the defined development boundary. Whether or not the journey times cited by the

appellant are accurate, a number of local services on Dorchester Road are within walking distance. Supermarket provision is not much further. Therefore the site is in an accessible location and future residents would not be dependent on private motor vehicles to meet their day to day needs. Notwithstanding the accessible location, the proposal is contrary to Policy SUS2.

#### Planning Balance

- 2.9 The Inspector states that as the Council cannot demonstrate a 5 year supply of deliverable housing land, NPPF paragraph 11(d) must be considered. I have found that the benefits of providing housing at the site would outweigh the harm to the conservation area, so there are no policies in the NPPF that protect areas or assets of particular importance and provide a clear reason for refusing the development. The NPPF seeks to boost significantly the supply of housing. The proposal is in accessible location, well related to a large urban area. The Inspector attached significant weight to the benefits associated with the provision of housing at the site and found that the adverse impacts of granting permission would not significantly and demonstrably outweigh the benefits when assessed against the policies in the NPPF taken as a whole.
- 2.10 The Inspector noted that the Council had declared a climate emergency and that he understood that some of the response will include the creation of high value ecological areas and planting trees to capture carbon. The loss of trees at the site conflicts with these aims and biodiversity impacts would be mitigated rather than existing habitats fully preserved in situ. However the Inspector considered that they must be balanced against the need to provide housing and the environmental and social benefits of doing so in a location where residents would not be wholly reliant on private motor transport. The Inspector's conclusion was that the Council's declaration is therefore a neutral consideration in his decision.
- 2.11 The Inspector noted that the proposal conflicts with the development plan as it is outside the defined development boundary. However he attached limited weight to that given the lack of ability to deliver sufficient housing within the defined development boundaries. Against that he attributed substantial weight to the benefits arising from the delivery of housing and the presumption in favour of sustainable development and concluded that he found that material considerations in this case indicated a decision otherwise than in accordance with the development plan.

### 3.0 Appeal Decision no. 2

**Appeal Reference: APP/D1265/W/20/3257790**

**Planning Reference: WP/19/00851/FUL**

**Proposal: Replace all existing double glazed timber sash windows with double glazed PVC-u. Over-face all timber fascias, barge boards and box ends with white pvc**

**Address: Melcombe Court, 2 Melcombe Avenue, Weymouth**

- 3.1 The application was refused under delegated powers for the following reasons:

The proposed replacement windows are harmful to the Greenhill Conservation Area through a loss of quality timber sashes and other features that contribute to the quality of the conservation area. The loss of such features is considered to add to the cumulative harm to the conservation area, contrary to policy ENV4 of the adopted West Dorset and Weymouth Local Plan (2015) and part 16 of the NPPF that seeks to protect heritage assets.

The submitted plans show insufficient and unacceptable detailing, and therefore there is uncertainty as to exactly what is proposed in terms of the replacement fenestration and bargeboards; it therefore cannot be concluded that the proposal would preserve or enhance the conservation area. The proposal would therefore be detrimental to policy ENV4 of the adopted Local Plan and part 16 of the NPPF.

- 3.2 The appeal was considered by means of written representations. The Inspector dismissed the appeal.
- 3.3 The Inspector noted that whilst a modern building the design of the building includes some traditional detailing, aided by its window design. It also sits opposite some older properties that retain timber sliding sash windows. Its corner location in close view from the footway means that it is seen in context with these, complementing their detail and architectural style that informs the conservation area's character and appearance.
- 3.4 The Inspector noted that whilst the replacement windows had been described in the application no detailed drawings had been provided. The Inspector noted that face planted glazing bars could appear as poor quality artificial additions and there was no substantive evidence that comparable mouldings, glazing bar profiles and the like can be replicated or improved upon in a non-timber material.
- 3.5 The Inspector said that whilst a condition could be imposed to secure final details he could not be certain that a suitable solution was available that would preserve or enhance the character and appearance of the conservation area. Although harm to the area's significance may be less than substantial, and toward the lower end of this category, the NPPF indicates that the Inspector must give great weight to the conservation of the heritage asset.
- 3.6 The Inspector noted that the benefits of the proposal would be largely private and therefore the proposal would conflict with Policy ENV4 of the local plan which seeks to conserve and enhance the significance of heritage assets, weighing any harm against public benefits.