

## Officer Report

<b>Application Number:</b>	P/FUL/2023/05098
<b>Webpage:</b>	<a href="https://planning.dorsetcouncil.gov.uk/">https://planning.dorsetcouncil.gov.uk/</a>
<b>Site address:</b>	Brackenbury Community Nursery Three Yards Close Portland
<b>Proposal:</b>	Change of use of building from a Community Nursery (use class E(f)) to a children's home (use class C2). Carry out landscaping works.
<b>Applicant name:</b>	Dorset Council
<b>Case Officer:</b>	Thomas Whild
<b>Ward Member(s):</b>	Cllr Cocking, Cllr Kimber, Cllr Hughes

- 1.0** In accordance with the Council's constitution, the application is referred to the committee as the Council is the applicant and freehold landowner of the site.
- 2.0 Summary of recommendation:** GRANT subject to conditions.
- 3.0 Reason for the recommendation:** The principle of development is considered acceptable and would allow the Council to meet the intended occupants specific care needs. Although the proposals would result in some, less than substantial, harm to heritage assets and the character of the area the public benefits associated with providing this specialised accommodation to meet the occupants needs, and to meet the ongoing requirement for this type of specialist supported accommodation is considered to be a public benefit sufficient to justify the level of harm. The proposal has been amended to reflect pre application advice and it is not considered that there would be an unacceptable impact on the amenity of neighbouring residents.
- 4.0 Key planning issues**

<b>Issue</b>	<b>Conclusion</b>
Principle of development	The use of the site is considered to be acceptable in principle as the proposal would not result in the net loss of community facilities and would meet the specific needs of the intended occupant.
Scale, design, impact on character and appearance	There would not be any significant change to the exterior of the building. The introduction of the fencing would alter the character but soft landscaping proposals would soften the impacts of the development.

## Officer Report

Impact on amenity	Following pre-application advice, the scheme has been designed to minimise impacts on neighbours while meeting the specific needs of the occupier. It has been demonstrated that the development would not cause significant harm in respect of loss of sunlight or daylight and on balance it is not considered that the proposals would have an unacceptable impact from overbearing.
Impact on landscape or heritage assets	The proposals would give rise to less than substantial harm to the conservation area. It is considered that this harm would be outweighed by the public benefits of the scheme.
Economic benefits	The proposal would represent a productive re-use of existing Council assets.
Access and Parking	The site would be served by an existing access. There would be no loss of on street parking and there is no objection from the highways authority.
Flood Risk	The site is in flood zone 1 but parts of the site are affected by surface water flood risk with an annual event probability of 1 in 1000. The risk does not affect the building itself.

### **5.0 Description of Site**

- 5.1 The application site comprises the former Brackenbury Community Nursery, which is a purpose-built children's day nursery. The building was constructed in the 1990s and comprises a single storey structure with a pitched roof with gable ends. It is constructed from Portland stone with a concrete tile roof and upvc windows and doors.
- 5.2 When originally constructed the building served as a nursery serving Brackenbury Infant School which occupied the former school building to the south east of the site. The nursery closed in 2013 when the infant school moved to new premises at Osprey Quay, with the building initially being let to a private day nursery and then being taken over by Allsorts Day Nursery from 2016 until January 2019 when it moved into the former school building which has since been acquired by Portland Town Council for use as a community hub. The nursery building has been vacant since that time.
- 5.3 The former community nursery site is located at the north end of Three Yards Close, adjacent to the former Brackenbury Infants School site. These are two of the largest buildings in the predominantly residential area of Fortuneswell. The property is surrounded on three sides by residential dwellings, to the north, west and south.
- 5.4 The total site area is 988m<sup>2</sup>, which comprises a property footprint of 122m<sup>2</sup>, external hard surfaces, footpaths and play areas, and soft landscape.
- 5.5 The site is on two distinct levels; the building and external play areas are at the lower level, separated from the upper grassed area by a steeply sloping grass bank. The

## Officer Report

upper level has several semi mature trees on it, mainly White Poplar, which form part of a group of trees straddling the site boundary with the former Infant School. The two sites are separated by a 6ft high close boarded timber screen fence.

- 5.6 Access to the single story building is via a gated footpath at the top of a tarmac ramp, from the upper level to the lower level. There is a surfaced bellmouth with a gate wide enough for a vehicle. There is no hardstanding or driveway on the existing site.
- 5.7 The site is bounded to the north, south and west by residential development. To the north and south the residential development sits at a similar level, with dwellings on the opposite side of Three Yards Close sitting on higher ground. To the west, Cove Cottages sit on lower ground. There is a retaining wall between the site and the adjacent cottages, the cottages sitting approximately 3m lower than the application site. Those cottages have relatively limited external spaces, consisting of rear yards with the cottages themselves coming into close proximity with the site boundary, leading to a relatively close-knit form of development.

### **6.0 Description of Development**

- 6.1 The proposal comprises the change of use of the existing building to provide specialised accommodation for a young adult, 'E' who has a specific identified need for supported accommodation which cannot be fully met by current provision.
- 6.2 The alterations to the building are predominantly internal. The existing classroom area is to be partitioned to provide a bedroom, dining room, kitchen and living room for E. The existing office space and kitchen are to be converted to bedrooms for carers and a spare bedroom space. The existing Boys' and Girls' WCs become a bathroom for E while the existing accessible toilet becomes a shower room for use by carers.
- 6.3 Externally the project brief and hard landscaping design has been informed by E's specific needs. The requirements include:
  - A secure and private garden which is level and surrounded by tall screen fencing.
  - The fence to be of a height and type that the resident is unable to climb.
  - No moveable furniture or play equipment that could be used to climb to get over the fence.
  - The garden area to include a small area of mud to provide tactile sensation and a raised planting area to encourage participation in some gardening activity.
  - An area of flat ground within this garden for activities that the resident particularly enjoys and space for a special swing fixed to the ground.
  - A secure area for a storage shed to house gardening equipment and outdoor equipment and chairs when they are not being used.

## **Officer Report**

- Parking for a specially adapted transport vehicle to be within the high fenced area of the property with lockable gates enabling safe access and egress between the vehicle and the home.
- 6.4 The former Nursery play areas to the north and east of the building are proposed to become the secure garden area, enclosed by 3m high timber screen fencing. The rear garden areas will be a combination of natural grass and paving. There will be a small area of composite decking, patio paving and some raised planting beds for sensory activities. One area of hardstanding will be required for the special swing.
- 6.5 The 3m high screen fencing will be a high quality acoustic type timber fence, because it is smooth and difficult to climb. This will be set 2.5 m inside the property boundary.
- 6.6 Outside of the secure garden areas, to the northwest and of the property, the existing chain link boundary fencing will be replaced with new, of the same height. This will enclose an area to contain storage sheds, recycling and waste bins, some new paved footpaths for access to the rear and some new planting. At the front of the property, around the entrance doors the existing paving will be refurbished and made good. The existing low retaining wall will be retained and refurbished as necessary. The soft planting areas will be improved and supplemented with new low level planting to enhance the front of the property.
- 6.7 The southwest site boundary masonry wall will be retained as existing. The existing low bow topped boundary railing adjacent to the end of the cul-de-sac on the south western boundary and around the bellmouth turning area will be retained and refurbished where necessary.
- 6.8 The eastern boundary close boarded screen fencing separating the former Brackenbury Infants school site from the nursery site will be retained.
- 6.9 The existing vehicular access off Three Yards Close will be retained, utilising the existing dropped kerb access. A new driveway will be constructed inside the double gates at the higher level, on the existing grassed area. This will be large enough to allow a specially adapted Transporter vehicle and one car to park off the road. The driveway will be edged and surfaced with Asphaltic Concrete/tarmac.
- 6.10 The driveway area will need to be a secure area for transferring from the property into the vehicles safely. This is proposed to be enclosed with a 2.4m high weld mesh fence. The fenced parking area will be softened with some screen planting around the perimeter.
- 6.11 The upper level vehicle parking space will be connected with the building and lower external areas with a new set of steps with handrails. The existing ramped tarmac path and pedestrian access will be retained.
- 6.12 In terms of soft landscaping, the proposal involves the removal of semi-mature white poplar trees to the front (east) of the building, to facilitate the creation of a driveway. New tree planting is proposed with other soft landscaping areas being improved enhanced and managed.

## **7.0 Relevant Planning History**

## Officer Report

88/00705/DCC Decision: NOB Decision Date: 30/09/1988

Erect new infants school 92/00017/DCC Decision: GRA Decision Date:  
23/04/1992

Install safety barriers

94/00257/DCC Decision: NOB Decision Date: 07/08/1994

Erection of nursery school

95/00373/DCC Decision: NOB Decision Date: 27/10/1995

Extension of existing school Car Park from 10 spaces to 13 spaces to serve new  
nursery school

04/00945/DCC3 Decision: NOB Decision Date: 14/12/2004

Extension to the south east of the existing nursery in materials to match the existing  
building

89/00628/DCC Decision: NOB Decision Date: 04/08/1989

Erect new infants school

WP/18/00268/FUL Decision: GRA Decision Date: 05/06/2018

Change of use from School to Community Hub with mixed use as Offices (B1A),  
Nursery, Sports Hall (D2) and Function Rooms

04/0945/DCC3 Decision: GRA Decision Date: 27/01/2005

An extension of 45m<sup>2</sup> to the north east of the existing nursery in materials to match  
the existing building.

P/PAP/2022/00533 Decision: RES Decision Date: 19/08/2022

Conversion to residential accommodation

## Officer Report

### 8.0 List of Constraints

- Grade: II Listed Building: 135 WITH FRONT BOUNDARY WALL List Entry: 1205729.0; - Distance: 10.46
- Grade: II Listed Building: 137 AND 139 WITH FRONT BOUNDARY WALL List Entry: 1281861.0; - Distance: 9.99
- Grade: II Listed Building: 141 WITH BOUNDARY WALLS, PIERS AND GATE List Entry: 1205735.0; - Distance: 13.25
- Grade: II Listed Building: 147, HIGH STREET List Entry: 1203096.0; - Distance: 13.84
- Underhill Conservation Area
- Important Local Buildings, Record Key = 2519
- Area of Archaeological Potential; Portland
- Regionally Important Geological and Geomorphologic; The Isle of Portland, Weymouth and Portland
- Risk of Surface Water Flooding Extent 1 in 1000
- Dorset Council Land (Freehold)
- Local Geological Site: G SY67/11 - The Isle of Portland
- Existing ecological network (Polygons) - Distance: 0
- Natural England Designation - RAMSAR: Chesil Beach & the Fleet (UK11012); - Distance: 2467.08
- Special Area of Conservation (SAC) (5km buffer): Chesil & The Fleet (UK0017076); - Distance: 105.1
- Wildlife Present: insect - moth; - Distance: 1.68
- Site of Special Scientific Interest (SSSI) impact risk zone; - Distance: 0
- Scheduled Monument: The Verne Citadel (List Entry: 1002411); - Distance: 483.94
- Radon: Class: Class 3: 3 - 5% - Distance: 0
- ONR portland\_12km\_zone - Distance: 0

### 9.0 Consultations

## Officer Report

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

### Consultees

1. **Portland Town Council** – Portland town council supports this application. It notes that a resident has raised concerns over the retaining wall and proposed chain link fence being installed in front of this wall on the west side, which could impede the management of the existing vegetation.
2. **Portland Ward Councillors** – No comments received,
3. **Highways** – No objection. Conditions recommended to require the provision of the turning and parking space indicated.
6. **Dorset Waste Team** – No comments received.
7. **Conservation Officers** – There is no objection to the proposed use of the building. It is considered that the proposed fences, due to their height and overall impact would cause less than substantial harm to the setting of neighbouring listed buildings and the conservation area. It is recognised that there would possibly be public benefit to offset this level of harm.
8. **Trees (North West Weymouth)** – No comments received.
9. **Building Control Weymouth Team** – No comments.
10. **Dorset Wildlife Trust** – No comments received.
11. **NHS Dorset (Dorset Integrated Care Board) ICB** – No comments received.
12. **Asset & Property**- No comments received.
13. **Children's Services** – No comments received.

### Representations received

Total - Objections	Total - No Objections	Total - Comments
0	0	1

Petitions Objecting	Petitions Supporting
0	0
0 Signatures	0 Signatures

9.2 In addition to consultee comments summarised above, one letter was received from a third party raising concerns in respect of the retaining wall between the site and their property and the impacts of the proposed fencing.

## 10.0 Duties

## **Officer Report**

- 10.1 s38(6) of the Planning and Compulsory Purchase Act 2004 requires that the determination of planning applications must be in accordance with the development plan unless material circumstances indicate otherwise.
- 10.2 The Planning (Listed Buildings and Conservation Areas) Act 1990- section 16 requires that in considering whether to grant listed building consent, special regard is to be had to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses.
- 10.3 Section 72 requires that special attention shall be paid to the desirability of preserving or enhancing the character or appearance of conservation areas.

### **11.0 Relevant Policies**

11.1 West Dorset Weymouth and Portland local plan 2015. So far as this application is concerned, the following policies are considered to be of relevance:

- INT1 - Presumption in favour of sustainable development
- ENV10 - The landscape and townscape setting
- ENV12 - The design and positioning of buildings
- ENV16 - Amenity
- SUS2 - Distribution of development
- ENV4 - Heritage assets
- COM7 - Creating a safe and efficient transport network
- COM3 - The retention of local community buildings and facilities

11.2 Portland Neighbourhood Plan – ‘made’ on 22/06/2021. So far as this application is concerned, the following policies are considered to be of relevance to the proposals.

- Port/EN4 - Local heritage assets
- Port/EN6 - Defined development boundaries
- Port/EN7 - Design and character

### **Other material considerations**

#### **Emerging Dorset Council Local Plan:**

- 11.3 Paragraph 48 of the NPPF provides that local planning authorities may give weight to relevant policies in emerging plans according to:
- the stage of preparation of the emerging plan (the more advanced its preparation, the greater the weight that may be given);
  - the extent to which there are unresolved objections to relevant plan policies (the less significant the unresolved objections, the greater the weight that may be given); and



## Officer Report

- the degree of consistency of the relevant policies in the emerging plan to the NPPF (the closer the policies in the emerging plan are to the policies of the NPPF, the greater the weight that may be given).

11.4 The Dorset Council Local Plan Options Consultation took place between January and March 2021. Being at a very early stage of preparation, the Draft Dorset Council Local Plan should be accorded very limited weight in decision making.

### **National Planning Policy Framework:**

11.5 Paragraph 11 sets out the presumption in favour of sustainable development. Development plan proposals that accord with the development plan should be approved without delay. Where the development plan is absent, silent or relevant policies are out-of-date then permission should be granted unless any adverse impacts of approval would significantly and demonstrably outweigh the benefits when assessed against the NPPF or specific policies in the NPPF indicate development should be restricted.

11.6 Other relevant NPPF sections include:

- Section 4. Decision taking: Para 38 - Local planning authorities should approach decisions on proposed development in a positive and creative way. They should use the full range of planning tools available...and work proactively with applicants to secure developments that will improve the economic, social and environmental conditions of the area. Decision-makers at every level should seek to approve applications for sustainable development where possible.
- Section 5 'Delivering a sufficient supply of homes' outlines the government's objective in respect of land supply with subsection 'Rural housing' at paragraphs 78-79 reflecting the requirement for development in rural areas.
- Section 6 'Building a strong, competitive economy', paragraphs 84 and 85 'Supporting a prosperous rural economy' promotes the sustainable growth and expansion of all types of business and enterprise in rural areas, through conversion of existing buildings, the erection of well-designed new buildings, and supports sustainable tourism and leisure developments where identified needs are not met by existing rural service centres.
- Section 11 'Making effective use of land'
- Section 12 'Achieving well designed places indicates that all development to be of a high quality in design, and the relationship and visual impact of it to be compatible with the surroundings. In particular, and amongst other things, Paragraphs 126 – 136 advise that:

## **Officer Report**

The Government attaches great importance to the design of the built environment. Good design is a key aspect of sustainable development, is indivisible from good planning, and should contribute positively to making places better for people.

It is important to plan positively for the achievement of high quality and inclusive design for all development, including individual buildings, public and private spaces and wider area development schemes.

Development that is not well designed should be refused, especially where it fails to reflect local design policies and government guidance on design.

- Section 14 'Meeting the challenges of climate change, flooding and coastal change'
- Section 15 'Conserving and Enhancing the Natural Environment'- In Areas of Outstanding Natural Beauty great weight should be given to conserving and enhancing the landscape and scenic beauty (para 176). Decisions in Heritage Coast areas should be consistent with the special character of the area and the importance of its conservation (para 173). Paragraphs 179-182 set out how biodiversity is to be protected and encourage net gains for biodiversity.
- Section 16 'Conserving and Enhancing the Historic Environment'- When considering designated heritage assets, great weight should be given to the asset's conservation, irrespective of whether any potential harm amounts to substantial harm, total loss or less than substantial harm to its significance (para 199). The effect of an application on the significance of non-designated heritage assets should also be taken into account (para 203).

### **National Planning Practice Guidance**

#### **Supplementary Planning Document/Guidance**

##### Supplementary Planning Documents/Guidance For West Dorset Area:

- Weymouth & Portland Listed Buildings and Conservation Areas (2002)
- Weymouth & Portland Urban Design (2002)
- Landscape Character Assessment (Weymouth & Portland)

##### Conservation Area Appraisals:

- Portland (Grove, Easton, Reforne, Straits, Wakeham, Underhill and Weston of Portland) adopted November 2014

### **12.0 Human rights**

- Article 6 - Right to a fair trial.

## Officer Report

- Article 8 - Right to respect for private and family life and home.
- The first protocol of Article 1 Protection of property.

12.1 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**

13.1 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.

13.2 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 Public Sector Equalities Duty.

13.3 In this case the proposal is for the use of the building to provide housing for an individual who, by virtue of their protected characteristics under the Equalities Act has very specific needs for their accommodation. Specifically, this has dictated the need for the proposed fencing, its design and characteristics. The proposals including the fencing are therefore considered to specifically address the aims of the public sector equalities duty.

13.4 The proposed use of the building will provide E with accommodation which seeks to minimise the disadvantages resulting from their protected characteristics and would provide a permanent home which would support them in participation in public life and activities. The proposals include adaptations to the building and grounds which are intended to meet the specific needs of E where these are distinct from the general population, specifically the need for a safe environment and outdoor space.

### **14.0 Financial benefits**

14.1 The proposal would allow for the use of existing Council assets to provide specialised accommodation which has previously needed to be met by private providers.

### **15.0 Environmental Implications**

14.2 There would be CO2 emissions associated with the ongoing use of the building. However, the impacts arising would not be dissimilar to the impacts were the building to be brought back into its current lawful use. The proposal would represent the

## Officer Report

sustainable re-use of an existing building, avoiding the need for new construction to take place, or for eventual demolition of the building.

### **16.0 Planning Assessment**

#### ***Principle of development***

- 16.1 The site is located within the defined development boundary where new development, including the re-use and conversion of existing buildings is generally supported, subject to compliance with other policies of the development plan, and other material considerations. In this case the current lawful use of the building is as a children's day nursery, the building is considered to comprise a community building to which policy COM3 applies. That policy seeks to protect such buildings unless it has been demonstrated that an appropriate community use is not needed or likely to be viable.
- 16.2 The proposed use of the building would be to provide residential accommodation but the accommodation provided would also come with a significant level of care. In considering these proposals it is necessary to give consideration to whether the proposal would constitute a 'residential' use falling within class C3 or a care use falling within class C2. Class C3 encompasses dwelling houses including dwellings of up to 6 people living as a single household where care is provided. Class C2 is for the provision of residential care.
- 16.3 In this instance while the building would provide a permanent residence for E and would also provide overnight sleeping accommodation for carers and others, those carers would not be permanently resident at the site and it cannot be said that they would form a single household with E. Due to the high level of care that would be provided it is considered that the development would fall into use class C2 as a care home, even though the scale of the development is significantly smaller than would be expected for a care home development.
- 16.4 As it is considered that the proposal falls within use class C2, the building would be continuing to provide a community use, just in a different form than had been the case when the building was used as a day nursery. The building has not been used as a day nursery for several years, and there has not been any loss in day nursery provision as a result of the closure as the provision has simply moved to alternative sites. Therefore, it is not considered that the proposal would give rise to any conflict with policy COM3 and the principle of the development is considered to be acceptable.

#### ***Scale, design and impact upon character and appearance***

- 16.5 The proposals will not result in any significant change to the external appearance of the building. There would be some changes to doors and windows but these would largely be replacement of existing units and would be seen as a positive maintenance of the building.
- 16.6 The key change to the site which would arise as a result of the proposal is the installation of new fencing around the amenity area, around the parking area and around the path between the building and parking area. As has been set out in the description of development section above, this fencing is required to provide an

## **Officer Report**

appropriately safe and secure environment which meet's E's specific needs. The needs of E to have a secure environment with fencing that cannot be climbed has led to a specification for 3m high acoustic fencing. The combination of the height and finish of the fencing, which has minimal points of purchase to be able to be climbed is intended to provide the appropriate level of security.

- 16.7 The height and design of the fencing does however mean that it would be a significant feature in the locality, having a relatively solid appearance, with the fencing around the rear of the building extending above the eaves height. The appearance of the fencing around the building and its perception in the street scene is tempered somewhat by the sloping topography of the site, whereby the building sits approximately 2.8m below the level of the road. Furthermore the highest fencing would be to the rear of the building, further limiting its prominence in the street scene.
- 16.8 The fencing around the parking area and approach to the building would be more open in its appearance and lower, sitting at 1.4m high. It would however be much more prominent in the street scene and would by necessity form an enclosed compound. It is considered that the introduction of this and the fencing to the rear would have a negative impact upon the overall character of the area as it would reduce the openness of the site and introduce elements which would, from some viewpoints appear imposing.
- 16.9 However the submitted plans do include a scheme of landscaping and replacement tree planting which would assist in softening the impact of the new fencing, in particular through the incorporation of a tree to the western side of the vehicular entrance, and on the bank between the parking area and the building itself. Both of these, and the smaller shrub planting would filter views of the fencing.

### ***Impact upon amenity***

- 16.10 As the change of use of the building would not involve any significant changes to the building it is not considered that the changes would result in any harmful impacts by way of overlooking or overbearing from the building. While the change in use would introduce a different type of occupation, the proposed fencing would serve to ensure that there would not be intervisibility between habitable parts of the building and its neighbours.
- 16.11 The introduction of the fencing does have potential to give rise to impacts upon amenity in its own right however. This is particularly relevant in this case due to the height of the fencing, the relative height of neighbouring properties, particularly Cove Cottages, which are on significantly lower ground, and the solid nature of the fencing.
- 16.12 Following pre-application advice, the design team has worked to achieve a fenced area which meets the safety and security requirements defined by E's needs as well as seeking to protect the amenity of neighbours. This has involved reducing the area of the site which is enclosed by the highest fencing and crucially setting the fencing in by 2.8m from the north western and north eastern site boundaries.

## Officer Report

- 16.13 Section drawings have been provided which indicate that with the inseting of the fencing from the boundary it does not cross a 25° line from the nearest affected window in neighbouring properties to the north west or north east. Therefore, it can be concluded that the fencing would not lead to an unacceptable loss of light to those dwellings. The application has also been supported by analysis of shading by the fencing which considers the impacts of the development at the point of the winter solstice, spring equinox and summer solstice. That analysis confirms that at the winter solstice there would be some loss of sunlight to the garden of 3 cove cottages, to the north east. but by the spring equinox the impact of the fencing would be negligible and there would be no impact in the summer. The analysis also shows that there not be any more than a negligible impact upon sunlight to the gardens of cove cottages which lie to the north west of the site.
- 16.14 Guidance on daylight and sunlight published by the BRE advises that the point of analysis should be the spring equinox where an appropriate level of sunlight would be that at least half of the garden areas receive sunlight for at least two hours. Given that the analysis shows that the proposal would lead to a negligible change to the sunlight to the gardens to the north east and north west of the site on the spring equinox, it is concluded that the introduction of the fencing would not cause unacceptable impacts by way of loss of light to garden areas.
- 16.15 At pre-application stage it was advised that the siting of the high fencing could lead to overbearing impacts upon neighbouring properties, and the creation of an oppressive environment, exacerbated by the levels changes that are present. This potential impact is however offset by the setting in of the fencing which means that the full height would not be perceived on the boundary of neighbouring properties. Consideration must also be given to the material fall back position that a 2m high fence could be erected along the full length of the northwestern and north eastern boundaries of the site without any requirement for planning permission. It is likely that any such fencing would have a similar if not greater impact upon neighbours in terms of potential overbearing.
- 16.16 Although the proposals would lead to the introduction of what is acknowledged to be a higher fence than would normally be expected in this setting, the supporting information provided indicates that the setting in of the fencing significantly limits any impacts. It is therefore considered that any remaining impacts on amenity as a result of the proposals would be outweighed by the need to provide specialised accommodation which meets the needs defined by E's protected characteristics.

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

- 16.17 The site is located within the Underhill Conservation area and is also within the setting of a number of listed buildings, located to the north east of the site. Comments from the Conservation Officer have confirmed that the proposals are considered to give rise to harm to the conservation area and the setting of the listed buildings. This harm is associated with the introduction of the fencing in particular and is identified as being less than substantial. It is noted however that, as the harm is associated with the fencing it would be wholly reversible.

## **Officer Report**

16.18 Where less than substantial harm is identified the NPPF and development plan policies require that the harm is weighed against the public benefits which are associated with the proposals. In this instance the ability to provide specialist accommodation which meets E's protected characteristics and enables the Council to meet its responsibilities to E are public benefits to which substantial weight is afforded. It is also intended that, in the event that E moves to alternative accommodation, that the building will remain available within C2 use to provide accommodation to other individuals with similar needs, for which there is an ongoing demand. It is considered that the public benefits of the scheme are sufficient to outweigh the less than substantial harm to the Underhill Conservation Area and to the setting of the neighbouring listed buildings in this instance.

### ***Highways and access***

16.19 Vehicular access to the site is to be taken from a new access to be created at an existing bell mouth at the end of three yards close. The bell mouth is currently subject to parking restrictions, meaning that the creation of a vehicular access within the bell mouth will not lead to any loss of on-street parking capacity. The proposal has been reviewed by the Highways Authority which has confirmed that there is no objection to the proposals on highways grounds, subject to a condition requiring the provision of the turning and parking area in accordance with the submitted plans.

### ***Flood risk***

16.20 The site is located in flood zone 1 and is therefore considered to be at low risk of flooding. A small part of the garden area falls within an area of surface water flood risk with an annual event probability of 1 in 1000. The area of surface water flood risk does not encompass the building itself and would not prevent safe access or egress. Therefore, it is considered that the proposal would not result in unreasonable risks from flooding. Given that the proposal is for the re-use of an existing building, it will not result in increased risk of flooding elsewhere.

### ***Third party comments***

16.21 In addition to concerns raised in respect of day light to the rear of properties, which is addressed above, the third party comments have raised concerns about the impact of the chain link fencing and maintenance of the retaining wall between properties. While there is concern about the fence having an overbearing impact, the fence falls within the scope of permitted development and it would not therefore be reasonable to control it through this application. The chain link design of the fence would by its nature be open and allow views through it in any event.

16.22 In respect of access for maintenance this is not a planning matter but a matter for private agreement between neighbouring landowners. The space between the chain link and 3m wooden fences would however be sufficient to allow for maintenance of both to take place.

### ***Biodiversity***

16.23 The application has been accompanied by a biodiversity plan which includes proposals for mitigation of the loss of habitat on the site. This has been agreed by the Natural Environment Team. The biodiversity plan includes mitigation in the form of new tree planting in compensation for those trees that would be lost as a result of

## Officer Report

the development and provision for other works to be undertaken in such a way to minimise potential for harm to protected species. The Biodiversity plan also includes measures to achieve biodiversity enhancement which include the provision of a new hedgehog house, a bird nesting box and native hedgerow planting.

16.24 A condition is proposed to secure the timely implementation of the biodiversity plan. Full details of landscape planting are to be secured by condition and it is proposed to word that condition to ensure that, notwithstanding the details on the site plan, any planting should reflect the requirements of the biodiversity plan.

### **17.0 Conclusion**

17.1 The proposals are considered to be acceptable in principle as they would not result in a loss of community use, would bring a currently disused building back into productive use and would allow the Council to meet its obligations to the proposed occupant, E.

17.2 Although the fencing proposed as part of the use would detract from the appearance of the area, the impact would to a degree be limited by proposed landscaping. The proposals would also give rise to less than substantial harm to the Underhill Conservation Area and the setting of neighbouring listed buildings but it is considered that the public benefits of the proposals would outweigh that harm in this instance.

17.3 The proposals have taken on board pre-application advice in respect of the proposed fencing, setting it in from the boundary and the submitted information has demonstrated that the fencing would not give rise to unacceptable loss of daylight or sunlight to neighbouring windows or gardens. It is considered that the setting back of the fencing is sufficient to avoid unacceptable impacts by way of overbearing.

17.4 The proposals would be acceptable in highways terms. They would provide off road parking and turning space and would not result in the loss of any on street parking. The development would also remain safe from flooding.

### **18.0 Recommendation**

Grant planning permission subject to the conditions set out below:

1. The development to which this permission relates must be begun not later than the expiration of three years beginning with the date of this permission.

Reason: This condition is required to be imposed by Section 91 of the Town and Country Planning Act 1990 (as amended).

2. The development hereby permitted shall be carried out in accordance with the following approved plans:  
A 1000 P1 Location plan  
7000 P3 Proposed Site Plan  
2 000 P1 Proposed floor plan  
3 001 S2 Proposed elevations

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



## Officer Report

3. Prior to the installation of the fencing to the lower garden, upper garden or parking areas, a soft landscaping and planting scheme shall be submitted to, and approved in writing, by the Local Planning Authority. Notwithstanding the details shown on the approved plans the landscaping scheme should include features and planting to facilitate compliance with the Biodiversity Plan approved by Dorset Council on 25 May 2023. The approved scheme shall be implemented in full during the planting season November - March following commencement of the development or within a timescale to be first agreed in writing with the Local Planning Authority. The scheme shall include provision for the maintenance and replacement as necessary of the trees and shrubs for a period of not less than 5 years and thereafter the maintenance and replacement shall be carried out in accordance with the approved scheme.

Reason: In the interest of visual amenity.

4. The fencing to be installed around the lower garden area and upper garden and parking area shall be in accordance with the details as set out in section 4 of the supporting design and access statement submitted as part of the planning application and dated August 2023 or in accordance with such other details as may be first agreed with the local planning authority in writing prior to the installation of the fencing.

Reason: In order to ensure the appropriate visual appearance of the development

5. Before the development hereby approved is first occupied or utilised the turning and parking shown on drawing number 7 050 Rev P2 must have been constructed. Thereafter, these areas must be permanently maintained, kept free from obstruction and available for the purposes specified.

Reason: To ensure the proper and appropriate development of the site in the interest of highway safety.

6. The detailed biodiversity mitigation, compensation and enhancement/net gain strategy set out within the approved Biodiversity Plan certified by the Dorset Council Natural Environment Team on 15 May 2023 must be implemented in accordance with any specified timetable and completed in full (including photographic evidence of compliance being submitted to the Local Planning Authority in accordance with section J of the Biodiversity Plan/ the LEMP) 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 and 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.

## Officer Report

### **Informative Notes:**

1. The applicant should contact Dorset Highways by telephone at 01305 221020, by email at [dorsethighways@dorsetcouncil.gov.uk](mailto:dorsethighways@dorsetcouncil.gov.uk), or in writing at Dorset Highways, Dorset Council, County Hall, Dorchester, DT1 1XJ, before the commencement of any works on or adjacent to the public highway, to ensure that the appropriate licence(s) and or permission(s) are obtained.

### 2. Informative: National Planning Policy Framework Statement

In accordance with paragraph 38 of the NPPF the council, as local planning authority, takes a positive approach to development proposals and is focused on providing sustainable development.

The council works with applicants/agents in a positive and proactive manner by:

- offering a pre-application advice service, and
- as appropriate updating applicants/agents of any issues that may arise in the processing of their application and where possible suggesting solutions.

In this case:

- The applicant/agent was updated of any issues and provided with the opportunity to address issues identified by the case officer.
- The applicant was provided with pre-application advice.