



Northern Area Planning Committee

Date: Tuesday, 18 June 2019
Time: 2.00 pm
Venue: Stour Hall - The Exchange, Old Market Hill,
Sturminster Newton, DT10 1FH

Membership: (Quorum 6)

Sherry Jespersen (Chairman), Mary Penfold (Vice-Chairman), Jon Andrews, Tim Cook, Les Fry, Matthew Hall, Carole Jones, Nocturin Lacey-Clarke, Robin Legg, Val Potheary, Belinda Ridout and David Taylor

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 telephone Democratic Services on 01305 or Daniel Reynafarje 01202 795054 / daniel.reynafarje@dorsetcouncil.gov.uk



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A G E N D A

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1 APOLOGIES

To receive any apologies for absence

2 DECLARATIONS OF INTEREST

To receive any declarations of interest

3 MINUTES

3 - 14

To confirm the minutes of the meeting held on 28 May 2019

4 PUBLIC PARTICIPATION

There will be no opportunity for Members of the public to speak on a planning application unless proper notification is given to Democratic Services no later than two clear working days before the meeting in accordance with the [Guide to Public Speaking at Planning Committee](#).

5 PLANNING APPLICATIONS

To consider the applications listed below for planning permission

a WWD/D/18/002619 - Land South of the Paddock Garden, Old Market Place, Sherborne

15 - 40

Partial demolition of stone boundary wall to the west of the site,
demolition of the stone boundary wall to the north of the site and
erection of visual arts venue

b WD/D/19/000794 - Poundbury Phases 3 and 4, Poundbury

41 - 54

Modification of planning obligations of Section 106 Agreement
dated 20th December 2011 of planning approval 1/D/09/0013

6 APPLICATION TO DIVERT FOOTPATHS 9 (PART), 22 & BRIDLEWAYS 7 (PART), 8 & 23, PIDDLEHINTON AND BRIDLEWAY 32 (PART), PUDDLETOWN AT MUSTON FARM

55 - 70



DORSET COUNCIL - NORTHERN AREA PLANNING COMMITTEE

MINUTES OF MEETING HELD ON TUESDAY 28 MAY 2019

Present: Cllrs S Jespersen (Chairman), J Andrews, T Cook, L Fry, M Hall, C Jones, N Lacey-Clarke, R Legg, V Potheary, B Ridout

Apologies: Cllr M Penfold (Vice-Chairman)

Also present: Cllr D Walsh

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

H Smith (Planning), R Lennis (Planning), P Crowther (Legal), J Nixon (Conservation), I Madgwick (Highways), D Reynafarje (Clerk)

1. Election of Vice-Chairman

In the Vice-Chairman's absence, it was proposed, seconded and agreed that Cllr V Potheary be elected as Vice-Chairman of the Committee for the remainder of the meeting.

2. Declarations of Interest

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

3. 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.

4. Planning Applications

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

5. 2/2018/0696/OUT - Land North of Enmore Court And Off New Road, Shaftesbury, Dorset

The Planning Officer presented the report showing Members all the relevant plans and drawings. Members were informed that the proposal description should read: "Development of land by the erection of 2 – 23 Units, form vehicular accesses, parking and landscaping. (Outline application to determine access)." Members were also informed of an additional late representation received that raised no further issues already covered in the report.

It was stated that in conservation terms, that the proposal would lead to less than substantial harm to the setting of the Conservation Area and the grade II listed water trough. Great weight should be attached to the less than substantial harm. On balance, the benefit of providing market and affordable dwellings was considered to outweigh the identified conservation harm.

Public Participation

Oral representations in objection to the application were received from Ms C MacKay (Local Resident), Mr A Watson (Agent of Behalf of Local Residents), Ms C Langham (Local Resident), Ms J Upton King (Shaftesbury Civic Society) and Cllr P Proctor (Shaftesbury Town Council). Concerns were raised over the visual impact to the landscape character of the slopes, road

safety and highway issues, the lack of infrastructure, the future loss of trees and ancient hedgerows, the lack of viability and sustainability leading to a loss of affordable units, the lack of footpaths from the site to the town centre, the impact on the listed trough, and the unsuitability of the land for development.

Oral representation was also received in support of the application from Mr M Holmes (Agent for the Applicant). He stated that the proposal was devised following thorough assessments and addressed the shortfall of housing supply in the area. He stated that the site was suitable and visually well contained, benefited from good access, provided additional landscaping, and provided affordable housing. He highlighted the detailed highways assessment improving safety for pedestrians and providing acceptable access and parking. He felt the benefits outweighed any harm and the development was appropriate and sustainable preserving the character and appearance of the area.

Members' Questions and Debate

Members raised concern over road safety and the proposed pedestrian crossing. Officers stated that the point of crossing was determined following speed surveys to ensure visibility met national standards. There was no consideration for further traffic calming measures as traffic generation figures provided no significant grounds for refusal.

Members felt that the proposal would change the character of the site and impact on the landscape and the setting of the conservation area and listed building. It was stated that the slope policies were there for a reason and the historic nature of the town had to be taken into account. It was felt that the impact was not outweighed by the benefits of the proposal.

Members appreciated the affordable housing provided, but concern was also raised over the site location being next to a spring and impacting the amount of affordable housing proposed.

Members also felt that the site was unsustainable due to the lack of safe pedestrian access and that there were more suitable areas in Shaftesbury for development.

Decision

It was proposed by Cllr Ridout, seconded by Cllr Cook and agreed contrary to the officer recommendation that the application be:-

REFUSED for the reasons set out in the appendix to these minutes.

6. 2/2018/1828/OUT - Land Adjacent To Cleff House, Dunns Lane, Iwerne Minster, Dorset, DT11 8NG

The application was withdrawn from the Agenda due to additional information being under consideration and will be heard at a future meeting of the Committee.

7. 2/2017/1357/OUT - Land Adjacent To Sandways Farm, New Road, Bourton, Dorset, SP8 5BQ

The Planning Officer presented the report showing Members all the relevant plans and drawings. An update sheet highlighting further representations received was provided to Members and is attached as an appendix to these minutes.

Public Participation

Oral representations in objection to the application were received from Mr M Chapman (Trustee of Bourton Village Hall), Ms F Gillett (Local Resident), Cllr M Withers (Bourton Parish Council), and Cllr D Walsh (Ward Member). Concerns were raised over the suitability of the proposed site including the distance from the main road, lack of attractive outlook, access issues, noise issues, loss of setting, and flooding problems.

Oral representations were also received in support of the application from Mrs C Brake (Local Resident), Ms H Palmer (Local Resident), Mr T Bailey (Local Resident), Mr A Sturt (Local Resident), Ms J Powell (Local Resident), and Mr D Carpendale (Agent for the Applicant). It was

stated that the site was favoured by the majority of the village, provided good access, was well protected by trees, provided a level flat playing field, complied with policies, had no conservation or technical objections, and had a fully accessible location in the middle of the village.

Members' Questions and Debate

Following questions raised, it was noted that access ownership was not a consideration for the Committee and that any comparisons to the Chaffeymoor Farm site were also not applicable as each application had to be considered on their own merits.

Members felt that there would be no significant or demonstrable harm from the proposal and in planning terms there were no reasons to refuse the application. Concern was raised over the impact on the Grade II listed building but it was stated that this would be addressed at the reserved matters stage.

Decision

It was proposed by Cllr Potheary, seconded by Cllr Lacey-Clarke and agreed that the application be:-

A. GRANTED 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 including the provisions and conditions set out in the appendix to these minutes;

or

B. REFUSED permission for failing to secure the transfer of the hall if the agreement is not completed by (6 months from the date of committee) or such extended time as agreed by the Head of Planning.

8. 2/2019/0077/OUT - Land At Chaffeymoor Farm, New Road, Bourton, Dorset

The Planning Officer presented the report showing Members all the relevant plans and drawings. Members were informed of further representations received that raised no further issues.

Public Participation

Oral representations were also received in objection to the application from Mrs C Brake (Local Resident), Ms H Palmer (Local Resident), Mr T Bailey (Local Resident), Mr A Sturt (Local Resident), and Mrs Gibson (Local Resident). Concerns were raised over land ownership issues, visual impact, the loss of views, the lack of suitable land for development, the large footprint, and the impact on adjacent buildings.

Oral representations in support of the application were received from Cllr M Withers (Bourton Parish Council), Mr M Chapman (Trustee of Bourton Village Hall), Ms F Gillett (Local Resident), and Mr R Bagnall (Agent for the Applicant). It was stated that the proposal posed no harm to amenity or the local setting and would keep any increase in traffic outside the village. The benefits of the location were also highlighted including the sustainability of the hall and the creation of a community hub with the church and primary school.

Members' Questions and Debate

Members were informed that any questions of land ownership were not planning considerations for this Committee.

Members felt that the site provided good access and parking and since it was identified in the local plan as a suitable site, there were no further issues to raise.

Decision

It was proposed by Cllr Potheary, seconded by Cllr Jones and agreed that the application be:-

A. GRANTED 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 including the provisions and conditions set out in the appendix to these minutes;

or

- B. REFUSED permission for failing to secure the transfer of the hall if the agreement is not completed by (6 months from the date of committee) or such extended time as agreed by the Head of Planning.**

Duration of meeting: 2.00 - 4.50 pm

Chairman

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APPLICATION No. 2/2018/0696/OUT
Land North Of Enmore Court And Off, New Road, Shaftesbury, Dorset,
REASON(S) FOR REFUSAL

1. The site fails to provide safe and convenient access to services within Shaftesbury contrary to Policies 1, 2, 13, and 24 of the adopted North Dorset Local Plan Part 1 (January 2016), and the National Planning Policy Framework.

2. The proposal would fail to strengthen local character due to its location on the open lower Slopes of Shaftesbury; the location of the proposed development would also harm to the setting of the grade II listed drinking trough and conduit head and the setting of the Shaftesbury Conservation Area through the erosion of the open rural visual character and would lead to less than substantial harm that would not be outweighed by the harm from the proposed residential development contrary to Policies 4, 5, 20, 24 of the adopted North Dorset Local Plan Part 1 (January 2016) and saved policy SB 4 of the North Dorset District-Wide Local Plan (2003), and the National Planning Policy Framework.

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 applications/agents of any issues that may arise in the processing of their application and where possible suggesting solutions.

The applicant/agent was updated of any issues after the initial site visit.

Application No: 2/2017/1357/OUT

Land Adjacent To Sandways Farm, New Road, Bourton, Dorset

A) GRANTED, 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 permitted site shall provide an area of at least 2.1 ha to be apportioned as follows:

- 0.3 ha to the village hall and a parking and manoeuvring area,
and;
- 1.5 ha to amenity space of a reasonably level gradient and quality immediately adjacent to the village hall building, and;
- 0.3 ha to the housing development.
- The land for the village hall and amenity space, if not already transferred to the ownership of the Parish Council shall prior to any grant of planning permission on any part of the site for any aspect of the proposed development be transferred to the ownership of the parish Council.
- The land to be transferred to the Parish Council shall be transferred in a cleared state with services and access road provided to the site entrance point or there shall be a legal agreement on such provision.

And the following conditions (and their reasons) listed below:

1. Approval of the Reserved Matters (i.e. any matters in respect of which details have not been given in the application concerning the layout, scale or appearance of the building(s) to which this permission and the application relates, or to the means of access to the building(s), or the landscaping of the site) shall be obtained from the Local Planning Authority in writing before any development is commenced. Such development shall be carried out as approved.

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

2. Application for the 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 (as amended).

3. The development hereby permitted shall be begun before the expiration of two years from the date of approval of the last of the reserved matters to be approved.

Reason: This condition is required to be imposed by Section 92 of the Town and Country Planning Act, 1990.

4. The development hereby permitted shall be carried out strictly and only in accordance with the following approved drawings and details: 06013- 7 A, 06013- 9 A forming the approved application.

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

5. No development must commence until details of the access, geometric highway layout, turning and parking areas have been submitted to and agreed in writing by the Local Planning Authority.

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

6. Before the development is occupied or utilised the first 10.00 metres of the vehicle access serving the proposed dwellings from the track adjacent to Fernleigh, measured from the rear edge of the highway (excluding the vehicle crossing - see the Informative Note below), must be laid out and constructed to a specification submitted to and approved in writing by the Local Planning Authority.

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

7. Before the development is occupied or utilised the first 15.00 metres of the vehicle access serving the proposed village hall, measured from the rear edge of the highway (excluding the vehicle crossing - see the Informative Note below), must be laid out and constructed to a specification submitted to and approved in writing by the Local Planning Authority.

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

8. The development hereby permitted must not be occupied or utilised until a scheme showing precise details of the proposed cycle parking facilities must be submitted to the Local Planning Authority. Any such scheme requires approval to be obtained in writing from the Local Planning Authority. The approved scheme must be constructed before the development is commenced and, thereafter, must be maintained, kept free from obstruction and available for the purpose specified.

Reason: To ensure the proper construction of the parking facilities and to encourage the use of sustainable transport modes.

9. There must be no gates hung so as to form obstruction to the vehicular access serving the site.

Reason: To ensure the free and easy movement of vehicles through the access and to prevent any likely interruption to the free flow of traffic on the adjacent public highway.

10. Before the development hereby approved is occupied or utilised the visibility splay areas as shown on the submitted plans must be cleared/excavated to a level not exceeding 0.6

metres above the relative level of the adjacent carriageway. The splay areas must thereafter be maintained and kept free from all obstructions.

Reason: To ensure that a vehicle can see or be seen when exiting the access.

11. The Biodiversity mitigation measures set out in the approved Report dated July 2016 shall be implemented in full in accordance with the timetable set out in the report, or in the absence of a specific timetable, prior to the development hereby approved being first brought into use and the site shall thereafter be maintained in accordance with the approved mitigation proposals.

Reason: To ensure adequate habitat is provided and subsequently protected to ensure adequate protection for important habitats and species is secured.

12. No development shall be commenced until a scheme for the disposal of foul and surface water drainage has been submitted to and approved in writing by 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 minimise the risk of flooding and/or pollution.

13. Before the development hereby approved commences a Construction Method Statement (CMS) must be submitted to and approved in writing by the Local Planning Authority.

The CMS must include:

- the parking of vehicles of site operatives and visitors
- loading and unloading of plant and materials
- storage of plant and materials used in constructing the development
- delivery, demolition and construction working hours

The approved Construction Method Statement shall be adhered to throughout the construction period for the development.

Reason: to minimise the likely impact of construction traffic on the surrounding highway network.

B) REFUSED PERMISSION FOR FAILING TO SECURE THE TRANSFER OF THE HALL IF THE AGREEMENT IS NOT COMPLETED BY (6 months from the date of committee) OR SUCH EXTENDED TIME AS AGREED BY THE HEAD OF PLANNING

Application No: 2/2019/0077/OUT

Land At, Chaffeymoor Farm, New Road, Bourton, Dorset

A) GRANTED, 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 permitted site shall provide an area of at least 2.1 ha to be apportioned as follows:

- 0.3 ha to the village hall and a parking and manoeuvring area,

and;

- 1.5 ha to amenity space of a reasonably level gradient and quality immediately adjacent to the village hall building, and;
- 0.3 ha to the housing development.
- The land for the village hall and amenity space, if not already transferred to the ownership of the Parish Council shall prior to any grant of planning permission on any part of the site for any aspect of the proposed development be transferred to the ownership of the parish Council.
- The land to be transferred to the Parish Council shall be transferred in a cleared state with services and access road provided to the site entrance point or there shall be a legal agreement on such provision.

And the following conditions (and their reasons) listed below:

1. Approval of the Reserved Matters (i.e. any matters in respect of which details have not been given in the application concerning the layout, scale or appearance of the building(s) to which this permission and the application relates, or to the means of access to the building(s), or the landscaping of the site) shall be obtained from the Local Planning Authority in writing before any development is commenced. Such development shall be carried out as approved.

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

2. Application for the 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 (as amended).

3. The development hereby permitted shall be begun before the expiration of two years from the date of approval of the last of the reserved matters to be approved.

Reason: This condition is required to be imposed by Section 92 of the Town and Country Planning Act, 1990.

4. The development hereby permitted shall be carried out strictly and only in accordance with the following approved drawings and details: Drawing Number 01 Location Plan forming the approved application.

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

5. The Biodiversity mitigation measures set out in the approved Report dated December 2018 shall be implemented in full in accordance with the timetable set out in the report, or in the absence of a specific timetable, prior to the development hereby approved being first brought into use and the site shall thereafter be maintained in accordance with the approved mitigation proposals.

Reason: To ensure adequate habitat is provided and subsequently protected to ensure adequate protection for important habitats and species is secured.

6. No development shall be commenced until a scheme for the disposal of foul and surface water drainage has been submitted to and approved in writing by 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 minimise the risk of flooding and/or pollution.

7. Before the development is occupied or utilised the first 15.00 metres of the vehicle access, measured from the rear edge of the highway (excluding the vehicle crossing – see the Informative Note below), must be laid out and constructed to a specification submitted to and approved in writing by the Local Planning Authority.

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

8. No development must commence until details of the access, geometric highway layout, turning and parking areas have been submitted to and agreed in writing by the Local Planning Authority.

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

9. Before the development hereby approved is occupied or utilised the visibility splay areas as shown on Drawing Number 03 must be cleared/excavated to a level not exceeding 0.60 metres above the relative level of the adjacent carriageway. The splay areas must thereafter be maintained and kept free from all obstructions.

Reason: To ensure that a vehicle can see or be seen when exiting the access.

10. The development hereby permitted must not be occupied or utilised until a scheme showing precise details of the proposed cycle parking facilities is submitted to the Local Planning Authority. Any such scheme requires approval to be obtained in writing from the Local Planning Authority. The approved scheme must be constructed before the development is commenced and, thereafter, must be maintained, kept free from obstruction and available for the purpose specified.

Reason: To ensure the proper construction of the parking facilities and to encourage the use of sustainable transport modes.

11. Before the development hereby approved commences a Construction Method Statement (CMS) must be submitted to and approved in writing by the Local Planning Authority.

The CMS must include:

- the parking of vehicles of site operatives and visitors
- loading and unloading of plant and materials
- storage of plant and materials used in constructing the development
- delivery, demolition and construction working hours

The approved Construction Method Statement shall be adhered to throughout the construction period for the development.

Reason: to minimise the likely impact of construction traffic on the surrounding highway network.

B) REFUSED PERMISSION FOR FAILING TO SECURE THE TRANSFER OF THE HALL IF THE AGREEMENT IS NOT COMPLETED BY (6 months from the date of committee) OR SUCH EXTENDED TIME AS AGREED BY THE HEAD OF PLANNING

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1.0 APPLICATION NUMBER: WD/D/18/002619

SITE ADDRESS: LAND SOUTH OF THE PADDOCK GARDEN, OLD MARKET PLACE, SHERBORNE

PROPOSAL: Partial demolition of stone boundary wall to the west of the site, demolition of the stone boundary wall to the north of the site and erection of visual arts venue

APPLICANT: Sherborne Arts Trust

CASE OFFICER: James Lytton-Trevers

WARD MEMBER: Cllr Jon Andrews

UPDATE:

The application was deferred following concerns of Historic England about the design of the building and how it would affect the setting of Sherborne House. The plans have been revised and Historic England do not raise objection.

The revised plans show the footprint of the building outside of Paddock Garden and the elevation facing the garden revised to show less glazing (to produce less glare). Instead of a timber colonnade, the proposals now show 450mm deep stone piers with glazing recessed behind the stone piers. In front of this elevation a low stone wall and planting would reduce the visual impact of the building when seen from Sherborne House. The eastern most end of this elevation would be windowless to enhance the sense of enclosure when walking along the path at the edge of this side of the garden, and would be further enhanced by a recessed niche in the stone walling suitable for sculptures. At the western end of this elevation a further set of gates would retain the sense of enclosure to the original Paddock Gardens.

Changes have been made to the five metre doors for the delivery of large art works to reduce the elevational impact. The upper half of the door would be clad in Sherborne stone to blend in with the rest of the wall to minimise the impact of the opening when seen from Sherborne House.

The external finishes of the main gallery space facing the car park have been revised to give the impression of a smaller volume. The top section of the wall

would be clad in a bronze material which aims to reduce the visual height of the building and break down the expanse of stone above the feature window. The proportions of the windows and colonnade would be golden rectangles picking up on the classical proportions seen around Sherborne. The walls of the building would be Sherborne stone, with a standard course height but random in lengths adding visual interest and texture to this elevation as well as picking up on detailing found elsewhere in Sherborne.

The long site sections indicate the ridge heights of the proposed gallery and those of the surrounding buildings. These show how the building would sit into the slope of the site to reduce its impact and also show how the proposed height of the building is suitable for its urban context. The lowest section of the building would face the rear gardens of the houses along Hound Street to minimise the impact whereas at its tallest point the gallery presents a two storey façade towards Market car park fitting for a public building.

2.0 Summary of Recommendation: GRANT subject to conditions

3.0 Reason for the recommendation :

The proposal would provide significant public benefit, regenerate brownfield land, in a highly sustainable town centre location where it would also result in economic, environmental and social objectives supported by the NPPF core principles. The design is considered appropriate to the function and would enhance the character and appearance of the Conservation Area and would not harm the setting of listed buildings. There would be adequate access through various means of transport and if traveling by car would be adequate parking provision. There would be no implications for public amenity, archaeology, trees, biodiversity or drainage. The proposals' benefits outweigh any perceived harm

4.0 Key planning issues

Issue	Conclusion
Principle	Permission has been granted for an arts centre and it is in a sustainable location, both establishing principle.
Character and appearance of the Conservation Area	The proposal would comply with Policies ENV5 and ENV12 where the development would enhance the Conservation Area and contribute positively to local identity, distinctiveness, character of the site and the surrounding built environment and its landscape setting.
Setting of listed buildings	It would not harm the setting of listed

	buildings.
Access and parking	The access and parking arrangements would be satisfactory and would not lead to danger to pedestrians and road users.
Amenity	There would be no detriment to the amenity of residents and the general public.
Biodiversity	There would be biodiversity enhancements.
Drainage	Measures for attenuation meet requirements.
Other matters	Trees, contamination, construction and archaeology would be safeguarded.

5.0 Description of Site

The site is located immediately south of Paddock Garden and adjacent to Old Market car park in the town centre. It is enclosed by stone walls separating it from Paddock Garden erected when the garden was created c.1995. The site was formerly tennis courts and is now overgrown. There are two large trees: an ash tree growing next to the wall in the car park and a Horse Chestnut tree. The rest is scrub. There is an existing locked gated entrance in the north-west corner into Paddock Garden. There is a natural fall across the site from north to south disguised by the existing wall next to the car park which is partially retaining.

The land and buildings surrounding the site comprise to the west and south the car park which borders Waitrose, a telephone exchange, public toilets, pet shop and garage blocks. To the north the Grade I listed Sherborne House and to the east by the rear gardens of houses fronting Hound Street.

It is within the Conservation Area.

6.0 Description of Proposal

The Paddock Project has been developed over 3 years through consultation with local stakeholders, the community and wider interested parties.

The building would be located at the north end of the site and be double fronted facing both the car park and Paddock Garden. The building would be on two floors: the galleries would be on the upper ground floor accessed from Paddock Garden and the main reception, tourist information centre, shop, food and drink facilities, toilets and cloaks located on the lower ground level fronting the Old Market car park.

It would be contemporary in design with the main gallery forming the tallest element, flat roofed in sedum, with a letter box window opening and clad in ashlar stone facing the car park. The remainder of the building would be single storey bronze metal clad with an intensive green roof facing Paddock Garden. New boundary walls would be constructed in rubble stone. Windows, doors and curtain walling would be bronze anodised aluminium. There would also be feature glazing by a specialist artist.

The main entrance would be from the car park, where 15 car parking spaces would be removed and resurfaced to allow for an unobstructed entrance with unloading and disabled access. An additional new access would be formed in the west wall of Paddock Garden facing the car park entrance road to provide occasional access to the main gallery space for the delivery of large artefacts.

The modern stone wall and a flower bed at the south end of Paddock Garden would be removed to form a glazed frontage to the building to overlook Paddock Garden.

A new garden called Chestnut Tree garden would be formed on the south end of the site around the tree. It would provide seating and exhibition of outdoor artwork.

Finally, the existing stone wall along the east boundary would be increased in height to match that of the stone wall to the eastern side of Paddock Garden.

The building would be a multi-function cultural venue:

- Art and sculpture galleries
- Auditorium/digital gallery
- Reception and Tourist Information Centre
- Ancillary shop
- Ancillary food and drink facilities
- Associated kitchen and storage facilities
- Toilets and baby change facilities at both levels
- Mechanical and electrical plant rooms
- Educational activity areas (2 No)

7.0

Relevant Planning History

Application No.	Application Description	Decision	Date of decision
1/D/11/000249	New community arts centre building (D1 use). Raise height of boundary walls & form new vehicular access	A	14 April 2011

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The site had relatively recent planning approval in 2011 for a community arts centre building which has since lapsed. It was located up to the edge of Paddock Garden with clerestory windows on top of the existing wall.

8.0 Relevant Constraints

Within settlement boundary.

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

9.0 Consultations

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

Historic England – (on revised plans)

- Officers of Historic England have been directly involved in recent negotiations over design amendments and, subject to a further modification being made to the north facade, are expected to confirm that the scheme is now acceptable to them. Once that amended drawing is submitted their formal response will be circulated to the committee or reported directly to the meeting.

Georgian Group – Objection (not consulted on revised plans)

- Harmful to the setting of the Grade I listed building and a lack of robust justification for the chosen site or design.
- Demolition of the historic wall to allow for access for lorries.
- The historic link between Sherborne House and the site has significance.

Dorset Wildlife Trust- Comments

- A Biodiversity Mitigation and Enhancement Plan (BMEP) should be sent to the Natural Environment Team.
- The ecology survey does not give appropriate weight to the loss of the woodland habitat present.

Dorset Highways Officer – No objection

- Conditions for construction period

Flood Risk Management - No Objection.

- Conditional for a surface water management scheme and details of maintenance & management it.

Dorset Conservation Officer – (on revised plans)

- An improvement to the original scheme removing the building from Paddock Garden, replacing some external materials with stone, as well as more stone facing the car park which would reduce the overall bulk of the building. The long sections provided help to demonstrate the roof heights and the impact on the setting of Sherborne House.
- The amendments have gone some way in addressing original concerns with the scheme, and the impact on the setting Sherborne House and the Sherborne Conservation Area.

Environmental Health Officer – No objection

- Subject to conditions relating to noise and odour.

Dorset Archaeologist – No reply**Sherborne Town Council – Support the concept with the following comments:**

- Owing to concerns raised request Committee consideration.
- The lack of consideration within the ARUP report to the 85% criteria for car park use.
- Reference to ECON5(iii) and ECON9 (officer comment: COM9 rather than ECON9 is likely what is meant) with regards to the provision of car parking space for tourist attractions.
- The lack of a Business Plan contrary to paragraph 4.5.8 and 4.5.10 of the Local Plan.
- Clarification of drainage proposals.
- Non compliance with ENV12 (i -iii).
- Non compliance with ENV14 (i-ii).
- Clarity for disabled access.
- Details in the site clearance plan regarding effect on operation of the car parks and Paddock Garden.
- The design of the building is considered to be of poor quality in such close proximity to a Grade 1 Listed Building, Sherborne House.
- Clarity regarding timing within the ecology survey limiting plant movement not to be between March and August of the given year.

Representations

From members of the public and the Civic Society.

104 support

47 object

14 comment

Objection

Loss of 15 parking spaces in the Old Market Car Park;
No staff parking;
Major tourist attractions should provide adequate visitor facilities such as parking and toilets;
The proposed access through the west wall of the Paddock Gardens will endanger road users and pedestrians using the garden;
Comment is needed from WDDC or DCC who manage the car park;

Inappropriate and unenduring design with a mix of styles and should have a pitched roof;
Loss of trees, walls and planting;
Harm to Sherborne Conservation Area and listed buildings including Sherborne House;

A business plan has not been produced of the nature of the visitors, the amount of spend and impact on the vitality of Cheap Street;
70,000 day visitors and 5,000 evening visitors per annum are optimistic, fewer than half more likely;
Will not attract visitors to the town;
If visitors only stay an hour they will not go anywhere else;
Long term viability questioned;
No need and will be underused as the Digby Hall in Hound Street seats regularly 400 people for the Historical society lectures and talks, the Digby Memorial Hall in Digby Road holds all sorts of assemblies including films on a monthly basis whereby up to 300 attend, the cinema auditorium in Abbey Road was used for the Film Society in autumn last year, art classes and courses are available at the Memorial Hall in Digby Road and there are in excess of 40 eating and coffee establishments in the town.

The land should be a public park;
The appearance of the site would be much enhanced were the pet shop, garages and car park redeveloped.
The land was gifted at a valuation of £500,000 by Dorset County Council to the Sherborne Community Arts Centre Trust, then Sherborne Arts Trust and could be sold and the revenue used for a different site;
Should be somewhere else such as on new housing estates on the edge of town;
Sherborne House should be used instead;

Spoil the seclusion of Paddock Gardens;
Newlyweds would be unable to pose for photographs in the gardens;

Should not only display modern art;
no information on the nature of the chosen exhibitions;
Loss of wildlife;

The site is overgrown and underused due to wanton neglect;
The restaurant would compete with others in the town;
Food odours will be experienced by visitors;
No details of earth and spoil to be excavated;
No drainage details;
No construction work details;
No archaeological investigation has been done;

Support

There is adequate parking in Sherborne which is full of empty car parks;
Given there are 620 public parking spaces in Sherborne, the removal of 15 parking spaces is not considered to be significant;

The design is sophisticated and suitable;
The proposed stone facing of the building will complement the existing town;
It would be inappropriate to make it a pastiche of older buildings;
The land is disused scrubland and in an area dominated by car parking and commerce;
It is ironic that objections are being raised to a building that is so close to the visual catastrophe that is Waitrose;
It will not have any adverse effect on the listed buildings, gardens or character of the town;

Community benefit;
Will help local schools and art groups;
Inclusive all ages;
Will provide art, design and performance;
Will be a cultural hub, which the town currently lacks;
Will increase the county's ability to host touring visual arts exhibitions;
Will provide local artists a purpose built exhibitions platform and a place to connect with each other;
Arts and culture contributes to community cohesion, health and well-being and discourse between people and community groups;

Will bring new vitality to the town;
Will benefit the economy of Sherborne;
Will boost declining Cheap Street;
Will be a world class art gallery;
Will increase the tourism in the area;
Will bring trade to rural areas as well as the town through the use of pubs, restaurants and accommodation;
Data from the Arts Council shows that for every £1 of GVA generated by the arts and culture industry, an additional £1.30 of GVA is generated in the wider economy;

Comparable to Hauser & Wirth in Bruton and Messums in Tisbury and the regenerative effect that this has had on those towns but also the wider area;

More people will use the paddock garden which is usually empty;
Paddock Gardens are let down by the view to the south which would be enhanced by the flow through to the gallery;

Sherborne House is unsuitable for a gallery;
Sherborne House will be an intrinsic part of the overall project, providing facilities for events, conferences, education and workshops that cannot be accommodated within the new building;

The reasons to support this far outweigh the objections;
A small but vociferous minority of critics should not ruin this exciting opportunity;
The enormous benefits for the town far outweigh the cons;
It is privately funded and at no public cost.

10.0 Relevant Policies

Adopted West Dorset and Weymouth & Portland Local Plan (2015) **West Dorset, Weymouth & Portland Local Plan 2015-2031**

- INT 1. Presumption in favour of sustainable development
- ENV 2. WILDLIFE AND HABITATS
- ENV 4. HERITAGE ASSETS
- ENV 5. FLOOD RISK
- ENV 10. THE LANDSCAPE AND TOWNSCAPE SETTING
- ENV 11. THE PATTERN OF STREETS AND SPACES
- ENV 12. THE DESIGN AND POSITIONING OF BUILDINGS
- ENV 13. ACHIEVING HIGH LEVELS OF ENVIRONMENTAL PERFORMANCE
- ENV 15. EFFICIENT AND APPROPRIATE USE OF LAND
- ENV 16. AMENITY
- ECON 1. PROVISION OF EMPLOYMENT
- ECON 5. TOURISM ATTRACTIONS AND FACILITIES
- COM 2. NEW OR IMPROVED LOCAL COMMUNITY BUILDINGS AND STRUCTURES
- COM 5. THE RETENTION OF OPEN SPACE AND RECREATIONAL FACILITIES
- COM 6. THE PROVISION OF EDUCATION AND TRAINING FACILITIES
- COM 9. PARKING STANDARDS IN NEW DEVELOPMENT

National Planning Policy Framework

- As far as this application is concerned the following section(s) of the NPPF are considered to be relevant;
- 1. Introduction
- 2. Achieving sustainable development
- 4. Decision-making
- 6. Building a strong, competitive economy
- 7. Ensuring the vitality of town centre
- 8. Promoting healthy and safe communities
- 9. Promoting Sustainable transport
- 11. Making effective use of land
- 12. Achieving well-designed places
- 14. Meeting the challenge of climate change, flooding and coastal change
- 15. Conserving and enhancing the natural environment
- 16. Conserving and enhancing the historic environment

Other material considerations

Design and sustainable development planning guidelines SPD

11.0 Human rights

Article 6 - Right to a fair trial.

Article 8 - Right to respect for private and family life and home.

The first protocol of Article 1 Protection of property

This Recommendation is based on adopted Development Plan policies, the application of which does not prejudice the Human Rights of the applicant or any third party.

12.0 Public Sector Equalities Duty (standard text)

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.

Access: Arrangements would be made to ensure people with disabilities or mobility impairments or pushing buggies would be accommodated.

13.0

Financial benefits

Material considerations

13 additional jobs

Additional spending in the town centre in shops, restaurants and accommodation.

Then non material considerations

Business rates

Additional spend in council car parks

14.0

Planning Assessment

Principle

Planning permission was granted for a community arts centre on this site in 2011 and although that permission was not implemented and has now lapsed, it does establish a principle that the use and a building in this location are acceptable and it is therefore a material consideration. It is acknowledged that since then the Local Plan changed in 2015, but at the time it was allocated as within an area allocated for “comprehensive mixed-use development” by Local Plan policy NA4 (SHERBORNE HOUSE, NEWLAND MIXED USE DEVELOPMENT AREA) which included “*community and recreational facilities*” amongst the uses which are to be included in any development. The *Sherborne House Mixed Use Area Concept Statement* (the “Concept Statement”) stated that “*the site could accommodate some residential use, a mix of commercial and residential uses, or further car parking.*”

Having regard to the current local plan, the site is within a town centre location and considered sustainable to support development given the close proximity of transportation links and other town centre uses. The land is brownfield, having been previously been developed. The proposal complies with policy INT1 where it is considered to be a sustainable form of development.

Policy ECON5 promotes proposals for tourist attractions and facilities. The policy seeks to encourage proposals that would lead to wider community benefit as well as visitors and the diversity of the offer and any benefits to the local economy. This proposal would be for a multi-function cultural venue which would include art galleries, a Tourist Information Centre and educational activity areas. These are both tourist and community uses which are supported by policy ECON5. There is little question that the additional visitors would contribute to the wider economy in terms of using other facilities within Sherborne as well as outside in such activities as spending in local shops, businesses and accommodation.

There has been concern expressed about the viability of the proposal given the private funding and absence of a business plan. It is asserted that this is in conflict with paragraphs 4.5.8 and 4.5.10 of the Local Plan. In fact a business plan was developed by the applicant but owing to commercial sensitivity was not disclosed publicly. The applicant appointed AEA Consulting on a Feasibility Study and Operating Model for the proposal.

The current Operating Feasibility Study shows that 70,000 visitors p.a. are projected in year 3 of operation. The projected visitor figures were benchmarked against 24 national galleries and museums. The projected peak attendance & duration of visit would be highest in the summer months with average visit lasting 2 hours. Special exhibitions would take 3 hours.

Often when an art gallery first opens it draws additional attention with large numbers of visitors. In the second year, there will be a dip in attendance before a stable year is reached in year 3.

The applicant's Business Model demonstrates income sources through membership and patrons, legacies, trusts and foundations and other funding bodies. The benefactor has agreed to contribute towards the operating costs for the first 3 years. In year 3, costs will have evened out, audience development be established and a small surplus is forecast from year 4 onwards.

The applicant has supplied data for 3 comparable galleries to this and how these have contributed to the local economy, which is expected to be the case in Sherborne too. Other benefits to Sherborne and the region identified are cultural, social, place-making making an anchor destination for the town centre and regeneration of the area. A risk analysis was also carried out. Given the findings of this, there was confidence in the proposal and that it could deliver benefits to tourism and the community.

Whilst other facilities in the form of halls and so on exist elsewhere in the town, these have different offerings and usage. This proposal would be a purpose built facility for the proposed uses which could not be accommodated in existing facilities, including Sherborne House.

While the appearance of the site and surroundings would be enhanced were the pet shop, garages and car park and other buildings redeveloped, such a proposal is not before the Council and cannot be requested of this scheme.

Locating this scheme on the outskirts of town, even were a site available, would not be within the spirit of sustainable development and could draw visitors away from the town centre.

The content of exhibitions or type of art displayed would not be a matter for the Council to dictate.

The potential for competition (or not) of the proposed shop or restaurant with others in the town is not within the control of the Council who cannot prevent competition. A shop and restaurant are typically found in such proposals and considered necessary.

Character and appearance of the Conservation Area

This scheme proposes a part two storey building facing the car park containing the main entrance and gallery and a part single storey located on the north side facing paddock garden housing a restaurant. The whole would be set into the sloping site. The single storey part would have a sedum roof and windows facing into Paddock Garden. The upper gallery space would be set at an angle to the single storey section, with Sherborne stone cladding, bronze framed glazing, and a mono-pitch roof of meadow planting, offering a bold and angular design statement to the site. The dual level nature of the design not only accommodates the differing levels across the site but also reduces the scale of the building when viewed from Paddock Garden.

This part of the Conservation Area's character is derived principally from the car park and overgrown application site and the immediate area which consist of the rear elevations of a large number of poor quality 20th century developments. It is noted in the Conservation Area appraisal the negative attributes of this area and the benefits that frontage development might bring. The proposal brings the opportunity to add a sense of place to this part of the town and to bring enhancement through the enclosure of the car park and inclusion of the paddock garden into the design to embrace the public realm. The Paddock garden is underused, partly owing to its single entrance and lack of surveillance and bringing activity into view of it would enhance its use and setting. This side of the car park which also forms its main entrance where the tourist information board is located would add some punctuation to a hitherto bland part of the town which has merely become a car dominated environment where pedestrian footfall has been ousted.

It is desirable for a public building to be prominent and to attract attention and the proposed design would be considered to achieve this with its principle elevations embracing the public realm.

The design is considered to be coherent in its legibility with the use of natural stone for the main body and contemporary metal framing. The design would clearly be understood to be a public building and it would be inappropriate to attempt to use an architectural language to suggest anything else. It is not considered overly bold or assertive in its modest scale and in relation to its

surroundings and whilst tastes vary, it is considered to be appropriate to use a contemporary approach for this proposal, as is often the preferred choice in a number of modern public buildings in Sherborne such as for the school, some of which are in much more prominent locations than this.

The inclusion of landscaped areas would enhance the public realm where re-surfacing of the car park would be undertaken across the entrance and the addition of Chestnut Garden as a dual propose exhibition space and a place for recreation, which would bring about structured landscape planting abutting the currently unappealing large expanse of car park.

In these respects the proposal would comply with Policies ENV5 and ENV12 where developments enhance the Conservation Area and contribute positively to local identity, distinctiveness, character of the site and the surrounding built environment and its landscape setting.

Setting of listed buildings

The site lies in part of the town containing a number of listed buildings, including Grade I Sherborne House. The proposal site forms part of the grounds laid out for Sherborne House in 1735. Some have intimated that this outlook should be preserved in perpetuity.

However, it does not form part of the grounds any more and more prominent developments including the widened access road to the car park, the car park itself, Waitrose, the telephone exchange, toilets, pet shop, garages and housing dominate the surroundings of Sherborne House rather than this piece of land. The scheme has been designed with the outlook of Sherborne House in mind and which led the elevation facing it to be single storey, only slightly taller than the existing modern wall that extends along the back of Paddock Garden and with a green sedum roof to mitigate its appearance. All that would be seen would be the glazed frontage behind trees and shrubs and some distance away. The intervening gap is 100 metres and includes a road, Newland, as well as Paddock Gardens and its boundary walls.

The inclusive nature of the proposal having an active frontage with the Paddock Garden is also seen as a positive attribute as well as allowing views toward Sherborne House for visitors to better appreciate its significance. It would bring about greater use of Paddock Garden whose visitors would be able to appreciate Sherborne House.

The proposal would not directly affect the setting of Sherborne House when observed from the car park or the rear windows and gardens of houses in Hound Street.

It has been suggested that houses on the application site were demolished for the benefit of Sherborne House, but this is incorrect as these houses stood in a different location. These cottages were located in Newland and demolished in 1735.

The 2011 permission for an art centre scheme did not have ground floor windows facing Paddock Garden but did have high level clerestory windows and a multi-pitched roof, similar to that found on a factory, facing Sherborne House, which would have been more prominent than that now proposed.

In terms of listed buildings in Hound Street, the single storey design would mitigate the impact of the development well. In views from Hound Street, where the majority of the nearest listed buildings are located, the building would not be part of the backdrop, and even then only really glimpsed between gaps in the terraces. It would not appear above any of the existing buildings when viewed from this direction. At 43-45 Hound Street the existing garden walls would be slightly raised slightly and the proposed gallery roof would be lowest closest to these houses to reduce the impact of the building on the setting.

Access and parking

A Transport Statement was prepared by ARUP to support the proposal. The scope and methodology of the Transport Statement was agreed with Dorset County Council as the Local Highways Authority. It included the following:

The transport policy context for the Paddock Project;
The trip making methodology and subsequent trip rates;
The access arrangement for all users including patrons and deliveries; and
The examination of the existing parking capacity in the proximity of the site, together with an assessment of the impact on the future capacity.
A Framework Travel Plan has also been provided in accordance with national and local requirements to commit to encouraging a shift towards sustainable transport.

The car park occupancy survey data was collected in December to coincide with the festive period and reflect peak demand. Additional survey data was collected to inform the Sherborne Parking Review 2016/2017 and to forecast demand on car parking from the proposal. The applicant should not be expected to make provision for a strategy for the whole town.

Some have raised concern that the proposal would lead to the loss of 15 car parking spaces in one of the busiest car parks, that the additional visitors to the proposal would not be able to park and that it would reduce the parking for visitors to the town centre. The ARUP assessment makes a comparison between the existing and proposed peak demand on car parking to demonstrate the proposals can be accommodated within the overall parking stock of

Sherborne. It suggests a daily average 41 visitor parking requirement. It would mean that the car park would be busy for periods. The Town Council raise concern over the lack of consideration within the ARUP report to the 85% criteria for car park use. The utilisation threshold of 85% is not considered to be appropriate in this case. An utilisation threshold of 85% was used in an ARUP report prepared for Stroud District Council to inform the wider parking strategy for the 37 car parks operated by the District Council and therefore it was appropriate to consider the utilisation of each individual car park. It should be noted that a busy car park is not intrinsically an issue as whilst it may mean it takes longer to park, a space does normally come available and seldom do people leave for lack of parking and if they do it is to find parking elsewhere.

The proposal is in a highly sustainable town centre location with access to more forms of transport than only the car, including rail, walking and other forms of public transport such as buses and coaches. In addition the likelihood of linked trips is highly likely with visitors to other attractions in the town as well as the proposal. The car park is currently short stay, for up to 2 hours, and with average visits to the proposal being up to 2 hours it is likely that visitors would use this car park, but if more time was needed and the intention was to visit other attractions such as the abbey, pupils and shops, visitors would likely use the long stay car parks in the town and walk between each venue.

Dorset County Council as Highways Authority have completed analysis of the Transport Statement and much of the detail is correct but fails to provide any real balance as to likely overall car parking availability in the area of the Town Centre. When DCC Highways notices errors of either statement or calculation, it has to determine if seeking amendments to the TS is worthwhile and in its view it was not. The NPPF gives guidance on this:

“Development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe.” The DCC Highways view is that it would be unlikely to be able to sustain a refusal of this application on grounds of inadequate parking.

Coach drop offs would not be allowed in the car park as these would affect the operation of the car park. Some provision would be made in Newlands but encouragement would be given to use Culverhayes Car Park from which there are walking routes through to the town and proposal.

Large deliveries to the proposal of exhibits would take place through a new side entrance into Paddock Garden through locked gates under agreement with the Town Council who own it. Other deliveries and bin emptying would take place using the car park entrance and at the rear of Chestnut Garden and would require agreement with the West Dorset District Council.

The entrance to the proposal where there are currently 15 spaces would only be allowed for unloading/disabled access and the building would make provision for disabled access, as is required by Building Regulations.

It is not implicit under policy that new tourist facilities must make provision for car parking when located within an existing car park which is shown to be adequate and in this respect the proposal complies with policies ECON5 and COM9.

The new access into the side of Paddock Garden would not endanger road users as its use would be infrequent and only then would be supervised during the operation.

There is no requirement to provide staff parking in a sustainable location and where car parking and other means of transport already exist.

The applicant is in discussion with other land owners (including owners of Paddock Garden and the car park) regarding the implementation of these proposals to avoid any disruption.

It cannot be required of the applicant to provide a public car park on this land instead.

Amenity

The odour assessment outlines that the applicants are aware of the requirement for the control of odour and details the guidelines to be followed. It does not indicate what is intended to be installed. This would be dealt with by condition.

The site adjoins a number of residential properties to the east whose amenity could be adversely affected by outdoor activities associated with the Chestnut Garden. The use of the building would police itself, although the statutory nuisance controls under the Environmental Protection Act would remain available. It is not anticipated that the proposal would lead to additional noise greater than existing background noise created mainly by the car park. The proposal to raise the boundary wall would help protect the amenity of the neighbours.

The gallery and associated support spaces would be air conditioned to prevent damage to artefacts. In other cases, natural ventilation would be employed.

The external lighting would comprise façade lighting and some external ground lighting.

Some of the tranquillity of the Paddock Gardens would be lost, but the enjoyment of the gardens by the likely increase in visitor numbers using it would far outweigh this. It would not prevent newlyweds posing for photographs.

Biodiversity

Policy ENV4 proposes that developments should provide green infrastructure and biodiversity enhancements. A biodiversity report has been agreed with the Natural Environment Team at DCC.

The site does not have any special designation with regard to biodiversity but currently supports large areas of scrub and trees. Clearance of existing scrub and selective removal of trees would take place outside of the bird nesting season by a suitably qualified ecologist. The proposals would have a net gain for biodiversity through the proposals for a green roof, planting and the provision of bird & bat boxes. It is envisaged that biodiversity improvements would seek to provide a link between ecology and the arts.

The ecology enhancements would be:

384 sqm native grassland green roof;

424 sqm sedum roof;

21m native species hedge and 40 sqm grass verge;

Retention of the horse chestnut tree;

5 house sparrow/swift nest boxes, 2 swift boxes, 10 nesting crevices/boxes, 12 boxes for bats, 20 solitary bee/wasp nesting opportunities;

A Management Plan, Advisory Group, Monitoring Programme,

Education Programme and a Landscape and Environment Plan (LEMP).

Concern about the timing of plant movement which is limited to within Paddock Garden is in the ownership of Sherborne Town Council which would stipulate that the plants are not to be moved between March and August.

Drainage

To overcome flood risk, with coverage of the site with a building and a root protection zone for the chestnut tree there would be no remaining space on the proposed site to accommodate soakaways. It would also not be possible to reduce the size of the building as it would make the scheme unviable. Additional measures including an increase in depth of green roof or adding further blue roof areas, an increase in subbase to permeable paving or providing over-sized pipework generally are proposed.

The drainage proposals are shown on the drainage strategy plan prepared by ARUP. It shows that none of the foul sewage would pass through Paddock Garden. There is a small element of surface water attenuation proposed to be located below a footpath in Paddock Garden.

Other matters

Trees

A tree survey has been carried out for the site. The only tree for retention would be a mature Horse Chestnut tree which is a prominent feature and would form the foundation for 'Chestnut Tree Garden'. The mature Ash tree on the site boundary within the car park is causing damage to the existing stone boundary wall. The selective removal of low quality, self-sown scrub, growing within the area of the former tennis court, would be removed.

Ground stability/contamination

A Geo-Environmental Desk Study was prepared by ARUP and identified the potentially contaminative features, including heavy metals, asbestos and hydrocarbon contamination. A condition would be needed.

Construction management plan.

A plan secured by condition would ensure that any construction operations would not cause undue inconvenience.

Archaeology

Previous investigations carried out within the gardens in 2000 have produced evidence of medieval settlements. The county archaeologist confirmed to the applicant that this work was sufficient to enable an informed planning decision to be made now.

15.0

Conclusion

The proposal would provide significant public benefit, regenerate brownfield land, in a highly sustainable town centre location where it would also result in economic, environmental and social objectives supported by the NPPF core principles. The design is considered appropriate to the function and would enhance the character and appearance of the Conservation Area and would not harm the setting of listed buildings. There would be adequate access through various means of transport and if traveling by car would be adequate parking provision. There would be no implications for public amenity, archaeology, trees, biodiversity or drainage. The proposals' benefits outweigh any perceived harm.

16.0 Recommendation Grant permission subject to the following conditions:

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

Location and Site Plan - Existing - Drawing Number 15065 L 01.00 received on 08/11/2018
Site Plan/Block Plan Proposed - Drawing Number 15065 L 01.01 received on 08/11/2018
Illustrative Site Plan - Drawing Number 15065 L 01.02 received on |
|---|------|---|

08/11/2018
 Lower Ground Floor Plan - Drawing Number 15065 L 02.00
 received on 08/11/2018
 Upper Ground Floor Plan - Drawing Number 15065 L 02.01
 received on 08/11/2018
 Roof Plan - Drawing Number 15065 L 02.02 received on
 08/11/2018
 Proposed North and South Elevations - Drawing Number 15065 L
 04.00 received on 08/11/2018
 Proposed East and West Elevations - Drawing Number 15065 L
 04.01 received on 08/11/2018
 Proposed Sections AA and BB - Drawing Number 15065 L 03.01
 received on 08/11/2018
 Proposed Sections CC and DD - Drawing Number 15065 L 03.02
 received on 08/11/2018
 Proposed Illustrative Elevations - Drawing Number 15065 L 04.03
 received on 08/11/2018
 Proposed Illustrative Elevations - Drawing Number 15065 L 04.02
 received on 08/11/2018
 Site Clearance Plan - Drawing Number 15065 L91.01 received on
 08/11/2018
 Landscape Master Plan - Drawing Number 15065 L 93.01 received
 on 08/11/2018
 Tree Constraint Plan - Drawing Number 04677 TCP REV A
 received on 08/11/2018

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

- | | | |
|---|------|---|
| 2 | K10A | The development to which this permission relates must be begun not later than the expiration of three years beginning with the date of this permission. |
|---|------|---|

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

- 3 NS No development above damp proof course shall commence until details and samples of all external walling and roofing materials to be used in the construction of the building hereby approved have been submitted to, and approved in writing by, the local planning authority. Thereafter the development shall be completed in accordance with the materials that have been approved or such other materials as shall first have been submitted to, and approved in writing by, the local planning authority.

REASON: To safeguard the character of the area.

- 4 NS The existing chestnut tree shown on the approved plan to be retained, shall be fully safeguarded during the course of site works and building operations. No works shall commence for the digging of foundations on site until all trees to be protected on and immediately adjoining the site shall be protected from damage for the duration of works on the site to the satisfaction (to be confirmed in writing) of the Local Planning Authority in accordance with BS 5837:2005 (Trees in relation to construction - recommendations) or any new Standard that may be in force at the time that development commences. No unauthorised access or placement of goods, fuels or chemicals, soil or other material shall take place within the tree protection zone(s). Any trees or hedges removed without the written consent of the Local Planning Authority, or dying or being severely damaged or becoming seriously diseased before the completion of development or up to 12 months after occupation of the last dwelling shall be replaced with trees or hedging of such size, species in a timescale and in positions as may be approved in writing by the Local Planning Authority.

REASON: To safeguard the trees on the site which are shown to be retained.

- 5 NS The development hereby approved shall be undertaken in accordance with the recommendations of the BIODIVERSITY MITIGATION & ENHANCEMENT PLAN dated 20/02/2019 submitted in support of the planning application.

REASON: To safeguard protected species on the site.

- 6 NS Before the development is brought into use a hard and soft landscaping scheme shall be submitted to and approved in writing by the local planning authority. The submitted scheme shall include: (i) planting plans; (ii) written specifications and schedules of proposed plants noting species, planting sizes, proposed numbers/densities and - where appropriate - implementation timetables; (iii) a schedule of landscape maintenance proposals for a period of not less than five years from the date of completion of the scheme; (iv) full details of any level changes; and (v) full details of the positions, materials and proposed construction methods for all paths and other hard surfaces. Thereafter, unless otherwise approved in writing by the local planning authority, the approved landscaping scheme shall be implemented in the planting season November – March immediately following the commencement of development.

REASON: To safeguard the character of the area.

- 7 NS Any external lighting shall be installed and maintained in accordance with the lighting statement dated 17/10/2018.

REASON: To safeguard the amenity of the area.

- 8 NS The development shall not be occupied until further details clarifying precisely how the proposed raising in height of the boundary walls is to be implemented have been submitted to, and approved in writing by, the local planning authority. Thereafter, use of the building hereby approved shall not commence until the height of the boundary walls has been raised in accordance with such details as has been agreed.

REASON: In the interests of safeguarding the amenity of adjoining residents and setting of listed buildings.

- 9 NS Prior to the occupation of the development, information regarding the operating noise levels of specific equipment to be installed shall be submitted to the planning authority, along with the calculated effect upon nearby properties. Suitable mitigation should be included should the parameters within the noise report be exceeded to prevent loss of amenity. The installations shall be agreed in writing by the planning authority. If operation is to cease

for example during night time periods a suitable timer to control the hours of operation shall be installed to prevent human error i.e. to prevent unwarranted operation.

REASON: To safeguard amenity.

- 10 NS Prior to the occupation of the development, the building operator shall submit a site-specific written odour risk assessment surrounding the emissions of odour or particulates from the proposed development. This shall include the nature of the suitable mitigation to be installed for the control of odour from the kitchen area. This shall be agreed in writing by the planning authority.

REASON: To safeguard amenity.

- 11 NS No development above damp proof course shall take place until a detailed surface water management scheme for the site, based upon the hydrological and hydrogeological context of the development, and including clarification of how surface water is to be managed during construction, has been submitted to, and approved in writing by the local planning authority. The surface water scheme shall be fully implemented in accordance with the submitted details before the development is completed.

REASON: To prevent the increased risk of flooding & associated nuisance, to improve and protect water quality, and to improve habitat and amenity.

- 12 NS No development above damp proof course shall take place until details of maintenance & management of both the surface water sustainable drainage scheme and adjacent 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.

- 13 H122 In the event that contamination is found at any time when carrying out the approved development, it must be reported in writing immediately to the Local Planning Authority and an investigation and risk assessment must be undertaken in accordance with requirements of BS10175.

Should any contamination be found requiring remediation, a remediation scheme shall be submitted to and approved by the Local Planning Authority. The approved remediation scheme shall be carried out to a timescale to be first agreed with the Local Planning Authority. Following completion of measures identified in the approved remediation scheme a verification report must be prepared and submitted which is subject to the approval in writing of the Local Planning Authority.

REASON: To ensure risks from contamination are minimised.

- 14 NS All on-site working, including deliveries to and from the site, associated with the implementation of this planning permission shall only be carried out between the hours of 8 a.m. and 6 p.m. Monday - Friday, 8 a.m. and 1 p.m. Saturday and not at all on Sunday, Public and Bank Holidays unless otherwise agreed in writing with the Local Planning Authority.

REASON: To safeguard amenity.

- 15 NS Before the development hereby approved is utilised, an enhanced Travel Plan must be submitted to and approved in writing by the Planning Authority. The Travel Plan, as submitted, will include:
- Targets for sustainable travel arrangements.
 - Effective measures for the on-going monitoring of the Travel Plan.
 - A commitment to delivering the Travel Plan objectives for a period of at least five years from first occupation of the development.
 - Effective mechanisms to achieve the objectives of the Travel Plan by the occupiers of the development
 - The direction of coaches to the appropriate parking facilities
 - Specific delivery instructions so as to avoid peak traffic periods

The development must be implemented only in accordance with the approved Travel Plan.

REASON: In order to reduce or mitigate the impacts of the development upon the local highway network and surrounding area.

16 NS

Before the development hereby approved commences a Construction Traffic Management Plan (CTMP) must be submitted to and approved in writing by the Local Planning Authority. The CTMP must include:

- construction vehicle details (number, size, type and frequency of movement)
- a programme of construction works and anticipated deliveries
- timings of deliveries so as to avoid peak traffic periods
- a framework for managing abnormal loads
- contractors' arrangements (compound, storage, parking, turning, surfacing and drainage)
- wheel cleaning facilities
- vehicle cleaning facilities
- Inspection of the highways serving the site (by the developer (or his contractor) and Dorset Highways) prior to work commencing and at regular, agreed intervals during the construction phase
- a scheme of appropriate signing of vehicle route to the site
- a route plan for all contractors and suppliers to be advised on
- temporary traffic management measures where necessary

The development must be carried out strictly in accordance with the approved Construction Traffic Management Plan.

REASON: to minimise the likely impact of construction traffic on the surrounding highway network and prevent the possible deposit of loose material on the adjoining highway.

NOTES TO APPLICANT

1. 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 applications/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.

2. DRAINAGE

Detailed proposals and finalised supporting calculations will need to be supplied and approved in respect of subsequent submissions and discharge of the conditions requested in respect of the surface water management.

Any detailed design supplied with regard to the above conditions must demonstrate that best practice are fully complied with, and critically, that no off-site worsening will result. To this end the previously requested clarification of the receiving system and downstream structures will be required in support and substantiation of the detailed design.



1.0 APPLICATION NUMBER: WD/D/19/000794

APPLICATION SITE: POUNDBURY PHASES 3 AND 4, POUNDBURY

PROPOSAL: Modification of planning obligations of Section 106 Agreement dated 20th December 2011 of planning approval 1/D/09/001363

APPLICANT: Duchy of Cornwall

CASE OFFICER: Ann Collins

WARD MEMBER(S): Cllr R Biggs

2.0 Summary of Recommendation:

2.1 Delegate authority to the nominated officer to modify the S106 agreement dated 20th December 2011 to:

- Omit provision of a ball wall and 300 seat community hall.
- Provide one NEAP and one LEAP in a combined area on the Great Field with at least 18 pieces of play equipment and an area of 1800 sq m.
- Omit requirement for a second LEAP in phases 3 and 4 of the development.

3.0 Reason for Recommendation:

3.1 It is considered that the proposed modifications to the S106 agreement would have an acceptable impact on the provision of community facilities in Poundbury and would not be detrimental to the creation of a mixed use sustainable development. Furthermore it is considered that the modification of the S106 agreement would not result in development that would adversely impact on the visual amenity of the AONB.

4.0 Table of Key Planning Issues

Issue	Conclusion
Provision of community facilities and a mixed use sustainable development	The proposed modifications to the S106 agreements are considered to have an acceptable impact on the provision of community facilities and would not be

	detrimental to the continued build out of this mixed use development or to the wider provision of community facilities within Dorchester.
Impact on visual amenity and the AONB	Not providing the hall and ball wall would not in itself have any adverse impact on visual amenity and the AONB. The proposed extent of play area and the types of play equipment can be controlled via the S106 agreement and therefore officers retain control over these matters.

5.0 Description of Site:

5.1 The S106 agreement dated 20th December 2011 relates to phases 3 and 4 of the Poundbury development on the western edge of Dorchester. The agreement is associated with the outline planning permission 1/D/09/001363 for the development of the land by the erection of 1200 dwellings, a new 450 children primary school, 25000 sq metres of non-residential development and associated roads, drainage and other infrastructure. Make alterations to the existing Monkey's Jump roundabout on the A35(T).

5.2 Phases 3 of 4 of Poundbury are within the defined development boundary of Dorchester and within the designated Area of Outstanding Natural Beauty. Several hundred of the houses in phase 3 are complete and occupied, more are under construction currently. A number of reserved matters applications have been submitted and approved for phase 3 of the development, but reserved matters applications for phase 4 have not yet been submitted. The primary school is also completed and operational (Damers First School) and non-residential development has been constructed, with some already in use. The Dorchester Community Church has been built within phase 3.

6.0 Description of Development:

6.1 This application seeks to modify the S106 agreement in three ways:

- a) The S106 agreement currently requires the provision of a Neighbourhood Equipped Area of Play (NEAP) and Locally Equipped Area of Play (LEAP) on the Great Field and the provision of a further LEAP elsewhere within phases 3 and 4. The proposal is that the NEAP and LEAP on the Great Field would be provided in a single area, rather than being at least 530m apart as required by the agreement currently and that no further LEAP would be provided within phases 3 and 4.
- b) The S106 agreement currently requires that a ball wall be constructed prior to the commencement of development. Development commenced on phase 3 some time ago and the ball wall on the Great Field has never been provided.

However a multi-use games area was granted planning permission some years ago and has been provided on the Great Field in lieu of the ball wall. This application therefore seeks to delete the requirement for a ball wall from the legal agreement.

c) The S106 agreement requires that by the occupation of the 600th dwelling a 300 seat community hall shall be provided and made available for use. The agreement does allow for the community hall to be located within the school site and to have a dual use provided it is accessible as a community facility. The proposal is to delete the requirement for a 300 seat community hall from the legal agreement.

7.0 Relevant Planning History:

Application No.	Application Description	Decision	Date of Decision
1/D/09/001363	Develop land by the erection of 1200 dwellings, a new 450 children primary school, 25000m ² of non-residential development and associated roads, drainage and other infrastructure. Make alterations to the existing Monkey's Jump roundabout on the A35(T)	Approved	20/12/11
1/D/12/000082	Erect 505 dwellings, 6,254 sq. m. of commercial floorspace together with associated garages, roads, accesses and open space. Reserved matters pursuant to outline planning permission 1/D/09/001363	Approved	17/9/12
1/D/13/000847	To provide play equipment for older young people at the Great Field	Approved	5/9/13
WD/D/19/001012	Application for approval of reserved matters for access, appearance, layout, scale and landscaping in relation to outline planning permission 1/D/09/001363 - 3		

	commercial units and 31 apartments		
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8.0 List of Constraints:

- Within the defined development boundary for Dorchester in the adopted local plan
- Within the allocation DOR1 in the adopted local plan
- Area of Outstanding Natural Beauty (statutory protection in order to conserve and enhance the natural beauty of their landscapes – National Parks and Access to the Countryside Act of 1949 & Countryside and Rights of Way Act, 2000)

9.0 Consultations:

9.1 Dorset Council Implementation Team Leader:

Play Provision:

The WDDC Planning Obligations SPD (2010) recommends that a NEAP has at least 1000 sq m of activity area including hard surface area as a MUGA and at least 8 types of play equipment. A LEAP should have at least 400 sq m of activity area and at least 5 types of play equipment.

The application states that provision is being made for 8000 sq m of activity space (including landscaping) and 20+ types of equipment. Measuring the illustrative landscaping plan that accompanies the compliance with conditions application reference WD/D/18001929 it suggest there is approximately 7400 sq m of activity space (excluding landscaping). The level of activity space proposed is effectively 4 x the space required by the SPD.

The amount of play equipment proposed by the modification exceeds the 18 pieces of equipment that would be delivered from the 2 LEAPs and one NEAP. Furthermore, a MUGA which forms part of the modification facilitates a broader spectrum of play than the originally agreed ball wall.

The modification also seeks to concentrate all play equipment in one location on the Great Field rather than spread separately in smaller pockets across a wider area. Given the extensive public consultation and collaboration with Dorchester Town Council, I am content that the modifications relating to the specification and location of play improve the play offer and meets the needs of the area. I recommend that this particular modification should be considered acceptable in planning terms.

Community Hall Provision:

The requirement for a Community Hall is set out in the Poundbury Development Brief (2006). Recent public consultation has suggested that there is no longer a need for a 300 seater hall to the specification which is set out in the S106 agreement given the provision of new community venues elsewhere in Poundbury and Dorchester.

Recent community hall provision at the new Damers School Hall (150 seat capacity) and Dorchester Community Church (180 seat capacity) and their potential for linkage to create a larger single venue (subject to agreement and physical works) largely fulfils the requirement set out in the Development Brief. While these venues do not provide 300 seats, the lack of demand for this size of venue as shown through the consultation should be a material consideration. As such I consider that the modification of the S106 to remove the obligation for a 300 seater community venue should be considered under these circumstances.

9.2 Dorchester Town Council:

The Town Council's Planning and Environment Committee considered the letter from the applicant giving the background to the proposals and they accepted the modifications to the S106 agreement relating to the removal of the provision of public open space facilities.

Members understood the reasoning for not providing a 300 seater Community Hall and supported this in principle but did not consider that the Jubilee Hall could be classed as a direct alternative for this, by virtue of its size. Also members were concerned that the removal of the planning obligation to provide this community hall would also remove the associated financial S106 obligation and Members did not consider that this as acceptable. They considered that the applicant would not be financially disadvantaged by the removal of the planning obligation and that the opposite was likely.

It was agreed that the committee recommended refusal of the removal of the planning obligation to deliver a 300 seat community hall unless the associated financial S106 obligation would be delivered.

Representations received:

One representation has been received from Dorchester Arts who support the application and make the following comments in summary:

- Concerned about the viability of a community hall in the context of both the existing and planned facilities elsewhere in the town. Such a venue would probably need to stage ticketed performances in order to be viable and this might

split audiences for existing or future venues in the town and in turn jeopardise their viability.

- Discussions with many residents of Poundbury have led the writer of the representation to believe they are supportive of a significantly upgraded venue in the town centre and would prefer to see that happen than to have the Crown Hall built through obligation rather than necessity.
- The concept of a visitor centre in Jubilee Hall might provide the opportunity to provide better information to the residents of Poundbury about events in the town and surrounding area.

10. Relevant Policies:

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

ENV1 Landscape, Seascape and Sites of Geological Interest

ENV10 The Landscape and Townscape Setting

ENV16 Amenity

COM1 Making Sure New Development Makes Suitable Provision for Community Infrastructure

COM3 The Retention of Local Community Buildings and Structures

COM4 New or Improved Local Recreational Facilities

COM5 The Retention of Open Space and Recreational Facilities

DOR1 Poundbury Mixed Use Development

National Planning Policy Framework

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

4. Decision-making

8. Promoting healthy and safe communities

15. Conserving and Enhancing the natural environment

Para 38 - Local planning authorities should approach decisions on proposed development in a positive and creative way. They should use the full range of planning tools available, including brownfield registers and permission in principle, and work proactively with applicants to secure developments that will improve the economic, social and environmental conditions of the area. Decision-makers at every level should seek to approve applications for sustainable development where possible.

Poundbury Development Brief (2006):

Community Hall Para 13.2 – The Brownsword Hall in Pummery Square, on Phase 1 of the development, is successfully meeting the needs of the early

phases of development but a larger hall will be needed for the additional population in future. This was emphasised during early public consultation on the development brief. The additional hall should be located so that it is within easy walking distance for as many residents as possible. It should include a main hall sufficiently large to accommodate 300 people, and should include a range of rooms of varying sizes so as to enable flexible use. The main hall should be capable of accommodating a range of community uses, which could include performance by amateur or touring theatre or music groups. It is therefore important that the design takes into account the special technical requirements (acoustics etc) necessary for performance. The potential for accommodating the hall in the central square, or as a shared facility (for example within the new school) is outlined in paragraph 4.6.

District Centre Para 4.6 – The accessibility of the central square also means that it will be a suitable location for the provision of a larger community hall. However, an alternative location elsewhere in the development can be considered if it can be established that it will provide the same level of facilities, and be in an equally accessible location. For example, this would allow consideration of the shared use of the new school hall.

Recreation Para 13.14 – Existing recreation facilities include an equipped children's play area and older children's kickabout area south-west of Holmead Walk on phase 1, an equipped children's play area on the area enclosed by Woodlands Crescent on phase 2, and boules playing area adjoining the Belvedere.

Recreation 13.15 – Uses identified for provision on the Great Field include a cricket pitch, two junior football pitches, sports wall and basketball net. These more formal facilities should be located at the southern end of the Great Field, which will become a focus for the local community, from both Poundbury and adjoining parts of Dorchester. As discussed in Principles 3 and 16, the northern part of the Great Field should provide a more informal recreation area, also managed for chalk grassland wildlife habitat, and providing an attractive rural setting for walking, running and picnics.

Recreation 13.16 – Further equipped children's play areas will be needed on the site. These may be located on the Great Field and within the proposed green squares within the development.

Planning Obligations SPD (2010)

Dorset AONB Management Plan 2019 – 2024

11. Human Rights:

Article 6 - Right to a fair trial.

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

This Recommendation is based on adopted Development Plan policies, the application of which does not prejudice the Human Rights of the applicant or any third party.

12. Public Sector Equalities Duty:

As set out in the Equalities Act 2010, all public bodies, in discharging their functions must have “due regard” to this duty. There are 3 main aims:-

- Removing or minimising disadvantages suffered by people due to their protected characteristics
- Taking steps to meet the needs of people with certain protected characteristics where these are different from the needs of other people
- Encouraging people with certain protected characteristics to participate in public life or in other activities where participation is disproportionately low.

Whilst there is no absolute requirement to fully remove any disadvantage the Duty is to have “regard to” and remove OR minimise disadvantage and in considering the merits of this planning application the planning authority has taken into consideration the requirements of the PSED

13. Financial Benefits:

13.1 Provision of play areas totalling a minimum of 1800 sq m and having a minimum of 18 pieces of play equipment.

14. Planning Assessment:

14.1 Provision of Community Facilities and the Creation of a Mixed Use Development – The Ball Wall

14.1.1 A ball wall was required by the S106 agreement to be provided on the Great Field prior to the occupation of the first dwelling in phases 3 and 4. A ball wall has never been provided, however, a multi use games area (MUGA) has been constructed.

14.1.2 An application was submitted in 2013 for play equipment for older young people at the Great Field. This application included a number of pieces of play equipment including a zip wire and a 22m by 12m fenced hard surfaced sports arena with markings and hoops. These pieces of play equipment and the sports arena (MUGA) were not required by the S106 agreement but were the result of consultation with young people and the residents association and were in addition to the already existing outdoor gym and youth shelter.

14.1.3 The fact that a MUGA has been provided is considered to negate the need for a ball wall. There are existing football goals, plus the MUGA, which enable the playing of ball games such as football and basket ball. Therefore it is considered that to no longer require the provision of the ball wall would not adversely impact on the range of recreational facilities provided at the Great Field, sufficient opportunities for ball games and practice would remain.

14.2 Provision of Community Facilities and the Creation of a Mixed Use Development – NEAP and LEAPS

14.2.1 The S106 agreement currently requires the provision of a NEAP and a LEAP on the Great Field and specifies the distance apart from each other that they must be. It also requires the provision of a further LEAP at the western end of phases 3 and 4.

14.2.2 The proposal by the applicant now is to provide the LEAP and NEAP at The Great Field as a combined area and the second LEAP is no longer proposed. There are two existing LEAPs at Poundbury, the first being in phase 1 adjacent to Holmead Walk, and the second in phase 2 adjacent to the Poundbury Garden Centre. There are also the existing play facilities at the Great Field as discussed above.

14.2.3 Officers have been provided with details of what is proposed for the NEAP and LEAP as part of a compliance with condition application for the landscaping of the Great Field. Those plans show an area of 8000 sq m (including landscaping) and 20 pieces of play equipment (plus 3 existing pieces of play equipment, the existing hard surfaced sports arena and proposed natural play with boulders, timber sleepers and a willow archway walk). The current requirements of the S106 agreement would be for a total area of 1800 sq m across phases 3 and 4 and 18 pieces of play equipment. What is currently proposed is therefore far in excess of what the agreement requires to be provided. They would however be in a single area within the Great Field and there would be no provision proposed for the western end of the Poundbury development (however halfway between the western edge and the Great Field is the existing LEAP adjacent to the Poundbury Garden Centre, plus there is a bus service that runs along Peverell Avenue should someone wish to take a bus from one end of the development to the other in order to access the Great Field other than by foot).

14.2.4 The applicant has submitted supporting information with the application advising that there was a public consultation in 2018 on the future of The Great Field and the Duchy's proposals for landscaping and play provision. The Duchy concluded from that there was a preference for all play areas and equipment to be focused on The Great Field.

14.2.5 The proposal is therefore to modify the S106 agreement to allow for the provision of a combined NEAP and LEAP at The Great Field. The agreement can be modified to require details of the play equipment and future management and maintenance arrangements to be submitted (currently it is proposed that the play area would be the responsibility of the Town Council to manage and maintain) prior to installation taking place and could specify a minimum area and number of pieces of equipment. To that end whilst the Duchy are currently proposing a level of provision significantly beyond that required by the S106 agreement if regard is had to what would have been required it is considered that the minimum standard should be set at 1800 sq m and 18 pieces of play equipment. That would result in a similar level of provision as the requirements currently in the S106 agreement but in a single location.

14.2.6 Currently the requirement is that the first LEAP is provided by the 250th occupation, the Neap by the 450th occupation and the second LEAP by the 750th occupation. The proposal sought by officers is that the combined area of provision at the Great Field would be provided by the 500th occupation and therefore the total overall provision would be brought forward in the phasing of the development. This however remains to be further discussed with the applicant as part of the drafting of the deed of variation to the S106 agreement and the trigger for provision may therefore yet change.

14.2.7 It is considered that given the above the proposed modifications to the S106 agreement in respect of the NEAP and LEAPs would have an acceptable impact on community facility provision within Poundbury.

14.3 Provision of Community Facilities and the Creation of a Mixed Use Development – Community Hall

14.3.1 The S106 agreement requires that prior to the 600th dwelling being occupied a 300 seat community hall is to be provided. The Duchy is proposing that this requirement is deleted and that no further community hall be provided within Poundbury at this time.

14.3.2 Reserved matters approval has already been granted for the 300 seat community hall as part of application 1/D/12/000082 within which was included the Crown Hall site. No development has been commenced on the building of the hall and recently a revised reserved matters application has been submitted for the Crown Hall site proposing a scheme which does not include the community hall (WD/D/19/001012).

14.3.3 Within phase 1 of Poundbury the Brownsword Hall was provided which seats 110 people and within phase 2 of Poundbury there is The Quiet Space which seats 50 people. Both of these are available for hire for community use. Within phase 3 of Poundbury there is Damers First School. This has a hall with capacity for 150 people and it is understood to be available for occasional hire

outside of school hours. Within phase 3 there is also the Dorchester Community Church which on the ground floor can seat 180. It is available for hire to the community although it can only be hired by charities and charitable organisations. It is considered that there is already significant provision of community space within Poundbury. Within the wider Dorchester area there is the Corn Exchange in the town centre which seats 250 and also the Dorford Centre which has a capacity of 300 in its conference hall. The Theatre at Thomas Hardy School is only available outside of school hours but has theatre style seating for 470. There are other halls and community spaces within Dorchester although their capacity is less. If the Dorchester Maltings project were to proceed in the future it could provide theatre style seating for approximately 450 people in a central location within Dorchester.

14.3.4 The Duchy of Cornwall held a public consultation event on 1st May 2018 within a space called The Jubilee Hall which is adjacent to Queen Mothers Square in Poundbury. At that time the Duchy were considering the possibility of the Jubilee Hall (approximately 100 – 120 seated) being a community hall instead of the 300 seat community hall in the S106 agreement. The Duchy have submitted details with this current application that they received 120 pieces of feedback from residents, businesses and community groups. The Duchy interpreted the feedback and advised that:

- Respondents indicated that Poundbury would be better served by a smaller, more flexible hall and community space.
- Given its flexible layout and location, it makes more sense to develop Jubilee Hall than create another large community hall.
- There was no overarching “stand out” suggestion for how Jubilee Hall should be used by the community.
- Respondents wanted reassurance over who would manage and run Jubilee Hall and the preference was for a company or commercial enterprise to take ownership and maintain its viability.
- The feedback indicated there is not a requirement for a new 300 seat community hall in Poundbury. Existing large venues are already available to hire around Dorchester.

14.3.5 The Duchy state in their application that they do not wish to establish a venue which:

- Is not considered necessary by local residents.
- Could adversely compete with existing provisions (especially the Brownsword Hall)
- Is very unlikely to be sustainable and thereby would become increasingly unattractive and at risk of closure.

14.3.6 The Duchy still intends to provide the Jubilee Hall for community events (a planning application would be required for change of use) should they be able to

identify a suitable operator to manage the facility. They would like to be able to provide for occasional and varied activities at the Jubilee Hall which would not compete with the Brownsword Hall. However they are not proposing the variation of the S106 agreement to include Jubilee Hall as part of this application. They would only put forward Jubilee Hall as a community space if they considered there to be the need and they had a suitable operator to manage the facility. There is therefore no certainty that the proposal will come to fruition in the future.

14.3.7 There have only been two sets of comments made on the proposal to delete the requirement for a 300 seat hall. The first are from the Town Council who do not object to the other proposed changes to the S106 agreement and in fact support in principle not providing a 300 seat community hall. However, they consider that the Jubilee Hall can not be considered to be a direct alternative to a 300 seat hall by virtue of its size. They also considered that the applicant would be financially advantaged by not providing a 300 seat hall and therefore an associated financial obligation should be delivered.

14.3.8 The Town Council is correct in that Jubilee Hall would not provide a direct alternative and as outlined in 14.3.6 there would be nothing requiring the Duchy to use the Jubilee Hall as a community hall within the S106 agreement. In respect of the Town Council's comment about having a financial obligation instead of physical provision within Poundbury the Council's implementation team leader has clarified that there is no policy mechanism that would allow for the local planning authority to seek a specific financial contribution in lieu of the 300 seat hall. However the revised reserved matters application for commercial and residential development (now proposed are 2 commercial units and 25 apartments) at Crown Hall (which was previously proposed to be the hall, commercial space and 9 apartments) will have to make a financial contribution towards museums, libraries, education, transport, waste collection and waste disposal in accordance with the obligations in the S106 agreement associated with the outline planning permission.

14.3.9 The other comment received in respect of the proposals is from Dorchester Arts who believe, that from discussions with the residents of Poundbury, that they would prefer to see a significantly upgraded venue in the town centre rather than to have the hall at Poundbury built through obligation rather than necessity. The representation also raises concerns about the viability of a venue at Poundbury and that staging ticketed performances at such a venue might split audiences for existing or future venues in the town and in turn jeopardise their viability.

14.3.10 The current requirement for a 300 seat hall within the S106 agreement accords with the Poundbury Development Brief and Policy DOR1 of the adopted local plan which refers to development at Poundbury being in accordance with the development brief. However the Poundbury Development Brief is now 13 years old and Poundbury has developed a lot since then. There has been little

received in the way of representations to this application and the Duchy carried out their own consultation last year which seemed to generate very little in the way of support for the provision of a 300 seat hall in Poundbury. This would suggest that there is little public demand for the provision of the hall. In addition having regard to the provision of halls within Poundbury and the wider Dorchester area it is considered that there are existing alternative venues that could potentially meet any need that exists. Since the development brief was adopted the new Damers School has been built and the hall has been hired out to community groups such as the Poundbury Residents Association. In addition the Dorchester Community Hall has also been built at Poundbury (not planned for at the time of the development brief) and that has a hall that can be rented by charitable groups and organisations and is therefore an additional facility above and beyond that which was envisaged at the time of the development brief.

14.3.11 Given all of the above it is considered that there is a lack of justification for the continuation of the requirement for the provision of a 300 seat hall within Poundbury and that the S106 agreement should be modified accordingly.

14.4 Impact on visual amenity and the AONB:

14.4.1 Not providing the ball wall and the community hall would not in itself have any adverse visual impact on the AONB or visual amenity more generally. What is developed in place of the community hall will be considered through the revised reserved matters application and in that respect the local planning authority retains control over the visual impact of the development.

14.4.2 The provision of a combined play area (NEAP and LEAP) on the Great Field would result in a greater number and area of play equipment, as the Great Field would be accommodating the additional LEAP requirements. However the modified S106 agreement will require details of the proposed area and play equipment to be submitted and via that submission officers will have the ability to consider and if required seek amendments to the proposals in order to address the issue of visual amenity and the AONB.

15. Conclusion:

15.1 It is considered that the proposed modifications to the S106 agreement would have an acceptable impact on the provision of community facilities in Poundbury and would not be detrimental to the creation of a mixed use sustainable development. Furthermore it is considered that the modification of the S106 agreement would not result in development that would adversely impact on the visual amenity of the AONB.

16. Recommendation:

16.1 Delegate authority to the nominated officer to modify the S106 agreement dated 20th December 2011 to:

- Omit provision of a ball wall and 300 seat community hall.
- Provide one NEAP and one LEAP in a combined area on the Great Field with at least 18 pieces of play equipment and an area of 1800 sq m.
- Omit requirement for a second LEAP in phases 3 and 4 of the development.



Application to divert Footpaths 9 (part),
22 & Bridleways 7 (part), 8 & 23,
Piddlehinton and Bridleway 32 (part),
Puddletown at Muston Farm

Date of Meeting: 18 June 2019

Lead Member: Jill Haynes, Dorset Council member for Chalk Valleys

Lead Officer: Matthew Piles, Corporate Director for Economic Growth and Infrastructure

Executive Summary: This report considers an application to divert Footpaths 9 (part), 22 & Bridleways 7 (part), 8 & 23 Piddlehinton and Bridleway 32 (part), Puddletown at Muston Farm as shown on Drawing 18/05/1.

Equalities Impact Assessment:

The furniture on the proposed route meets the requirements of British Standard BS5709:2018.

Budget:

The applicant has agreed to pay in accordance with Dorset Council's usual scale of charges and also for the cost of advertising the order and subsequent notice of confirmation. The law does not permit Dorset Council to charge the applicant for the cost of obtaining confirmation by the Secretary of State if an order is the subject of an objection.

Risk Assessment:

Having considered the risks associated with this decision, the level of risk has been identified as:

Current Risk: LOW

Residual Risk LOW

Other Implications:

Sustainability –

The proposal will not have any effect on carbon emissions and supports alternative methods of travel to the car.

Use of public rights of way promotes a healthy balanced lifestyle.

Recommendations:

That:

- (a) The application to divert Footpaths 9 (part), 22 & Bridleways 7 (part), 8 & 23 Piddlehinton and Bridleway 32 (part), Puddletown at Muston Farm be accepted and an order made;

- (b) The Order include provisions to modify the definitive map and statement to record the changes made as a consequence of the diversions; and
- (c) If the Order is unopposed, or if any objections to the Order are of a similar nature to those already considered by the Committee, it be confirmed by the Council without further reference to the Committee.

Reasons for Recommendation:

- (a) The proposed diversions meet the legal criteria set out in the Highways Act 1980.
- (b) The inclusion of these provisions in a public path order means that there is no need for a separate legal event order to modify the definitive map and statement as a result of the diversion.
- (c) Accordingly, the absence of objections may be taken as acceptance that the proposed new routes are expedient and therefore Dorset Council can itself confirm the order.

In the event that objections of a similar nature to those already considered are received to the order, the committee will have already considered the objections in the light of the legal criteria and therefore Dorset Council can itself confirm the order. Before confirming a public path creation, diversion or extinguishment order a council or the Secretary of State must have regard to any material provision of a rights of way improvement plan prepared by the local highway authority. Dorset's Rights of Way Improvement Plan sets out a strategy for improving its network of Public Rights of Way, wider access and outdoor public space.

Appendices:

- 1 - Drawing 18/05/1
- 2 - Drawing 18/05
- 3 - Summary of consultation responses

Background Papers:

The file of the Executive Director, Place (ref. RW/P188).

Officer Contact

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1 Background

- 1.1 Dorset Council has received an application from Stephen Rice, SB Rice Ltd, on behalf of Frontiers Agricultural Ltd, in the parishes of Piddlehinton and Puddletown, to divert Footpaths 9 (part), 22 & Bridleways 7(part), 8 & 23 Piddlehinton and Bridleway 32 (part), Puddletown at Muston Farm, as shown on Drawing 18/05/1 attached as Appendix 1.

- 1.2 Muston Farm, Piddlehinton, is currently under significant development, with farm buildings being redeveloped and vines planted in the fields to the west, to accommodate the future production of sparkling wine. There are also several residential properties including Muston Farm Cottages which have been developed, with further proposals on existing derelict buildings planned. This development has led to an increase in traffic to the residential properties and the proposed diversion will improve the privacy and security for the owners as users are diverted away from the access roads. The new vineyard business has increased farm traffic and heavy machinery requiring access to the site and the existing bridleways and footpaths run through the middle. The proposed diversion will improve the security of the vineyard business and the public will also benefit from a safer route away from vehicles and machinery.
- 1.3 The current definitive route of Footpath 9, Piddlehinton runs from the southern field boundary at point B1, south west to its junction with the current route of Bridleway 23 at point B, then south south west and south across fields (via three stiles) to point X. The current route from B1 to B to X is approximately 54 metres long.
- 1.4 The current definitive route of Bridleway 23, Piddlehinton runs from its junction with Bridleway 10, Piddlehinton at point A, across a field to point B, and is at present a dead-end bridleway, connecting with Footpaths 9 and 22, Piddlehinton at point B. The current route from A to B is approximately 180 metres long.
- 1.5 The current definitive route of Footpath 22, Piddlehinton runs from its junction with Bridleway 23 and Footpath 9, Piddlehinton at point B, across fields and a copse to its junction with Bridleways 7 and 8, Piddlehinton at Muston Farm at point C. The current route from B to C is approximately 528 metres long.
- 1.6 The current definitive route of Bridleway 7, Piddlehinton runs from its junction with Footpath 22 and Bridleway 8, Piddlehinton at Muston Farm at point C, along a farm track to point F. The current route from C to F is approximately 112 metres long.
- 1.7 The current definitive route of Bridleway 8, Piddlehinton/Bridleway 32, Puddletown runs from its junction with Bridleway 7 and Footpath 22, Piddlehinton at point C, through the farmyard and a field, and across a fenceline and track to point E. The current route from C to E is approximately 482 metres long.
- 1.8 The proposed new route of Footpath 9, Piddlehinton runs from the southern field boundary at point B1, south west along the edge of the field to its junction with the proposed new bridleway at point H. The proposed new route is approximately 43 metres long. This adds approximately 27 metres to the route of Footpath 9.

- 1.9 The proposed new route of the other affected footpaths and bridleways will form one continuous bridleway route (crossing the parish boundary at point N) and runs from its junction with Bridleway 10, Piddlehinton at point G, south east across a field to the field boundary at point H, then south east across the second field, via point X, to the field boundary at point I2. Continuing south east, along a farm track, to point J2, then turning west south west, around the northern side of farm buildings to point K and south south east to its junction with Bridleway 7 at point F. Continuing south south east, along a grass surfaced track to point L, then south east through a copse to point M, turning east north east through the copse, and along a grass surfaced track, to point N and continuing south south east along the track to point E.
- 1.10 The proposed new continuous bridleway route is approximately 1350 metres long. The width of the new bridleway will be 3 metres (except as specified below):
- Bridle gate at point G
 - Bridle gate at point H
 - Field gate at point I2
 - Bridle gate at point L all to meet British Standard BS5709:2018.
- 1.11 The landowners are Frontiers Agricultural Ltd (between points X – E) and Mr Bernard Cox (between points G – H).
- 1.12 This proposed diversion would be in the interests of the landowners. The current routes of Footpath 22, Bridleway 7 and Bridleway 8, Piddlehinton and Bridleway 32, Puddletown run through a busy working farm and residential area, which is currently under significant development, as well as fields used for grazing horses. The diversion improves the privacy and security for the landowner whilst providing a safe and enjoyable route for all users. The diversion will benefit the neighbouring landowner, Mr Bernard Cox by moving the bridleway onto the used route and through an existing bridleway gate at point G.
- 1.13 The proposed diversion will improve access for horse riders by providing a new connecting route from Bridleway 10, Piddlehinton southwards to join Bridleway 32, Puddletown.
- 1.14 In response to an objection received following the first consultation carried out in June 2018, the applicant agreed to amend the original proposal (Drawing 18/05 attached as Appendix 2) to include part of Footpath 9, Piddlehinton, from its current route at point B1 – B – X to the proposed route of B1 – H. This will improve the accessibility of the footpath by removing the use of stiles.

2 Law

Highways Act 1980

- 2.1 Section 119 of the Highways Act 1980 allows a footpath or bridleway (or part of one) to be diverted in the interests of the landowner, lessee or occupier or of the public, subject to certain criteria.

- 2.2 A diversion cannot alter the termination point of the path if the new termination point: -
- (i) is not on a highway; or
 - (ii) (where it is on a highway) is otherwise than on the same highway or a connected highway, which is substantially as convenient to the public.
- 2.3 A public path diversion order cannot be confirmed as an unopposed order unless the Council are satisfied that:
- (a) in the interests of the owner, lessee or occupier or of the public, the diversion to be effected by it is expedient;
 - (b) the diversion would not result in a path that is substantially less convenient to the public;
- and that it is expedient to confirm the order having regard to:
- (c) the effect the diversion would have on public enjoyment of the footpaths and bridleways as a whole;
 - (d) the effect the diversion would have on other land served by the footpaths and bridleways; and
 - (e) the effect on the land over which the diversion will run and any land held with it.
- 2.4 Section 29 of the Highways Act 1980, as amended by Section 57 of the Countryside and Rights of Way Act 2000, says that when making diversion orders Dorset Council must have regard to the needs of agriculture, forestry and nature conservation and the desirability of conserving flora, fauna and geological and physiographical features. "Agriculture" includes the breeding and keeping of horses.
- 2.5 Section 119(3) of the Highways Act 1980 as amended by the Countryside and Rights of Way Act 2000 provides that the extinguishment of the existing public right of way "is not to come into force until the local highway authority for the new path or way certify that the work has been carried out".
- 2.6 Dorset Council may itself confirm the order if it is unopposed. If it is opposed it may be sent to the Secretary of State for confirmation.

Wildlife and Countryside Act 1981

- 2.7 Section 53A of the Wildlife and Countryside Act 1981 enables provisions to amend the definitive map and statement required by virtue of a diversion order to be included in the diversion order instead of being the subject of a separate legal event order.

Human Rights Act 1998 – Human rights implications

- 2.8 The provisions of the Human Rights Act and principles contained in the Convention of Human Rights have been taken into account in reaching the recommendation contained in this report. The articles/protocols of particular relevance are:

Article 8 - Right to respect for private and family life

The First Protocol, Article 1 - Protection of Property.

- 2.9 When considering whether it is expedient to make the order a council must have due regard of any argument put forward by an adjoining landowner that their rights under Article 8 and Article 1 of the First Protocol would be infringed.
- 2.10 Section 28 of the Highways Act 1980 provides that a person with an interest in land affected by the consequence of the coming into operation of a public path order can make a claim for compensation for the depreciation of land value or damage suffered by being disturbed in his enjoyment of land.
- 2.11 Rights of Way Improvement Plan
- 2.12 Dorset Council's Rights of Way Improvement Plan (ROWIP) is a statutory document setting out a strategy for improving its network of Public Rights of Way, wider access and outdoor public space.
- 2.13 Before confirming a public path creation, diversion or extinguishment order a council or the Secretary of State must have regard to any material provision of a rights of way improvement plan prepared by the local highway authority.
- 2.14 Five themes have been identified for improving access in Dorset of which the following are particularly relevant to the present case and should be considered in relation to this application:
- Theme 1.6 Improve accessibility of the network
 - Theme 1.9 Ensure that the work of Dorset Council and partners continues to protect and enhance Dorset's natural and cultural heritage
 - Theme 3.11 Seek opportunities to develop networks of paths and public outdoor space consisting of attractive, safe off-road routes enabling people of all ages, needs and abilities to walk/ride safely in and around their village/town, out to neighbouring settlements and into and about the wider countryside
 - Theme 3.13 Seek opportunities to increase bridleway networks.

3. Consultation

- 3.1 The Council carried out a wide consultation in June 2018 (Drawing 18/05 attached as Appendix 2). Three letters of objection and two letters of support were received.
- 3.2 At that time, the County Councillors for Three Valleys, Cllr Jill Haynes and Linden Lea, Cllr Nick Ireland were consulted on the application and made no comments.
- 3.3 In response to the objections received, amendments were made to the proposed diversions and a further consultation was carried out in October 2018 (Drawing 18/05/1 attached as Appendix 1). One further objection was received to the amended proposals and one former objection was maintained. Consultees were advised that no response was required to the second consultation unless they specifically wished to comment on the changes to the diversion.
- 3.4 All consultation responses are summarised in Appendix 3.

4. Objections

- 4.1 Three objections were initially received to the June 2018 consultation. Two objectors raised concerns over the width of the new bridleway, the use of barbed wire on fencing/gates and the location of a helicopter landing site near to the bridleway.

Officers' comments;

- a) The width of the new bridleway will be 3 metres. Any gates along the route will be installed/upgraded to meet British Standard BS5709:2018.
 - b) The applicant will ensure that barbed wire fencing is removed between points M – N – E and from any fence posts/gate latches.
 - c) The applicant has agreed for the helicopter landing site to be relocated to the north of Muston Manor and this will allow the pilot to approach the landing site without overflying any of the bridleways on the farm.
 - d) Following these responses, one of the objections was withdrawn. One objection was maintained.
- 4.2 The third objection was received from The Ramblers and expressed concern over the installation of fencing between points F – K – J – I and suggested an alternative route through a small paddock to the east. They also expressed disappointment that the opportunity to improve Footpath 9 had not been included in the proposals which would allow for the route to be diverted to avoid the current stiles.

Officers' comments;

- a) A site meeting was held on 24 September 2018 with The Ramblers and the Definitive Map Technical Officer to discuss the concerns raised and the suggested alternative route.
 - b) The applicant agreed to amend the proposal from points I – J to points I2 – J2; from the field gate at point I2, south east along a farm track to point J2.
 - c) The applicant agreed to include part of Footpath 9, from points B1 – H – X to the proposals. The landowner Mr Bernard Cox agreed to this addition.
 - d) Following these changes, this objection was withdrawn.
- 4.3 Two letters of support were received from local horse riders who welcomed the diversions and the improvement to the riding network. They explained that they felt the new route was a huge improvement and would ensure safer off-road riding between Muston Farm and Piddletrenthide, without the need to negotiate traffic on the busy B3143 road.
- 4.4 The amended proposals were consulted on in October 2018 and received an objection from Historic England. One previous objector also confirmed that he wished for his objection to remain as he felt that the proposed new bridleway route was too dangerous as the proposal would move users closer to an active farm yard.
- 4.5 Historic England's response stated that the current path network linked the sites of two deserted medieval villages. It was asserted by Historic England that the proposed changes to the path network would divert a key section of the historic route at Muston, which would result in loss and harm to the historic settings, heritage significance and the public value of the designated heritage assets.
- 4.6 This objection was subsequently withdrawn. One outstanding objection remains.

5. Discussion

- 5.1 The proposed diversion is in the interest of the landowners. The new route will significantly improve the security and privacy for the landowner. The diversion of the bridleway from A – B to G – H will benefit the additional landowner by moving the bridleway onto the used route and through an existing gate at point G. Members of the public will also benefit from a safer route away from an increased number of vehicles and machinery accessing the site.
- 5.2 The current termination points of Footpath 9 are unaffected by the diversion. Footpath 9 will be slightly diverted from B1 – H and follow the proposed new bridleway for a short distance between points H and X.

- 5.3 The termination points of Bridleway 23 will be moved from point A, approximately 20 metres north east along Bridleway 10 to point G, and from point B, approximately 50 metres south south west to point X. The new termination points are on the same highways as the current ones.
- 5.4 The termination points of Footpath 22 will be moved from points B and C to points X and F, retaining its connection with Bridleways 23 and 7. Footpath 22 also will be upgraded to bridleway status.
- 5.5 The western termination point of Bridleway 7 is unaffected by the diversion. The eastern termination point of Bridleway 7 will be moved from its junction with Bridleway 8 and Footpath 22 at point C approximately 112 metres south east to point F also on Bridleway 7 where it will connect with the new through bridleway and the start of Bridleway 32 (which becomes Bridleway 8).
- 5.6 The north western termination point of Bridleway 8/Bridleway 32 will be moved from point C to point F, maintaining its connection with Bridleway 7. The south eastern termination point is unaffected by the diversion.
- 5.7 The termination points are in positions that are substantially as convenient to the public. All the new termination points maintain existing connections with existing highways.
- 5.8 The proposed new route of Bridleway 23 from points G – H – X is approximately 180 metres long.
- 5.9 The proposed new route of Footpath 22 (to be upgraded to bridleway) from points X – I – J – K – F is approximately 558 metres long.
- 5.10 The proposed new route of Bridleway 8/Bridleway 32 from points F – L – M – N – E is approximately 618 metres long.
- 5.11 This will result in an overall continuous bridleway route, between points G – H – X – 12 – J2 – K – F – L – M – N – E, of approximately 1356 metres.
- 5.12 The proposed new route of Footpath 9 from points B1 – H – X is approximately 78 metres. This will result in an increased route length of approximately 27 metres.
- 5.13 The most significant of the changes will be to increase the length of Footpath 22 and Bridleway 8/Bridleway 32 from points B – E to points H – E. This is currently 1010 metres and the new route will be approximately 1176 metres. That is an increase of approximately 166 metres. There will also be a small increase of 24 metres on the diverted Bridleways 7 and 8/32 to F – L – M – N – E (618 metres) from the current route F – C – D – E (594 metres), and to Footpath 9 of 27 metres.
- 5.14 When considering the increase in length of the routes, any increases are modest especially in the context of the overall routes. Further, the diverted routes are just as easy to walk as the current routes. Therefore, the diverted routes are substantially as convenient as the current routes.

- 5.15 The proposed diversions will improve the accessibility for all users and provide a safer route through Muston. It could be said that there may be some loss of enjoyment due to the loss of the historic route linking the scheduled monuments; the sites of two medieval villages. However, officers consider that any loss of enjoyment is more than outweighed by the increase in enjoyment due to the diverted route: creating a continuous bridleway to Bridleway 23 and being on higher ground giving greater visibility over the scheduled monuments for all users to enjoy.
- 5.16 The diversion would have no material effect on the land served by the current route or over which the new routes run save for using the routes away from Muston farmyard.
- 5.17 The diversion will have no adverse effect on agriculture, forestry, flora, fauna and geological and physiographical features.
- 5.18 The proposal affects the applicant's land and land belonging to Mr Bernard Cox, who supports the proposals. Given the route of the proposed diversion it is unlikely that compensation would be payable under Section 28 of the Highways Act 1980.
- 5.19 Some works will have to be carried out on the new route to improve it for public use:
- Bridle gate to be installed at point H
 - Stiles to be removed at point B
 - Field gate to be upgraded with long handle for equestrian use at point I2
 - Gates to be removed between points K and F
 - Vegetation will be cleared between points L – M
 - Gates to be removed at point N. Proposed new route to be fenced off from driveway
 - Barbed wire fencing to be removed between points M – N – E and from any fence posts/gate latches
 - Any gates along the route will be installed/upgraded to meet British Standard BS5709:2018
 - The works will be carried out and funded by the applicant.
- 5.20 The order will be confirmed only on completion of these works. If confirmed by the Secretary of State, the order will provide that the diversions are not effective until the works have been completed and certified.
- 5.21 If the order is unopposed the order should be confirmed as the diverted route is expedient and would not result in a path that is substantially less convenient to the public.

- 5.22 The order fulfils the following objectives in the Rights of Way Improvement Plan to improve Dorset's network of Public Rights of Way, wider access and outdoor public space:
- Theme 1.6 Improve accessibility of the network
 - Theme 1.9 Ensure that the work of Dorset Council and partners continues to protect and enhance Dorset's natural and cultural heritage
 - Theme 3.11 Seek opportunities to develop networks of paths and public outdoor space consisting of attractive, safe off-road routes enabling people of all ages, needs and abilities to walk/ride safely in and around their village/town, out to neighbouring settlements and into and about the wider countryside
 - Theme 3.13 Seek opportunities to increase bridleway networks

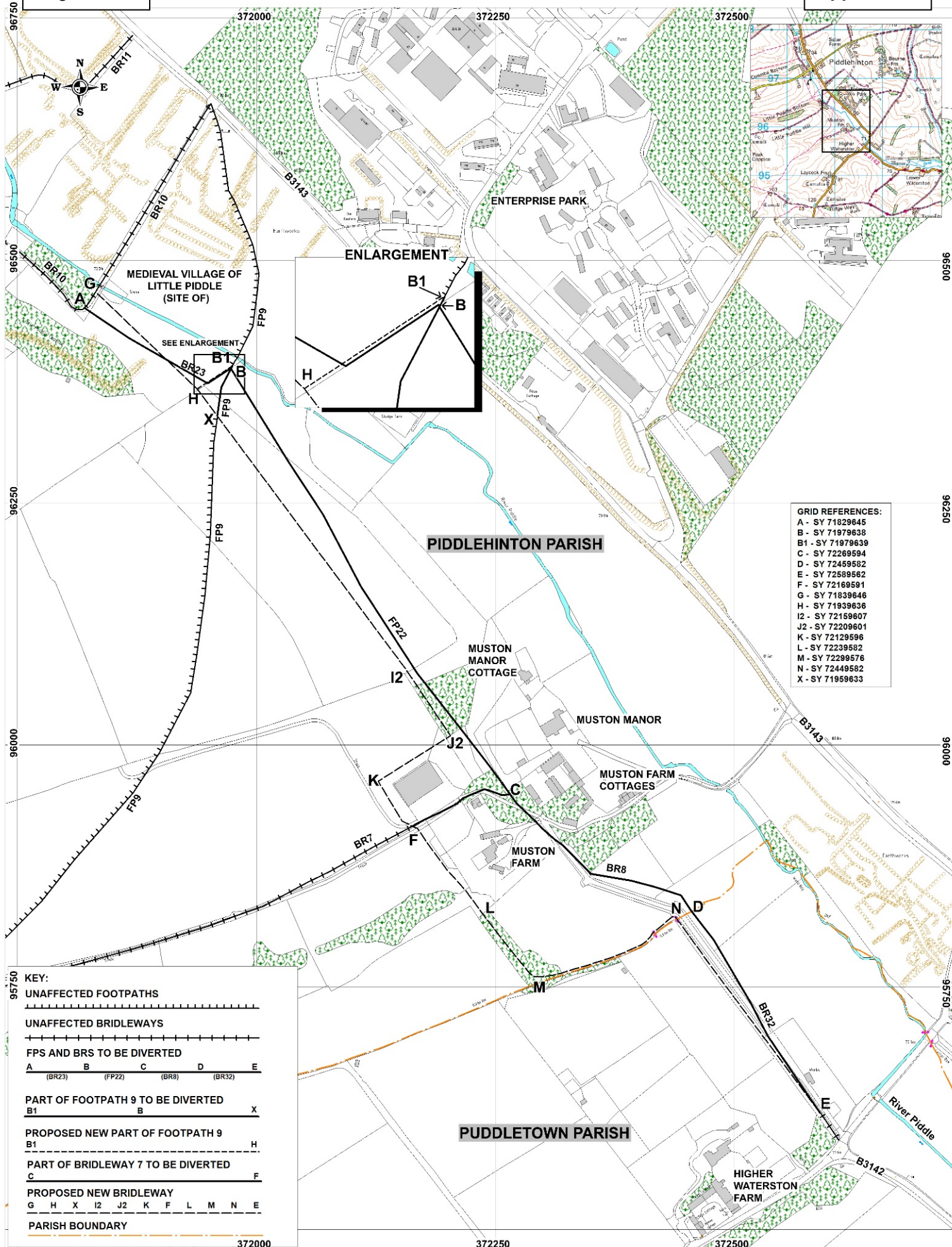
6. Conclusions

- 6.1 The application to divert Footpaths 9 (part), 22 & Bridleways 7 (part), 8 & 23 Piddlehinton and Bridleway 32 (part), Puddletown at Muston Farm meets the tests set out under the Highways Act 1980 and therefore should be accepted and an order made.
- 6.2 The Order should include provisions to modify the definitive map and statement to record the changes made as a consequence of the diversion.
- 6.3 If there are no objections to a public path order, as the criteria for confirmation have been met the order should be confirmed.
- 6.4 If objections are received to the order which are similar in nature to those already considered, the order should be confirmed.

Matthew Piles

Corporate Director for Economic Growth and Infrastructure

June 2019



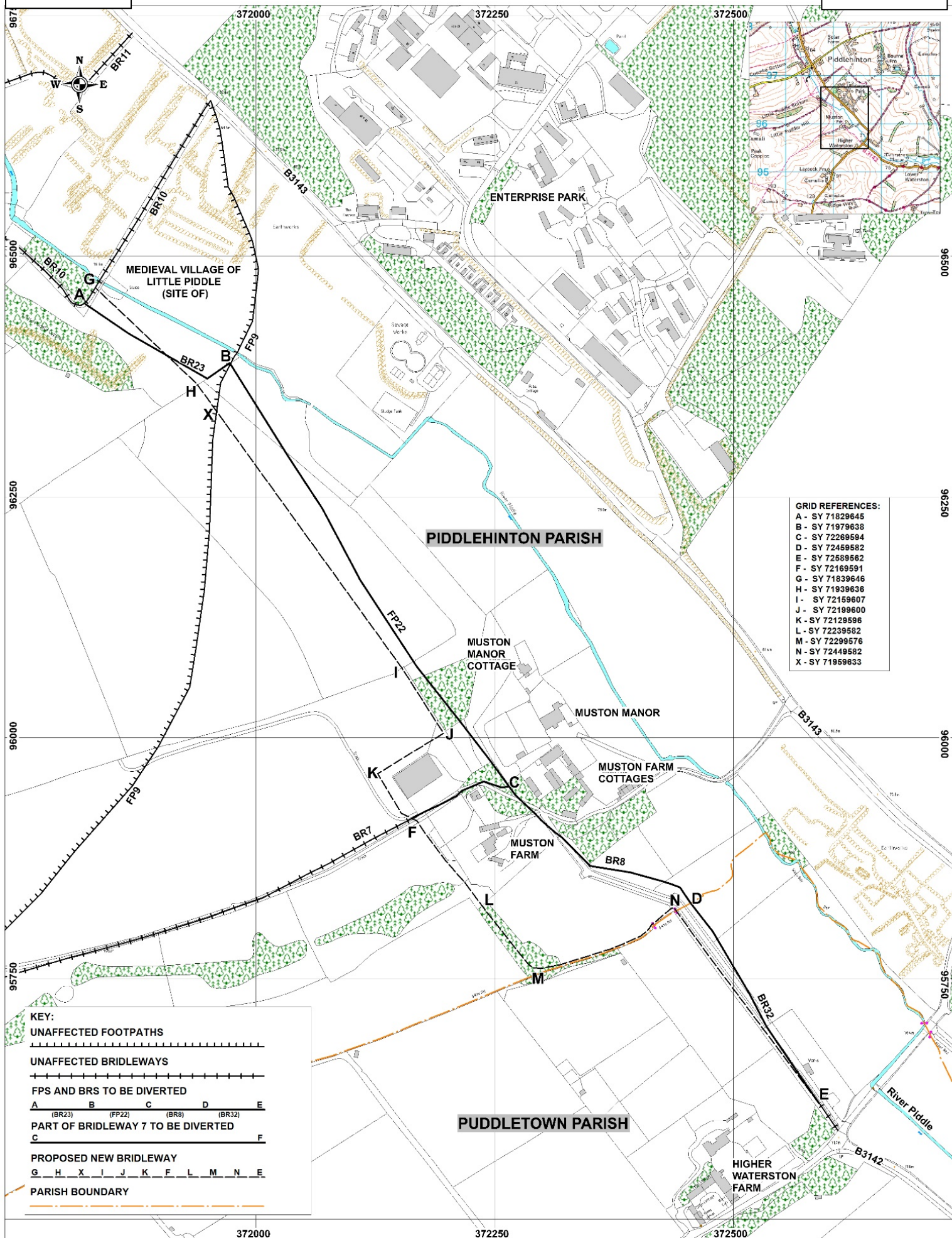
SECTION 119, HIGHWAYS ACT 1980
APPLICATION FOR A PUBLIC PATH ORDER TO DIVERT FOOTPATHS 9, 22
& BRIDLEWAYS 7, 8 & 23 PIDDLEHINTON AND BRIDLEWAY 32, PUDDLETOWN
AT MUSTON FARM

THIS MAP IS NOT DEFINITIVE AND HAS NO LEGAL STATUS

Ref: 18/05/1
 Date: 02/10/2018
 Scale 1:2500 at A2
 Drawn By: CAM
 Cent X: 372234
 Cent Y: 96120

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SECTION 119, HIGHWAYS ACT 1980
 APPLICATION FOR A PUBLIC PATH ORDER TO DIVERT FOOTPATH 22
 & BRIDLEWAYS 7, 8 & 23 PIDDLEHINTON AND BRIDLEWAY 32, PUDDLETOWN
 AT MUSTON FARM

THIS MAP IS NOT DEFINITIVE AND HAS NO LEGAL STATUS

Ref: 18/05
 Date: 23/02/2018
 Scale 1:2500 at A2
 Drawn By: CAM
 Cent X: 372234
 Cent Y: 96120

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Summary of consultation responses

June 2018

Objecting to the proposed diversions:

Name	Comments
Mr P-C	Objects to the proposal. Concerns raised over the width of the bridleway and any gates, the use of barbed wire and the use of a private helicopter landing on site near to the Bridleway.
British Horse Society Access Officer	Request to ensure that the following requirements are met: - Bridleway is at least the minimum width, preferable wider - Barbed wire is kept to a minimum - that all gate widths meet the minimum requirement and have suitable catches. On a personal note questioned the need for the diversion around farm buildings in a confined space – felt the road through the farm was a more logical and safer alternative.
The Ramblers	Objects to part of the proposal. When previously consulted by applicant were advised that route F-K-J-I would not be fenced - disappointed to see that parts F-K-J-I had been fenced. Disappointed that the opportunity to improve Footpath 9 had not been included. Suggested amendment to divert from a point just south of X, to meet H – eliminating the inadequate stiles between B – X and at B. Initial objection to diversion later withdrawn on the condition that these agreed changes are made.

Supporting the proposed diversions:

Name	Comments
Ms B	Supports the proposals. Conscious of the value of the proposed link in terms of safety and amenity for both horses and riders. The current situation requires use of a particularly narrow and unsighted part of the main road for a half mile or so in order to join both paths, which is extensively used by large commercial and agricultural vehicles. Reasonable to suggest that the road safety aspect of this proposal is not only to benefit equestrian users but all other road traffic.
Ms S	Supports the proposals. Feels the upgrade would ensure safe off-road riding between Muston and Piddletrenthide and beyond. Has been using the diverted bridleway for over 3 years and the whole route is a huge improvement now that the farm is under new ownership.

Other responses received:

Name	Comments
Senior Archaeologist, Dorset Council	The northern part of the proposed new bridleway runs close to the medieval settlement of Little Piddle which is a Scheduled Monument. Does not feel that historic environment considerations constitute a substantial constraint in the context of this proposal. Suggest consult Historic England on the possible impact on the setting of the Scheduled Monument.
Wessex Water	No objections. Plan submitted for infrastructure in area.
Southern Gas Networks	No apparatus affected by the proposals.
Piddle Valley Parish Council	No objections. Condition to ensure that the bridleway gates and widths comply with the British Horse Society's advice.

October 2018**Objecting to the proposed diversions:**

Name	Comments
Mr P-C	Retains original objection made in June 2018. As a horse owner feels that the proposed route is too dangerous, particularly the diversions taking the route closer to the farm buildings and the helicopter site. Feels it is preferable to be as far away from active farmyard as possible, particularly when there are restricted lines of sight.

Other responses received:

Name	Comments
The British Horse Society	No objection. Agree with the proposed changes.
Piddle Valley Parish Council	No further comments to make.

Name	Comments
Historic England	<p>Proposal affects the valley path which is important for its role in linking the historic settlements along the valley. It links the sites of two deserted medieval villages – the core areas containing the village earthworks are scheduled ancient monuments designated as the Medieval Settlement of Little Piddle – National Heritage list no. 1019410, and the Medieval Settlement of North Louvard – National Heritage list no. 1019411. Whilst the public paths do not actually cross the scheduled areas, the route is intimately connected to these sites and would have served as the main route linking these and other neighbouring villages in the valley.</p> <p>Feel the proposed changes to the path network would result in loss and harm to the historic settings, heritage significance and public designated heritage assets.</p> <p>It is felt that the diversion diverges significantly from the level linear historic route by introducing an angular route which climbs uphill onto the valley side. In historic, topographical, landscape and amenity and heritage terms, this completely dislocates the linear valley path and disrupts the close physical and historic relationship of the path, and its users, with the valley and its nationally important heritage assets – the medieval sites and Muston Manor. Object to the proposed diversions in the section between D and J2. Consider it essential to retain the important section of historic path in order to maintain the heritage significance of the path as the best way for the public to understand and enjoy the nationally important heritage assets at Muston Manor and the relationship between this historic hamlet and its neighbouring deserted medieval village sites in the valley floor. Feel it is essential that a footpath route at least is retained through the Muston settlement in order to maintain the ancient routeway.</p>