



Western and Southern Area Planning Committee

Date: Thursday, 11 June 2020
Time: 2.00 pm
Venue: MS Team Live Event This meeting will be held remotely as an MS Teams Live Event [see link below]

Membership: (Quorum 6)

Simon Christopher (Chairman), David Gray (Vice-Chairman), Pete Barrow, Kelvin Clayton, Susan Cocking, Jean Dunseith, Nick Ireland, Louie O'Leary, David Shortell, Sarah Williams and Kate Wheller

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

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



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

This meeting will be held remotely as an MS Teams Live Event [see link below]

[Western & Southern Area Planning Committee - starts at 2.00pm](#)

Members of the public are invited to make written representations provided that they are submitted to the Democratic Services Officer no later than **8.30am on Tuesday 9 June 2020**. This must include your name, together with a summary of your comments and contain no more than 450 words.

If a councillor who is not on the Planning Committee wishes to address the committee, they will be allowed 3 minutes to do so and will be invited to speak before the applicant or their representative provided that they have notified the Democratic Services Officer **8.30am on Tuesday 9 June 2020**.

Please note that if you submit a representation to be read out on your behalf at the committee meeting, your name, together with a summary of your comments will be recorded in the minutes of the meeting.

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

Using social media at virtual meetings

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

A G E N D A

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1 APOLOGIES

To receive any apologies for absence

2 DECLARATIONS OF INTEREST

To receive any declarations of interest

3 MINUTES

To confirm the minutes of the meeting held on 28 May 2020.

(Please note that the minutes of this meeting will be published separately).

4 PUBLIC PARTICIPATION

5 - 6

Members of the public wishing to speak to the Committee on a planning application should notify the Democratic Services Officer listed on the front of this agenda. This must be done no later than two clear working days before the meeting.

Please note that the deadline to register to speak at the Area Planning Committee is at 8.30am on Tuesday 9 June 2020.

Please refer to the [Guide to Public Speaking at Planning Committee](#).

5 PLANNING APPLICATIONS

To consider the applications listed below for planning permission

a WP/20/00027/FUL - 56 Preston Road, Weymouth, DT3 6QA 7 - 32
Demolition of existing dwelling and erection of 7 flats with associated access and parking.

b Application to divert part of bridleway - 39 Symondsburry at Lower Eype Farm 33 - 46
To consider a report by the Corporate Director for Economic Growth and Infrastructure.

6 URGENT ITEMS

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

Dorset Council

Covid-10 Pandemic – Addendum to the Guide to Public Speaking Protocol for Planning Committee meetings

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

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

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

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1.0 [WP/20/00027/FUL](#)

APPLICATION SITE: 56 PRESTON ROAD, WEYMOUTH, DT3 6QA

PROPOSAL: Demolition of existing dwelling and erection of 7 flats with associated access and parking

APPLICANT: Nylo Homes Ltd

CASE OFFICER: Darren Rogers

WARD MEMBER(S): Cllrs Ferrari/O'Leary

1.1 **RECOMMENDATION SUMMARY: Approve**

2.0 Summary of Recommendation: Approval subject to conditions

2.0 **Reason for the recommendation:**

- Absence of 5 year land supply
- Para of the National Planning Policy Framework (NPPF) sets out that permission should be granted for sustainable development unless specific policies in the NPPF indicate otherwise
- The location is considered to be sustainable being within the defined development boundary
- There is not considered to be any significant harm to neighbouring residential amenity.
- The proposal is not considered to adversely affect nature conservation considerations or impact adversely on trees subject to conditions
- There are no other material considerations which would warrant refusal of this application.

3.0 **Key planning issues**

Issue	Conclusion
Principle of Development	Presumption in favour of sustainable development being located within the defined development boundary for Weymouth.
Design	Design and scale considered appropriate for the site.
Amenity	Not considered to result in a significant adverse effect on living conditions of either neighbouring properties or future occupiers of the proposed development .

Local Urban Character	Previously developed land and would be viewed in relation to neighbouring built form.
Highway Safety	Highways raise no objections.
Biodiversity/Nature Conservation	Biodiversity Mitigation Plan considered acceptable subject to conditions.
Community Infrastructure Levy (CIL)	CIL liable.

4.0 Description of Site

4.1 The application site is 0.11 ha. The existing property is a detached bungalow with a sheltered car port to the southern elevation. The building is constructed with a stone cladding and cream render finish, under a slate roof with a flat roof single storey add-on to the eastern elevation.

4.2 The front boundary of the site is formed by a brick wall. There is expansive front garden space which is currently overgrown. Substantial mature trees line the site frontage to Preston Road, which partially obscures the existing bungalow from public view. The rear garden is also overgrown with a variety of hedging and planting which steps up considerably in gradient to its rear shared boundary with No. 4 Furzy Close.

4.3 Given the change in gradient to the rear garden, properties to the rear boundary on Furzy Close are not visible with further boundary planting obscuring their full presence.

4.4 Vehicular and pedestrian access is located centrally off Preston Road. The access drive rises from west to east leading to the sheltered car port and turning area to the front of the bungalow.

4.5 The surrounding character of the area is residential, comprising detached houses, bungalows and larger scale blocks of flats on both sides of Preston Road.

4.6 The site lies within the defined development boundary of Weymouth.

5.0 Description of Proposal

5.1 The proposal seeks the demolition of the existing bungalow and the erection of a 3 storey residential block accommodating 7 flats with associated access and parking. These would be 8 x 2 bed flats.

5.2 The proposed building is positioned in a similar siting and setback from Preston Road as the existing dwelling. The layout of the proposed flatted development has principally been driven to work with the constraints of the site and also the siting, orientation of the building lines and neighbouring properties. The proposal would be 3 a storey building to ensure primary outlooks do not impact upon the privacy and amenity of neighbouring properties - specifically Nos. 54 and 58 Preston Road, as well as No.4 Furzy Close.

5.3 The existing access drive will be utilised to serve the new development, leading to front of site parking layout accommodating 10 car spaces. A secure bin store and visitor cycle spaces are also set to the site frontage. To the rear section of the building are individually allocated and secure store rooms for each unit.

5.4 The floor plans show how the proposed layout accommodates 8 units in total (2 on the ground floor with a further 3 flats on the respective 1st and 2nd floors).

5.5 The proposed palette of materials seeks to reflect that of surrounding flatted development and includes slate effect roof tiles and a combination of light coastal brick and white render finishing with aluminium framed doors, windows and fascias.

5.6 The proposal accommodates a frontage parking layout to provide sufficient parking to the new residential units. Despite this, the trees and planting to the western boundary of the site fronting Preston Road will remain unaffected. The remaining areas to the front of the site surrounding the newly levelled parking layout will be soft landscaped. The rear of the site will also be retained as garden space, as per the existing arrangement. The application is supported by an Arboricultural Impact Assessment.

5.7 It is anticipated the predicted energy needs for the proposed units can be achieved through existing energy resources serving the building. The orientation of the building could utilise photo voltaic cells, subject to being viable to do so.

5.8 The design will provide for rainwater run-off from roof and permeable hardstanding areas to discharge into soakaways and the possible use of a grey water system.

6.0 Relevant Planning History - WP/19/00743/FUL Demolition of existing dwelling and erection of 8 flats with associated access and parking – Withdrawn

The adjacent house at no.58 - WP/08/00464/FUL Demolition of existing building and erect 6 flats (resubmission) – Approved 11th Sept 2008 (not implemented)

7.0 Relevant Constraints

- Within the defined development boundary
- Tree Preservation Order

8.0 Consultations

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

8.1 Highways - *The Highway Authority considers that the revised proposals do not present a material harm to the transport network or to highway safety and consequently has NO OBJECTION subject to the following conditions:*

Turning and parking construction as submitted

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

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

Surface water drainage

Before the development hereby approved is occupied or utilised provision must be made to ensure that no surface water drains directly from the site onto the adjacent public highway.

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

8.2 Weymouth Town Council - *The Council objects on the grounds of highway safety issues, traffic generation, loss of important trees, parking, landscaping, design, visual appearance and materials, scale, character of the neighbouring streets, loss of daylight/sunlight, layout and density of buildings, overshadowing and loss of outlook, noise and disturbance from construction, risk of flooding and nature conservation*

9.0 Representations

9.1 There have been 19 representations received objecting on the following grounds each with headings and summaries

Contrary to Local Plan and NPPF

- Policies SUS2, HOUS 3, HOUS4. Do not accept the conclusion that the proposals are in all respects compatible with the surrounding area and complies with the adopted Development Plan and NPPF. Please refer to Item 6 of the Additional information Requirement Form which shows the floor space of the existing property is 137 sq. mtrs whereas the planning app. proposes a new property of 782 sq mtrs i.e. an increase of 642 sq mtrs.

- Planning Policy for the area needs to be reviewed. The number of disproportionate new build properties is demeaning to what was once a 'proud residential suburb' of Weymouth. In particular Section 12 of NPPF para. 127 is being seriously jeopardized. a) it will not add to the overall quality of the area. b) is not visually attractive. c) is not sympathetic to the local character and history with increased density. Attention drawn to Policy HOUS 4. It will NOT be compatible with the character of the area and is likely to result in a cramped form of development. It is amazing that the present application can claim 7 flats in lieu of 8 will effectively reduce the bulk and scale.
- Doesn't comply with planning policies for the following reasons:-
The National Planning Policy states that the needs of groups with specific housing requirements are addressed. This has already been achieved in Preston where flats are concerned
- The NPPF supports strong, vibrant and healthy communities to meet the needs of present and future generations. There is also a requirement to make effective use of under utilised land. As long as developers are permitted to promote flats as the best option for any development this is never going to happen
- The NPPF also promotes the desirability of maintaining an area's prevailing character and history, enhancing local identity and distinctiveness.
Weymouth development plan 'will not permit development that significantly and adversely affects the character of the local landscape'.
- These developers are making a mockery of the Planning Policy by claiming that this proposed development is abiding by planning guidelines such as making best use of the available land, enhancing the area, ensuring neighbouring resident's amenities aren't compromised etc. It's abundantly clear that this simply isn't the case
- The developers make a great play on the National Planning Policy, presuming that each "paragraph" and "section" endorses their case for such development
- If there is such a need for housing in the Weymouth area suggest the Council hold all new applications until at least some of the already existing "passed" plans get underway. Over 500 in the Littlemoor area, another 500 at Chickerell and another large section of Curtis Fields still to start.
- Preston Road is already saturated with flats with new blocks remaining unsold for over a year and cleared plots not developed on for more than a few years. EVN10 calls for new developments to contribute to maintaining and enhancing local identity.

- The new application almost chants Preston Road is an area solely for new flats almost to the point of arrogance which is not in-line with HOUS3 calling for recognition of the mix of the current range of house types.
- HOUS4 calls for new developments to be compatible with the existing character of the surrounding area. Preston Road has a reputation for large family housing and yet more flats will only negatively impact that character.
- COM7 concerns road safety, this application makes absolutely no redress for the serious increase of traffic joining Preston Road close to a busy junction
- **Adverse Highway Impacts**
- The entrance to this property has a large tree and 'mound' directly outside which must make exiting the property slightly hazardous; it impedes the view when turning onto the Preston Road drivers have to be extremely careful especially as there is a bus stop in very close proximity. It doesn't look as though there's any scope to widen the entrance and with the increase in traffic entering and exiting the property this would be far from ideal.
- From a demolishing/building point of view where will contractors park, again due to the aforementioned tree, mound and bus stop? When other properties on the Preston Road have been redeveloped lorries have parked part on the verge/part on the pavement; there isn't anywhere here suitable for such vehicles to park.
- Preston Road itself is very narrow in some places and vehicles already speed along well in excess of the 30mph limit. With the increase in traffic it increases the safety risk to pedestrians and cyclists (there is no cycle lane).
- Preston Road is now designated as a 'B' road but the traffic density and speed violation (30mph) is continuous and persistent. The construction of a large number of multiple occupancy properties (replacing single occupancy dwellings) has significantly exacerbated the access problem on and off the Preston Road. The Highways Authority must begin to think more holistically and not treat each case as though it is mutually exclusive. The cumulative effect of all these multi-vehicle access is severely over-loading the capacity of the road.
- The developers propose to back up even closer to the rear bungalow in order to have room for a large car park at the front - 30 metres for the car park which the developers state is above adopted parking standards and 22 metres from the bungalow which only meets minimum advice
- The developers have also noted the fact that there have been few reported serious accidents along the road. Just as extra rain increases the likelihood of flooding, extra cars crossing a footpath increases the likelihood of a serious accident.

- The applicant has not submitted any further information to justify the increased traffic entering and exiting onto Preston Road but relies on a previous comment from the Highway Authority. The comment quotes historical highway safety statistics but makes no reference at all to the site specific parameters pertaining to the application site. Tree No T12 poses a large obstacle to the sight-line for traffic exiting the site and thus creates a safety hazard. The applicant is proposing to increase traffic exiting the site from one family unit to 7 family units and thus hugely increases the likelihood for accidents. As commented on the first application, the Planning Authority should ask the applicant to submitted a road safety audit from a suitably qualified Traffic Consultant. The audit should include a base line 7 day vehicle number survey undertaken during peak holiday season in August.
- This is a minor road, unsuitable for such additional volume of traffic. Plus the added pressure on the local doctors surgery, especially as the occupants of most of these numerous flats are older people
- Highway safety concerns in that Preston Road is a very busy road and all of these new dwellings will have to cross a very busy footpath, a pavement that is used by a high number of families & people regularly exercising on this favourite run to the beach.
- There will be more traffic onto an already busy road which allegedly is 30 mph, the majority of vehicles exceeding this is a constant danger to many residents trying to leave their properties.
- Each new flat development contributes to significantly more vehicular crossing movements over the footpath on Preston road therefore increasing the likelihood of conflict with both pedestrians and those illegally cycling on the footpath.
- The additional vehicles, possibly fourteen plus any used by visitors, would add further to an increasingly busy minor road which, in recent years, has become increasingly busy with a succession of such developments.
- Developments in this part of Preston Road always cause significant traffic congestion and environmental pollution while under construction , both for visitors and local residents
- **Detrimental to character of the Area**
- When will the redevelopment of these properties along this road stop; when every house has been demolished and apartments built in it's place?
- Furthermore there is a similar development on the same side, towards Overcombe Corner, which looks virtually uninhabited and for which for sale signs are still up . It begs the question as to whether more apartments are needed if existing ones aren't selling.

- The demographics of this area have changed radically in the last 20 years. The apartment blocks are all two-bedroomed and so quite unsuitable for families with children. All the flats are designed for elderly people and most are single occupancy. This has skewed the social mix to the point whereby it is mono-dynamic. The local Doctor's surgery amply illustrates this on any day. All local plans require that re-developments should aspire to maintaining a healthy mix of all age groups and persuasions. This development simply adds to the problem and does not address it.
- General points: Preston Road street scene comprised individually designed homes of character. This application represents gross over-development of a relatively small site but once again, the design is a bland, homogenous and slavish copy of all those blocks surrounding it. There is little attempt at achieving individuality. It is time to call a halt on this creeping mediocrity
- Flats in this area are predominantly purchased by elderly, retired people and so they naturally return to the market regularly. Consequently, due to this and the number of blocks of flats that have already been built along the road there is always a glut of flats for sale in the area.
- The latest flatted development along the road has remained empty for over a year despite a variety of agent's sale boards. This shows that the needs of this particular group has already been well met and consideration should be given to the requirement of other groups whose needs haven't been addressed. This would better comply with Planning guide lines to make more effective and appropriate use of the land
- Preston lacks families who would benefit from and support the local services and amenities now and in the future. They would also provide much needed vibrancy and variety to the area in terms of housing stock and residents. Developers grab every site that comes onto the market exclusively for the erection of more flats knowing that approval is very likely. Any other potential purchasers have no chance
- Preston Road will lose it's distinctiveness and attractiveness with the building of more flats, more car park frontages and constant sale boards.
- The council will lose the high council tax rates presently paid by the residents of the large, unique houses that have always been a focal point of the area. As these lovely houses are ruthlessly replaced by flats, so the appeal of the area diminishes
- They constantly liken their plans to the lapsed plans of the house next door. However they propose to build more flats, higher, further forward, further back and unlike next door will have very little outside space other than the car park. The developers proposals are totally unsuitable for the site

- It does reduce the height slightly, rear balconies have gone but it still represents over development of a small site.
- There are far too many flats in Preston, as many are empty a great deal of the time, this proposed development has already been refused for 8 flats and is now coming back for 7 flats.
- The visual impact of such a large development over the surrounding properties is out of proportion and impacts the privacy of the nearby dwellings
- The ridge height of the proposed flats is disproportionately high compared to other single dwelling properties on Preston Road.
- In order to provide parking for the flat's residents and visitors the front garden on this development will be similar to others that have been permitted on Preston Road and practically the entire front garden will be lost to become car park.
- Planning permission for No. 58 Preston Road expired and appears to have been withdrawn. It is misleading to include multiple references to it in the planning application for No. 56 Preston Road as it gives the impression it is a current permission
- There have been no flatted developments along the road that have been built with such close proximity to, and with such detrimental affects on, a neighbouring property.
- This proposed development would set a very dangerous precedent for future developments, not only in terms of over-development and proximity to neighbouring properties, but also eventually leading to the loss of planning policies such as maintaining the historic character of the area, having housing stock to suit all requirements and preserving habitats and green areas etc.
- The nature of this area has steadily been altered from being a mixture of styles and construction types, with very attractive older properties, to an area dominated by flats, made with unattractive materials, large areas of glass and with monotonous and unappealing designs, invariably fronted by parked vehicles
- The lapsed application. 58's plot size is larger than plot 56 and that was for only 6 flats not seven also the number of parking slots and hence metaled surface was also significantly less in direct contravention of ENV12.
- **Adverse impact on neighbours amenity**
- This new proposed development has had such a minimal reduction in size that all of the previous objections are still valid. It's still dominates the surrounding

properties being taller than any of them, is too big for the site and compromises light and privacy.

- The developers state that the principle for such redevelopment has been established and more or less demand that the application be approved.
- They compare this proposed development to other flatted developments along the road. However the other blocks that have been built are on larger sites and have a good distance between them and properties to the rear. Consequently they haven't had a negative impact on the residents surrounding them. The 3D models clearly demonstrates this difference in rear space. This is due to the fact that the rear bungalow was built on ground previously purchased from the site. Consequently the proposed block will have a significant negative impact on this bungalow
- It is unacceptable that the developers will greatly benefit from an unsuitable building that will have negative impact on surrounding residents. This bungalow will lose light and privacy from it's only outside space as well as having a roof dominating the outlook. The illustrations in the proposal do not reflect either the overshadowing and loss of sunlight or the dominance of the building.
- The developers have conducted a daylight impact study for no 58, but their previous surveys only appear to pay lip service to requirements.
- The reduction in scale, mass and number of units is welcomed but these do not go far enough. The applicant cites the approval of flats at No 58 Preston Road as a precedent justification for the density of their own application. The site area for No 58 is 0.125 hectares for 6 units whereas the applicant is now proposing 7 units on a site area of 0.11. To be a true comparison with No 58 the applicant should reduce the proposed number of units to 5. This would allow the building to be further reduced in size, a lower roof line and with redesign remove any living rooms from overlooking No 4 Furzy Close
- The rear of the building would still overlook the property behind with at least 6 windows, 2 of which are patio style. When stood in the back bedroom of the property to the rear (4 Furzy Close) the roof of the existing bungalow is in full view, so imagine how much of the first and second floor of the proposed block would be in direct view.
- **Overdevelopment of Preston Road**
- The mass of the structure is overbearing for the size of the plot and extends far too much towards the rear (east) of the plot, imposing on the properties behind and to the side.

- The rear first floor balcony has an intrusive impact on the property behind (4 Furzy Close). This is inconsiderate and will result in a lack of privacy.
- The proposed block of flats to 56 have external balconies that will enable the flat occupants to view straight into rear and front gardens. This will affect immediate privacy and will be directly overlooked.
- As regards the light survey that has been carried out the drastic change to the light received by a neighbour will dramatically change the existing roof height of the bungalow on 56 and will have a huge and damaging personal impact on amenity.
- As neighbours there is a 'right to light' and this is a civil matter and is separate from daylight and sunlight as considered the the local planning authority. In England and Wales a right to light is usually acquired under the prescription act 1832. Under this Act a right to light occurs once light has been enjoyed through defined apertures of a building for an uninterrupted period of 20 years. This is the case for a neighbour
- The developers are leaving the 'suggested minimum' of 20m between properties. I think the minimum is 22m. for facing windows on the same level. The guidelines for properties on different levels is greater.
- The development is still far too close to the properties to the rear, with the balcony type windows also to be included there directly overlooking the properties. Similarly, the development would still deprive the properties to the rear of natural light, as well as privacy
- The claim that the new lower roof line and removal of rear balconies remove the overlooking the property at the rear issue is incorrect. The whole development is still very close to the rear of the plot with at least 6 higher floor bedroom windows looking directly over the rear bungalow.
- **Drainage / Flooding Impact**
- Surface water and sewerage systems along this road date back to the 1930's and whilst various intermittent upgrades have taken place, there are far more units connected to the system. Less free-draining gardens and more hard-standing driveways make the situation worse. Our drainage here is already working well beyond it's original design specification.
- Greater risk of flooding - less opportunity for water to soak into the ground
- The number of new flats already built on Preston Road will be contributing to a significant reduction in the capacity of the foul and surface water drainage systems.

- The new application makes no redress of the very serious issue of flash flooding due to excessive free water runoff caused by heavy down pours of rain. In the last few months this has caused major issues along Preston Road without the addition of this over-sized development
- **Tree Impacts**
- Tree root damage. Whilst the arboriculture report cautions against root damage to retained tree, given the tight constraints on the site, such damage will be inevitable
- The introduction of a policy of TPOs along Preston Road has been a failure. The result is that flat developments have still managed to remove nearly all the trees from their plots.
- The Arboricultural Impact Assessment almost hides the fact that 5 of the 6 trees currently on the plot will be removed.
- **Wildlife Issues**
- The survey on the habitat of the site reported little signs of potential wildlife disturbance despite the place being empty for years and the surrounding properties being full of a variety of species. It also claimed to have conducted an Ariel Survey of the area and reported no ponds within 250 metres of the site. There is actually at least one pond, full of wildlife less than 10 metres behind it
- The initial environmental report has at least one part of it that is definitely wrong. *See attached ecological report claiming an Ariel assessment found no ponds within 250m of the site. See also pond, less than 10m away (well established at least 10 years ago) containing a multitude of newts, frogs, toads and the occasional reptile.
- **Community Infrastructure Issues**
- Another problem is the overloading of the local community services such as the doctors surgery, and also the sewage system, due to the run of off surface water from gardens and drives which have been concreted over for extra car spaces.
- **Recycling facilities**
- The new application makes no reference to the collection of recycled waste, which cannot be in-line with the council's recycling targets.

There has been 1 representation in Support

- It is good to see that windows on the side elevations of this development have been obscured and kept to an absolute minimum to respect the privacy of the adjoining properties

- The fact that no. 58 was originally approved for planning permission should add weight to the approval process for no. 56. The fact that no. 58 did not proceed with the construction should not affect the outcome. This site would not only offer additional accommodation to several families rather than one, it would also provide jobs for people in the Weymouth area that will be much needed in the current climate

10.0 Relevant Policies

10.1 National Planning Policy Framework

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

2. Achieving sustainable development
4. Decision-making
5. Delivering a sufficient supply of homes
6. Building a strong, competitive economy
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

Decision taking:

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

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

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

- INT1 Presumption in favour of sustainable development
- ENV1 landscape and seascape
- ENV2 wildlife and habitats
- ENV4 Heritage assets
- ENV5 Flood risk
- ENV7. Coastal Erosion and Land Instability
- ENV10 landscape and townscape setting
- ENV 11 The pattern of streets and spaces
- ENV 12 design and positioning of buildings

ENV15 efficient and appropriate use of land
 ENV16 Amenity
 SUS2 Distribution of development
 HOUS1 Affordable housing
 HOUS4 Development of flats
 COM7 Safe and efficient transport network
 COM9 Parking standards

OTHER MATERIAL PLANNING CONSIDERATIONS:

10.4 Weymouth and Portland Landscape Character Assessment 2013

11.0 Human rights

Article 6 - Right to a fair trial.

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

The first protocol of Article 1 Protection of property

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

12.0 Public Sector Equalities Duty

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

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

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

In the context of the above PSED duties the scheme includes some parking spaces in close proximity to the units to provide easier access, the proposal involves units on the ground floor all at one level and the provision of a lift and mobility scooter storage.

13.0 Financial benefits

Material benefits of the proposed development	
Affordable Housing	N/A

CIL Contributions	The development is CIL Liable
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Non-material benefits of the proposed development	
Council Tax	Not known
New Homes Bonus	Not known

14.0 Climate Implications

14.1 The development is considered to be in a sustainable location, within the defined development boundary for Weymouth with the facilities and public transport close by.

14.2 Energy would be used a result of the production of the building materials and during the construction process. However that is inevitable when building houses and a balance has to be struck between providing housing to meet needs versus conserving natural resources and minimising energy use.

14.3 The development would be built to current building regulation standards at the time of construction. Electric Charging facilities are also proposed for parking area

15.0 Planning Assessment - The following issues are considered relevant to this proposal.

- Principle of the development
- Design/Impact on character and appearance of the area
- Neighbour Amenity Issues
- Highways issues
- Tree Issues
- Biodiversity/Ecology issues
- Community Infrastructure Levy (CIL)
- Affordable Housing Contributions
- Utilities

16 PLANNING ASSESSMENT:

16.1 The need for housing - Principle of development - In terms of the principle of the development the sites lies within the defined development boundary for Weymouth. Policy SUS2 of the adopted local plan seeks to direct development to the main settlements and to “strictly control” development outside DDBs, “having particular regard to the need for the protection of the countryside and environmental constraints”. Given the location of the site inside the DDB with good access to amenities the principle of the application is acceptable. The development will also further assist in the lack of five year housing supply, subject to compliance with other policies in the local plan.

16.2 The Council cannot currently demonstrate a five-year supply of deliverable housing sites. The Councils have 4.83 years of supply across the local plan area as they have now made publicly available on its website. This means that para 11d, of the NPPF is 'engaged' and relevant policies for the supply of housing, including Policy SUS 2, may no longer be considered to be up-to-date. Where a 'relevant policy' such as SUS 2 is considered to be 'out-of-date', Para 11d of the NPPF, indicates that in such cases planning permission should be granted unless:

- i) the application of policies in this Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed; or*
- ii. any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole.*

16.3 The lack of a 5 year supply, means that less weight has to be given to policies such as Policy SUS 2 in decision-making. This application site is located within the defined development boundary (DDB) of Weymouth in the adopted local plan and would be seen in the wider context of the surrounding buildings. Based on the requirement to assist in the lack of five year housing supply, and subject to compliance with other policies in the local plan, the proposal in principle is considered acceptable.

16.4 Design/Impact on character and appearance of the area -

The current NPPF advises that there is a presumption in favour of sustainable development and a need to deliver a wide choice of high quality homes, widen opportunities for home ownership and create sustainable, inclusive and mixed communities. In terms of design the NPPF explains that "*the creation of high quality buildings and places is fundamental to what the planning and development process should achieve. Good design is a key aspect of sustainable development, creates better places in which to live and work and helps make development acceptable to communities. Being clear about design expectations, and how these will be tested, is essential for achieving this. So too is effective engagement between applicants, communities, local planning authorities and other interests throughout the process.*

16.5 The adopted Local Plan policies provide that further assessment of development proposals.

16.6 Preston Road is an area that has seen recent flat developments approved – indeed the adjacent dwelling was approved to be replaced with 6 flats back in Aug 2008 (ref: 08/00464/FUL). The NPPF advice is that the priority for development should be on previously developed land which by definition excludes residential gardens. Whilst it does not rule out the development of garden land it means that garden land cannot be regarded as beneficial in terms of the aim of directing development to previously developed land and puts more emphasis on gardens as a valuable asset. The 'previously developed land' definition is stated as

“Land which is or was occupied by a permanent structure, including the curtilage of the developed land (although it should not be assumed that the whole of the curtilage should be developed) and any associated fixed surface infrastructure. This excludes (amongst other things) land in built-up areas such as residential gardens”

16.7 In this case the scheme simply proposes the removal of the existing dwelling and its replacement with a new larger building for 7 flats and on a larger footprint and extending further into the rear garden area than the existing dwelling.

16.8 The existing dwelling on the site sits on a spacious plot and it could be argued that it does not make the best and efficient use of land within this urban area. It is in a poor state and its redevelopment in principle is to be welcomed.

16.9 The surrounding character of the area is residential, comprising detached houses, bungalows and larger scale blocks of flats on both sides of Preston Road.

16.10 As regards the **Scale** of the proposal, the applicants submitted planning statements explains that No. 56 is situated between two large 2 storey detached dwellings (Nos. 54 & 58). The indicative street scene submitted shows that No. 58 secured a previous approval for demolition of the existing dwelling and erection of a 3 storey flatted building accommodating 6 units with frontage parking back in 2008. This approval however has not been implemented, and is now time expired but it does highlight and show the quantum of development supported by the previous Weymouth & Portland Borough Council on the adjacent property.

16.11 Following your Officer's comments about the previously withdrawn application for 8 flats, the overall scale and massing has been revised to ensure a lower set ridge line which is more in keeping with that of Nos. 52, 54 and 58 Preston Road. The front elevation gables have also been reduced in height and delivers an improved proportionality of fenestration to walling which creates a more balanced and attractive arrangement when viewed next to neighbouring properties.

16.12 Given the larger scale of housing development on Preston Road, it is considered that the proposed development can be accommodated on this site and be readily assimilated into the Preston Road streetscene, without appearing as being out of keeping or overtly dominant. The supporting streetscene and associated side elevations highlight the reduced massing to the proposed flatted building. This reduction in bulk and scale has been in direct response to your Officers' comments.

16.13 This revised scheme also reduces the massing of the building to all elevations which in turn lessens the visual impact of the building to neighbouring properties at Nos. 54 and 58 Preston Road, as well as to No. 4 Furzy Close.

16.14 The front boundary planting is a strong character feature of Preston Road and assists in partially screening 2 and 3 storey development from full public view. The

proposal would retain these boundary trees to the site frontage and will therefore reflect the character and appearance of the area in this regard.

16.15 In terms of **design** and **appearance**, the proposal continues to share many architectural features and influences to that of other flatted buildings along the eastern side of Preston Road – a number of which have been previously approved and constructed in the past 7 years. These examples of 3 storey flatted development can be found at Nos. 42, 44, 46, 70 & 72 Preston Road in particular.

16.16 The proposal is for a 3 storey building with dual gable frontages and hipped roof with a central raised entrance to the west elevation. The front gables project beyond and create a strong glazed feature of the development. The height of these gables have been reduced and the apex glazing has been removed from the withdrawn scheme to deliver a more streamlined appearance when viewed from Preston Road.

16.17 As the level of the land rises towards the eastern boundary, the rear elevation delivers a more typical 2 storey appearance with a cropped roof element and modest fenestration in place of the previously withdrawn proposed gable and balcony arrangement.

16.18 The proposed palette of materials have been chosen to reflect that of surrounding flatted developments and includes slate effect roof tiles and a combination of light coastal brick and white render finishing with aluminium framed doors, windows and fascias.

16.19 Given the residential character of the area, high quality finishing and detailing are proposed throughout the development. The proposed scale and roof form also exhibits similar detailing and rooflights which reflects that of neighbouring flatted buildings which are similarly set back from Preston Road with frontage parking.

16.20 Furthermore Policy HOUS4 of the adopted Local Plan. (Development Of Flats, Hostels And Houses In Multiple Occupation) states;

- i) *Proposals for flats, hostels and houses in multiple occupation should:*
- *be compatible with the character of the area;*
 - *not result in a cramped form of development;*
 - *provide sufficient private amenity space within the site for the likely future occupants, normally comprising at least 10% of the site area for conversions providing 4 or more flats, and 20% of the site area for all new build schemes, unless such provision is undesirable in design terms.*

16.21 The proposal is considered to meet this Policy.

16.22 Given all of the above it is considered that the proposed design will contribute to the area's local distinctiveness which comprises of large detached houses and

flats in spacious plots. In design terms the proposal is considered to be an appropriate response to the slightly rising land and as such would not be considered so incongruous or unacceptable in design terms to warrant a refusal of permission. It would not unacceptably harm the character and appearance of the local area and as such would not conflict with Policies ENV10 and ENV12 of the adopted Local Plan nor the National Planning Policy Framework (Framework) and in particular Section 12, all of which seek a good quality of design which respects the local context.

16.23 Neighbour Amenity Issues - Policy ENV16 of the Local Plan and paragraph 127 of the Framework seek to ensure that new development provides a high standard of amenity for existing and future users. During previous Officer Consultation, the potential overbearing impact upon No. 58 Preston Road and No. 4 Furzy Close was raised. In order to address this, the overall height and rear 2nd floor projection have been substantially scaled back. The main impact on neighbour's amenity therefore relates to those either side and at the rear at no.4 Furzy Close. As regards no 58 the applicant has submitted a daylight impact study of the proposed development on the existing ground floor windows of 58 Preston Road, which currently face the proposed development (there are 2 less critical bedroom windows at first floor level but this have a front and rear dual aspect – there is also a side external amenity area between the gable wall of no.58 and the boundary with no.56)

16.24 Impact on 58 Preston Road

Your officers raised concern on the previously withdrawn application about the possible impact of the development upon the ground and 1st floor side elevation windows of No. 58.

16.25 In respect of the 1st floor windows, these serve bedrooms which have dual aspects to their front and rear elevations – this minimises the potential impact of the proposed building. The ground floor side elevation window serving a lounge/dining area was also flagged for consideration.

16.26 In light of these issues, the applicant has had a detailed Daylight Impact Study carried out in respect of the amended plans and the relationship to the side elevation windows to No. 58. This report has been submitted with the application. The associated lighting tests, models and calculations confirm that the proposed building (as is now proposed and in its reduced form) will not create any undue light restriction restrictions to the amenity of these side elevation windows and respective internal rooms of No. 58 Preston Road.

16.27 The amended side elevation has been reduced in its massing which sees the loss of one of the previously proposed flat units (it's now reduced from 8 to 7) and the rear facing gable end and associated 2nd floor balcony. In doing so, the upper floor projection and associated height has been reduced to a point whereby the development will not appear as overbearing to the privacy or amenity of No. 58, nor impact the amenity of their side garden space.

16.28 The submitted Daylight Impact report also investigates the impact and shows the difference between the current and proposed daylight levels on the ground floor at 58 Preston Road. Calculations have been undertaken in line with the standards set down in BRE 2011 - Site layout and planning for daylight and sunlight.

16.29 The assessment is based on visual sky calculations. Vertical sky component (VSC) calculation – shows that the changes in the VSC are within allowed levels. The report shows the loss of light in 58 Preston Road is in line with the standards set out in BRE 2011 - Site layout and planning for daylight and sunlight - and to assess the performance of the proposed new-build design the applicants have used software which is compliant with the requirements of CIBSE Application Manual AM11.

16.30 Vertical Sky Component

A skylight plot has been undertaken in line with the BRE 2011 Site layout and planning for daylight and sunlight, **the VSC should either be 27 or greater** or if less than 27 then the difference should be no more that 20%.

In line with 2.2.6 of the BRE document the point of interest height is set at the middle of the main window or a height of 1.6 m for floor to ceiling glazing.

Location	VSC existing	VSC proposed	Ratio	Pass /Fail
Front	35.5	27	0.76	Pass
Rear	34.25	27	0.79	Pass

Table 1 - VSC results

The VSC should either be 27 or greater or if less than 27 then a reduction should be no more that 20%. The reduction in the vertical sky component is anticipated to be acceptable to the BRE guidance.

16.31 Conclusion

Visual sky calculations assessments have been conducted by the applicant and anticipates there will be no undue restriction in line with the BRE guidance set out in the BRE 2011 Site layout and planning for daylight and sunlight.

Given the proximity of the proposed development to number 58 and that there would be a circa 8m separation distance between the respective side elevations, with a reduced height and front and rear projection from the withdrawn scheme and lack of fenestration outlook to the proposal this will prevent there being any significant harmful overbearing impact to 58 Preston Road. As such it is considered that the amenity impact on no.58 would not be so significant to warrant refusal of permission.

16.32 Impact on 4 Furzy Close

The relationship and impact of the development upon No. 4 Furzy Close to the eastern boundary is also a significant consideration as regards neighbouring

amenity. The proposal as now submitted reduces the actual and perception of scale between the rear boundary of the application site and the rear aspect of no.4 and now ensures that the proposal will not create any harmful sense of overlooking or dominant presence upon No. 4 Furzy Close. The separation gap between the main 2 storey rear elevation (upper ground floor at the rear) of the proposal and No. 4 Furzy Close is 20m at its closest point and as such this is considered to be an acceptable separation distance.

16.33 In conjunction with the separation gap between properties, the site levels also rise from west to east from Preston Road properties to their rear neighbours on Furzy Close. The dwelling and rear garden at No. 4 Furzy Close is not visible from the application site due to the rising gradient, separation distance and tall boundary planting. Whilst the scale of the proposals are larger than the existing bungalow at No. 56, this now resubmitted proposal ensures that the upper floor and roof form will be over 22m from the rear elevation of No. 4 Furzy Close.

16.34 The reduced scale at No. 56 will significantly reduce its visual presence when viewed from No. 4 Furzy Close. Under this revised proposal, No. 4 Furzy Close would only view the extreme top of the recessed roof form. The amended rear elevation has removed the rear gable and balcony at upper floor level, which will further safeguard against any direct overlooking between respective properties. In addition in terms of the 2nd floor rear elevation bedroom windows, these will have Juliet balconies but the 1st floor flat roof areas are not accessible to flats 6 and 7. This roof space is not a terrace/balcony space and there will be no capacity for either unit to use it as such, which could be conditioned to prevent this in any event. As such this is considered to be an acceptable proposal and with the separation distances now shown it is not considered that the amenity impact on no.4 would be so significant to warrant refusal of permission.

16.35 Impact on 54 Preston Road

The side elevation to No. 54 Preston Road shows the same arrangement and relationship to the southern property as per the withdrawn scheme. No. 54 has no side elevations at ground or 1st floor level and the proposal will not create any overlooking in its revised form. The reduced massing and rear projection also avoids the proposal appearing as over-dominant or impacting the neighbours' rear elevation windows or rear garden.

16.36 Other neighbouring impacts

There are no other neighbours considered to be adversely affected by the proposal given the separation of Preston Road to those neighbours opposite the site to the west.

16.37 Conclusion on Amenity Impacts

Given what is set out above it is considered that there would be no significant adverse impact on any of the neighbouring properties sufficient to warrant refusal of

permission. As such Policy ENV16 of the Local Plan and paragraph 127 of the Framework are considered to be met.

16.38 Landscaping/Trees

The proposal accommodates a frontage parking layout to provide sufficient parking to the new residential units. Despite this, the trees and planting to the western boundary of the site fronting Preston Road will remain unaffected.

16.39 The remaining areas to the front of the site surrounding the newly levelled parking layout will be soft landscaped. The rear of the site will also be retained as garden space, as per the existing arrangement. This level of soft landscaping and amenity space is commensurate with that of flatted development along Preston Road.

16.40 The application is supported by an Arboricultural Impact Assessment undertaken by Treecall Consulting Ltd which has been updated following comments of the Councils tree officer (April 2020). This establishes that the proposal requires the removal of a small number of low quality trees that have no significant amenity value.

16.41 The parking arrangement, retaining walls, bin and cycle store locations have been assessed and will not have a significant effect on tree health throughout the site. The proposed building itself is outside all root protection areas and crown spreads on site.

16.42 In summary, all neighbouring trees will be safeguarded and the protected trees to the site frontage will remain completely unaffected and will continue to provide frontage screening to Preston Road.

16.43 Your tree officer comments that in light of the additional details he is able, on balance, to give the scheme his support. He explains that that the key to mitigating any impact on retained trees will be the strict adherence to the arboricultural method statement provided by TreeCall Consulting and, in particular, to the supervisory element at section C2.1 (the appendix) which includes a requirement for a pre-commencement site meeting. The purpose of this meeting is to ensure all key parties – including the developer, architect, primary contractor – are aware of the arboricultural requirements and, by doing so, we can then ensure the ground protection cellular confinement is installed prior to demolition. Subsequent elements, such as protective fencing, and facilitation tree works, will be informed by the meeting. This can be conditioned.

16.44 **Biodiversity/Ecology issues** The application is accompanied by an Ecological Survey and Biodiversity Mitigation Plan (BMP) and the Councils Natural Environment Team have issued a Certificate of Approval for the BMP. Given the above the proposal is not considered to have an adverse impact on biodiversity

interests and a condition would be added to any approval for the development to be carried out in accordance with the BMP.

16.45 Community Infrastructure Levy (CIL)

The adopted charging schedule only applies a levy on proposals that create a dwelling and/or a dwelling with restricted holiday use. All other development types are therefore set a £0 per square metre CIL rate. The development proposal is CIL liable. The rate at which CIL is charged is £93 per sqm. Confirmation of the final CIL charge will be included in a CIL liability notice issued prior to the commencement of the development Index linking as required by the CIL Regulations

16.46 Affordable Housing Contributions

Policy HOUS1 requires all new dwellings to make a 35% contribution towards affordable housing. National planning policy and national guidance establish thresholds below which affordable housing contributions should not be sought. As this site falls below these thresholds (10 dwellings in this urban area) an affordable housing contribution is not required.

16.47 Utilities

The proposal would have access to necessary utilities service infrastructure. The site not within an area at risk of flooding nor is it within 20 metres of a watercourse. It is not considered that the proposal would increase the flood risk elsewhere. Surface water is intended to be disposed of via a sustainable drainage system. The proposal would accord with policy COM10 of the Local Plan which, among other things, requires development to have access to energy supplies, drainage, sewerage, sewage treatment and water supply.

17 CONCLUSION/SUMMARY:

Overall, it is considered that there are no material harmful effects that would significantly and demonstrably outweigh the social, economic and environmental benefits of the development, as detailed in the main body of the report. The proposed development is within the DDB and has good pedestrian and public transport connectivity to the facilities on offer in Weymouth. In the light of the current housing land supply position the proposal would make a small but positive contribution to the supply of housing where there are no other obvious and adverse planning impacts to justify a refusal of planning permission given the issues as set out above.

17.1 The proposed development is acceptable and therefore recommended for approval.

18 RECOMMENDATION: Approval subject to the following conditions:

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

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

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

Location & Block Plan - Drawing Number 21 received on 10/01/2020

Site Plan - Drawing Number 22A received on 28/04/2020

Proposed Ground Floor Plan - Drawing Number 23 received on 10/01/2020

Proposed First Floor Plan - Drawing Number 24 received on 10/01/2020

Proposed Second Floor Plan - Drawing Number 25 received on 10/01/2020

Roof Plan - Drawing Number 26 received on 10/01/2020

Proposed Front & Side Elevations - Drawing Number 27A received on 28/04/2020

Proposed Rear & Side Elevations - Drawing Number 28A received on 29/04/2020

Proposed Indicative Streetscene - Drawing Number 29A received on 28/04/2020

Proposed Indicative Site Section AA & BB - Drawing Number 30A received on 28/04/2020

Proposed Front & Side Elevations - Drawing number 31A received on 28/04/2020

Proposed Rear & Side Elevations - Drawing Number 32A received on 29/04/2020

Proposed Indicative Streetscene - Drawing Number 33A received on 28/04/2020

Proposed Indicative Site Section - Drawing Number 34A received on 28/04/2020

Proposed Floor plans and Elevations - Drawing Number 35 received on 28/04/2020

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

3) Before any development is carried out above damp proof course level details and samples of all facing and roofing materials shall be submitted to, and approved in writing by, the Local Planning Authority and the development shall be completed in accordance with these details.

Reason: To ensure that the external appearance of the completed development is sympathetic to its locality.

4. Before any development is carried out above damp proof course level, full details of both hard and soft landscape works shall be submitted to and approved in writing by the Local Planning Authority, including maintenance details for the soft landscaping for the first 5 years. All hard and soft landscaping shall be carried out and maintained in accordance with the approved details. The works shall be carried out prior to the occupation of any part of the development or in accordance with a programme agreed in writing with the Local Planning Authority. If within a period of 5 years from the date of the planting of any tree/plant, that tree/plant or any tree/plant planted in replacement for it, is removed, uprooted or destroyed or dies (or becomes in the opinion of the Local Planning Authority seriously damaged or defective) another tree/plant of the same species and size as that originally planted shall be replanted in the first available planting season unless the Local Planning Authority agrees in writing to any variation

Reason: Landscaping is considered essential in order to preserve and enhance the visual amenities of the locality.

5. The development shall be carried out in accordance with the recommendations of the Russell Hoyle, ABR Ecology Ltd Bio Diversity Mitigation & Enhancement Plan Certificate of Approval Dated 16th October 2019 unless otherwise agreed in writing with the local planning authority

REASON: In the interests of nature conservation.

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

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

7 Before the development hereby approved is occupied or utilised provision must be made to ensure that no surface water drains directly from the site onto the adjacent public highway.

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

8 Prior to any construction taking place a Construction Environmental Management Plan detailing hours of construction and parking for site operatives shall have been submitted to, and approved in writing by the Local Planning Authority. Thereafter, unless otherwise agreed in writing by the Local Planning Authority the development shall proceed in strict accordance with the plan as have been agreed.

Reason. To safeguard the amenity of neighbours from undue noise and disturbance

9 The development shall be carried out in accordance with the recommendations of the Arboricultural Impact Assessment undertaken by Treecall Consulting Ltd dated 24th April 2020 to include as set out in section C2.1 of that report (the appendix) a requirement for a pre-commencement site meeting. The purpose of such a meeting is to ensure all key parties – including the developer, architect, primary contractor – are aware of the arboricultural requirements of the report.

Reason: In the interests of amenity and of the environment of the locality

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

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

11 Prior to occupation of the flats hereby approved the windows as shown on the side north and south elevations and indicated to be obscure glazed shall be obscure glazed to a minimum obscurity level 3 and when provided they shall be retained as such thereafter.

Reason. To safeguard the amenity of neighbouring occupiers.

12 There shall be no use of the rear 1st floor flat roof areas from flats 6 and 7 as an external amenity area without the express permission from the local planning authority.

Reason. To safeguard the amenity of neighbouring occupiers.



Date of Meeting: 11 June 2020

Lead Member: Cllr Sarah Williams, Cllr Dave Bolwell and Cllr Kelvin Clayton,
Dorset Council members for Bridport

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

Executive Summary:

This report considers an application to divert part of Bridleway 39, Symondsburry as shown on Drawing 19/18.

Equalities Impact Assessment:

The current and proposed routes have similar surfaces and gradient and therefore there is no negative impact on accessibility.

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 part of Bridleway 39, Symondsburry 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 diversion; and
- (c) If the Order is unopposed, it be confirmed by the Council without further reference to the Committee.
- (d) If objections are received to the Order which are of a similar nature to those already considered by the Committee, the Order should be submitted to the Secretary of State without further reference to the Committee.

Reasons for Recommendation:

- (a) The proposed diversion meets 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) This report considers the objection to the pre-order consultation and also the order confirmation tests. If the committee resolves to make an order and no objections are received there would be no further material for the committee to consider.
- (d) 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 submit the Order to the Secretary of State for consideration without further reference to the Committee.

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 19/18
2. Parish Council's objection to diversion
3. Summary of other consultation responses

Background Papers:

The file of the Executive Director, Place (ref. RW/P200).

Officer Contact

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1 Background

- 1.1. Dorset Council has received an application to divert part of Bridleway 39, Symondsburry at Lower Eype Farm, as shown on Drawing 19/18 attached as Appendix 1.
- 1.2. This diversion is being made in the interest of the landowner as the current route of Bridleway 39, Symondsburry runs next to existing silage bays for which planning permission has been granted for conversion to a new single storey dwelling which will be occupied by the applicant. The diversion will therefore improve privacy and security of the new property. The bridleway runs alongside the new house and through the proposed garden and parking area for the property. The proposed route along an existing track also offers better views.
- 1.3. The current definitive route of Bridleway 39, Symondsburry runs from the unaffected part of Bridleway 43 at point A east up a grass hill to point B and then continues generally east across a concrete yard to point C.
- 1.4. The proposed new route of Bridleway 39, Symondsburry runs from point A generally east north east along a grass track to point D and north east up the grass track to point E where it joins the existing route of Footpath 43, Symondsburry, continuing north east then south east to point F and then generally south east along a concrete track to point C. Between points E – F – C the new bridleway follows the existing route of Footpath 43 (upgrading the footpath to bridleway between these points). The proposed new route re-joins the unaffected section of Bridleway 39, Symondsburry at point C.
- 1.5. This proposed diversion would be in the interests of the landowner as it would improve privacy and security.

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 bridleways as a whole;
- (d) the effect the diversion would have on other land served by the 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.

Rights of Way Improvement Plan

- 2.11 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.
- 2.12 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.
- 2.13 Five themes have been identified for improving access in Dorset of which none are particularly relevant to the present case.

3 Consultation

- 3.1 The Council carried out a wide consultation in March / April 2020 and one letter of objection was received (attached in full as Appendix 2).
- 3.2 Dorset Councillors for Bridport, Cllr Sarah Williams, Cllr Dave Bolwell and Cllr Kelvin Clayton were consulted on the application and made no comments.
- 3.3 All other consultation responses are summarised in Appendix 3.

4 Objections

- 4.1 One objection was received to the consultation, from Symondsburry Parish Council.
- 4.2 Symondsburry Parish Council were previously consulted on proposals by the applicant prior to the submission of the application in 2016 and raised no objection at this time.

- 4.3 In their objection, Symondsburry Parish Council raised the following issues;
- 4.4 Parish Council; Concern that this application will move the Bridleway onto an existing footpath and permissive right of way.
- 4.5 Officer comment; A public right of way can be diverted onto another public right of way if the diversion results in higher rights (i.e. a bridleway can be diverted onto a footpath resulting in that section of footpath being upgraded to bridleway) or if the proposed new route is only partly on an existing public right of way. Therefore the proposed diversion is permitted since it meets both conditions. The existence of permissive rights does not affect the validity of the diversion order.
- 4.6 Parish Council; The bridleway has run through the farmyard for generations and the applicant would have been aware of that and the belief that the diversion should have been completed before planning permission was granted.
- 4.7 Officer comment; The applicant is fully aware of the location of the bridleway, and previously diverted Footpath 43 under the Town and Country Planning Act, which was affected by development. The existing bridleway cannot be diverted under the Town and Country Planning Act because it is not directly affected by development, therefore the applicant has correctly applied to divert it under the Highways Act. It was not possible or necessary to divert the bridleway before planning permission was granted.
- 4.8 Parish Council; The footpath that will become a bridleway was an 'informal' track put in by the previous landowner to stop people coming through the farmyard. The permissive part of the track isn't official, it is just where people wander trying to find the unmarked bridleway.
- 4.9 Officer comment; The proposal is to divert an existing recorded bridleway partly onto an existing footpath (E – F – C) and partly onto an unrecorded route (A – D – E). It is lawful for a landowner to make an alternative route available on a permissive basis, provided that the current right of way is not obstructed. Permissive routes are not "official" as there is no mechanism for recording them on the definitive map and permission can be withdrawn at any time.
- 4.10 Parish Council; The current bridleway is a better alternative, a hard surface, not muddy and it is flat instead of the proposed route which has a steep beginning heading west.

- 4.11 Officer comment; With regards to the surface of the bridleway, the current and proposed routes are considered to be comparable;
- i) Current route A – B: grass Proposed route A – D – E – F: grass
 - ii) Current route B – C: concrete Proposed route F – C: concrete
- 4.12 Officer comment; It is assumed that the section of new bridleway which the Parish Council describe as having a “steep beginning heading west” is the part running between points C and F. The bridleway rises from 35 to 37 metres elevation between these two points and the gradient of the steepest section has been calculated as approximately 8% or 1 in 12. The current bridleway between B and C is flat.
- 4.13 There are no mandatory maximum gradients for public rights of way, but the Equality Act 2010 places a duty on the Council to take into account the needs of all people including those with reduced mobility. The British Horse Society guidance for bridleways recommends a 1 in 12 slope as an ideal maximum for ridden use.
- 4.14 Officers do not consider the increased gradient of the short section of bridleway between C and F (which is already a public footpath) to be less convenient to the public.
- 4.15 With regards to the gradient of the current bridleway between points A and B, this section rises from an elevation of 28 metres to 34 metres, with a gradient of approximately 19% or 1 in 5. In comparison, the proposed new route between points A – D – E – F rises from an elevation of 28 metres to 37 metres with a gradient of approximately 15% or 1 in 7.
- 4.16 Therefore whilst the diversion would reroute the path onto slightly higher ground, the bridleway’s steepest section between points A and B would be replaced with a more gradual incline between A – D – E – F. The diversion has a negligible impact on the surface, therefore overall the diversion would not have a negative impact on the accessibility of the bridleway.
- 4.17 No other objections were received.

5 Discussion

- 5.1 The proposed diversion is in the interest of the landowner by significantly improving privacy and security. Members of the public will also benefit from improved views from the new bridleway.
- 5.2 Significantly, neither The Ramblers or the British Horse Society have any objections to the proposed diversion.

- 5.3 The current termination points of the bridleway are unaffected by the diversion.
- 5.4 The current route between A – B – C is approximately 95 metres and the proposed new route between A – D – E – F – C is approximately 130 metres. This increases the length by 35 metres, however the entire length of the current route of Bridleway 43 is 2008 metres, therefore the increase in length of 35 metres is considered moderate in this context (1.74%). Officers do not consider that this would make the bridleway substantially less convenient to the public.
- 5.5 The width of the new route will be 3.4 metres between points A – D – E – F and 3 metres between points F and C.
- 5.6 The better views from the new route will make the diverted route more enjoyable for the public.
- 5.7 The diversion would have no material effect on the land served by the current route or over which the new routes.
- 5.8 The diversion will have no adverse effect on agriculture, forestry, flora, fauna and geological and physiographical features.
- 5.9 The proposal affects only the applicant's land. The National Trust own land immediately adjacent the affected section of bridleway west of point A and have indicated that they have no objection to the proposed diversion. Therefore it is unlikely that compensation would be payable under Section 28 of the Highways Act 1980
- 5.10 The order will be confirmed only on inspection and certification of the new bridleway by Dorset Council. If confirmed by the Secretary of State, the order will provide that the diversions are not effective until the route has been inspected and certified.
- 5.11 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.

6 **Conclusions**

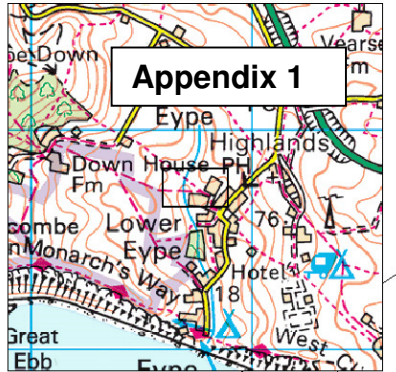
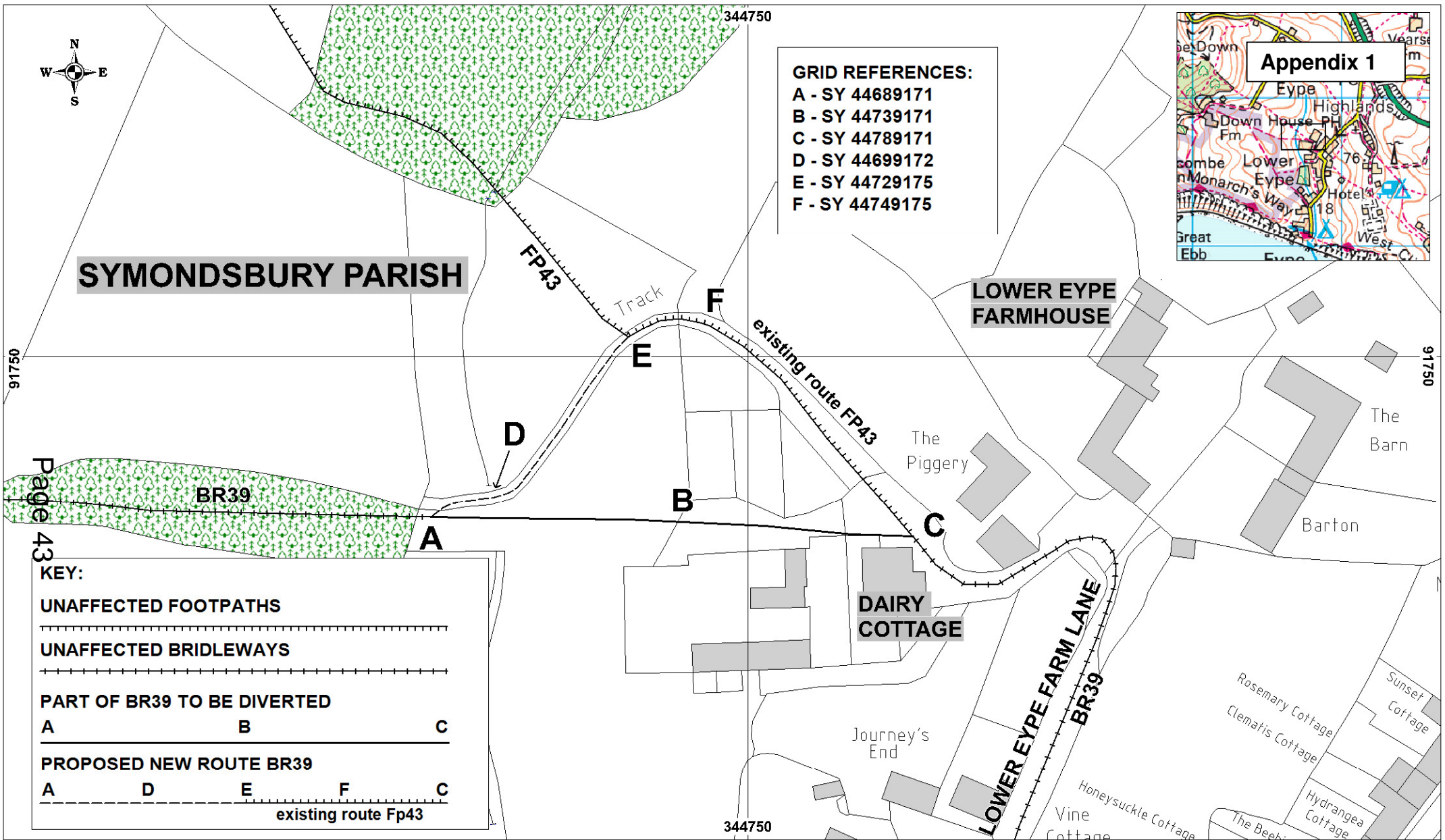
- 6.1 The application to divert part of Bridleway 39, Symondsburry meets the tests set out under the Highways Act 1980 and therefore should be accepted and an order made.
- 6.2 The Order should include provisions to modify the definitive map and statement to record the changes made as a consequence of 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 submitted to the Secretary of State without further reference to the Committee.

Matthew Piles

Corporate Director for Economic Growth and Infrastructure

May 2020



SECTION 119, HIGHWAYS ACT 1980

APPLICATION FOR A PUBLIC PATH DIVERSION ORDER, BRIDLEWAY 39, SYMONDSBURY

THIS MAP IS NOT DEFINITIVE AND HAS NO LEGAL STATUS

Ref:19/18

Date: 03/03/2020

Scale 1:1000 at A4

Drawn By: CAM

Cent X: 344745

Cent Y: 91737



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Objection from Symondsburry Parish Council:

From: Symondsburry Parish Council <symondsburry@dorset-aptc.gov.uk>
Sent: 15 April 2020 10:29
To: Carol Mckay
Subject: Section 119 Highways Act 1980 - Proposed diversion of Bridleway 39, Symondsburry at Lower Eype farm

This application will move the Bridleway onto an existing footpath and permissive right of way.

The bridleway has run through the farmyard for generations and the applicant would have been aware of that. We pointed out to the planners previously that there was a bridleway right past the front door of the proposed house and it should have been sorted before planning permission was granted. We believe that it is a reserved matter and work has already commenced.

The footpath that will become a bridleway was an 'informal' track put in by the former NAME REDACTED family to stop people coming through the farmyard. The permissive part of the track isn't even official, it is just where people wander trying to find the unmarked bridleway. The current bridleway is a better alternative, a hard surface, not muddy and it is flat instead of the proposed route which has a steep beginning heading west. Symondsburry Parish Council therefore object to this application.

Marilyn Stone
Parish Clerk
Symondsburry Parish Council

Summary of other consultation responses:

Name	Comments
The Ramblers	The proposed route of the bridleway is suitable and probably the one used by most walkers and riders. No reason at the present time not to support the proposed diversion.
British Horse Society	No objection
Southern Gas Networks	No objection
Western Power Distribution	Apparatus in area of diversion indicated on plan. No objection provided that the usual clause in respect of access to apparatus is included in the Order.
Wessex Water	No objection
Senior Archaeologist Dorset Council	There are at present no recorded archaeological finds or features or historic buildings on or in the immediate vicinity of the routes affected by this proposal. Historic environment considerations do not constitute a constraint in the context of this proposal.

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