



Western and Southern Area Planning Committee

Date: Thursday, 5 November 2020
Time: 10.00 am
Venue: MS Team Live Event This meeting will be held remotely as an MS Teams Live Event [see link below]

Membership: (Quorum 6)

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

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 that can be accessed by using the link below:-

[Link to observe Western & Southern Area Planning Committee - 5 November 2020](#)

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 3 November 2020. This must include your name, together with a summary of your comments and contain no more than 450 words.

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

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

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

Using social media at virtual meetings

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

A G E N D A

Page No.

1 APOLOGIES

To receive any apologies for absence

2 DECLARATIONS OF INTEREST

To receive any declarations of interest.

3 MINUTES

5 - 34

To confirm the minutes of the meeting held on 8 October 2020.

4 PUBLIC PARTICIPATION

35 - 36

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

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

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

Questions will be read out by an officer of the council and a response given by the appropriate Portfolio Holder or officer at the meeting. All questions, statements and responses will be published in full within the minutes of the meeting. **The deadline for submission of the full text of a question or statement is 8.30am on Tuesday 3 November 2020.**

5 APPLICATION TO DIVERT FOOTPATHS 24, 160, 161 AND 162 AND BRIDLEWAY 24, WEYMOUTH

37 - 72

6 PLANNING APPLICATIONS

To consider the applications listed below for planning permission.

- a WP/20/00136/FUL - 375 Dorchester Road, Weymouth** 73 - 84

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

- b WD/D/20/001700/OBL - Land to North and West of Cockroad Lane, Beaminster** 85 - 92

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

7 APPEAL DECISIONS 93 - 96

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

8 URGENT ITEMS

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



DORSET COUNCIL - WESTERN AND SOUTHERN AREA PLANNING COMMITTEE

MINUTES OF MEETING HELD ON THURSDAY 8 OCTOBER 2020

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

Also present: Cllr David Walsh (Portfolio Holder for Planning) and Cllr Tony Alford

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

Bob Burden (Senior Planning Officer), Ann Collins (Area Manager – Western and Southern Team), Philip Crowther (Legal Business Partner - Regulatory), Colin Graham (Engineer (Development Liaison) Highways), Teresa Rabbets (Housing Enabling Officer), Darren Rogers (Enforcement Manager), John Shaw (Planning Officer), Guy Tetley (Engineer (Development Liaison)), Emma Telford (Senior Planning Officer), Allison Sharpe (Business Support Officer), Anita Skelson (Technical Support Officer), Huw Williams (Lead Project Officer - Corporate Projects) and Denise Hunt (Democratic Services Officer).

13. Apologies

No apologies for absence were received at the meeting.

14. Declarations of Interest

The following declarations were made at the meeting:-

Councillor Dave Bolwell declared that he had spoken against application WD/D/19/003186 - Homestead Farm, Main Street, Bothenhampton at a previous meeting of the committee.

He had taken legal advice and had not predetermined Item 6 - Update Report - Potential Enforcement Action, Homestead Farm, Main Street, Bothenhampton as the report specifically related to enforcement action. He would therefore consider the report with an open mind. and take part in the debate on this item.

Councillor Susan Cocking declared that she had previously declared that she had pre-determined Application WP/20/00306/OBL - Redundant Buildings, Broadcroft, Quarry, Bumpers Lane, Portland, DT5 1HY at the meeting on 10 September 2020 as a member of Portland Town Council Planning Committee. However, she had taken legal advice and had not predetermined Application 5e - Report to Committee to Modify a Planning Permission under Section 97 of the Town and Country Planning Act 1990 and would approach consideration of this report with an open mind.

15. **Minutes**

The minutes of the meeting held on 10 September 2020 were confirmed.

16. **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.

17. **Planning Applications**

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

18. **WP/19/00480/OUT - Marsh Road Garage, Marsh Road, Weymouth, DT4 8JD**

The Committee considered an outline application to demolish existing buildings and erect 20 flats with parking and associated works.

The Senior Planning Officer gave a presentation of the site within the Defined Development Boundary (DDB) for Weymouth including photos of the site in relation to the surrounding area, an indicative site plan showing how 20 flats could be accommodated with 16 parking spaces and amenity space; indicative elevations showing 2.5 storeys that included accommodation within the roof space and indicative street scene.

The 1 bed flats ranged between 37 and 46.5sq metres which was within the standard of a minimum of 37sq metres with a shower room and 39sq metres with a bathroom.

The key planning issues were outlined including:-

- principle of development
- residential / visual amenity
- highway safety
- affordable housing
- flooding

Concerns regarding flooding had resulted in the submission of an amended Flood Risk Assessment and Drainage Strategy and was now considered to be acceptable.

Comments made by the Highways Officer had resulted in 2 additional parking spaces. He also advised of a single recorded injury incident in the area as a result of a rear end shunt before the junction with Newstead / Marsh Road.

Some members raised concerns in relation to overdevelopment of the site; the mass of the building compared with the terraced housing; non-compliance with Local Plan policy ECON3; land stability at the rear of the site

which bordered the Rodwell Trail and the decrease in amenity space due to the additional parking spaces which was considered to be insufficient for 20 flats and impact on parking congestion in the area.

Other members were mindful of the need for smaller properties, encouraging use of brownfield sites, high density accommodation and use of public transport in urban areas.

Clarification was sought on the views of Weymouth Town Council and the Senior Planning Officer advised that although not originally opposed to the scheme, Weymouth Town Council had lodged an objection when re-consulted on the amended plans.

She confirmed that the Environment Agency, Wessex Water and the Flood Risk Management Team were content with the proposal and that, in her view, non-compliance with Local Plan policy ECON3 was outweighed by the lack of 5 year housing land supply and that the site was surrounded by residential development with good transport links.

Further to a question in relation to the affordable housing contribution, it was confirmed that the Section 106 Agreement included a clause that would allow a viability assessment to be resubmitted should the number of properties alter as part of a reserved matters application.

Proposed by Councillor Susan Cocking, seconded by Councillor John Worth.

Decision:

(A) That authority be delegated to the Head of Planning to grant, subject to 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 provision of an off-site affordable housing contribution of £5,772

and subject to the conditions (and their reasons) outlined in the appendix to these minutes.

(B) Refuse permission for the reasons set out below if the legal agreement is not completed within 6 months of the committee resolution or such extended time as agreed by the head of planning:

1. In the absence of a satisfactory completed Section 106 agreement the scheme fails to ensure provision of a financial contribution for the off-site provision of affordable housing. Hence the scheme is contrary to policy HOUS 1 of the West Dorset, Weymouth and Portland Local Plan 2015.

19. WD/D/20/000597 - Land West of, 5 Chapel Lane, Maiden Newton

The Committee considered an application to demolish existing outbuildings and erect 2 three bedroom detached houses with parking.

Members were given a presentation including an aerial photo demonstrating the mixture of orientation and style of buildings in the area; a proposed site plan with 2 parking spaces for each dwelling; a plan of the proposed dwellings within the street scene; elevations and floor plans, photos showing the access onto Chapel Lane, Old Chapel building and the garage to be demolished. The site was within the DDB and Area of Outstanding Natural Beauty (AONB), and for the most part outside the Conservation Area.

The key planning issues were outlined and members were advised of amendments to the wording of conditions that had been included on the update sheet circulated to members prior to the meeting.

The Technical Officer read out the written representations received in accordance with the public speaking protocol which are attached as an appendix to these minutes.

Councillor Tony Alford - Dorset Council, Eggardon Ward, addressed the committee, saying that the development was not visually attractive and not built on the principles of safety and inclusivity. He drew attention to the failure of the proposal to meet NPPF paragraphs 28 and 110 in addition to local plan policies.

The following points were made by officers further to comments made during public participation:-

- no loss of privacy as the large first floor front windows looked out onto parking and Chapel Lane and rear windows into the garden areas.
- that the development met national space standards
- technical services considered the proposal to discharge water to be acceptable with a request for a condition for a surface water management plan to be submitted.
- car parking spaces had been widened to 3 metres to enable a vehicle to turn sooner out of a space.
- a third smaller bedroom was served by roof lights.

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

Decision: That the application be approved subject to the conditions (as amended in the update sheet) outlined in the appendix to these minutes.

20. **WD/D/19/001514 - West Coombe, Smishops Lane, Loders, Bridport DT6 3SA**

The Committee considered an application to demolish an agricultural barn and erect a detached dwelling and garage.

Members were given a presentation of the 0.4 hectares site outside of the Loders DDB and within the Conservation Area. The proposed building was on a smaller footprint with minimal visibility of the site due to trees.

The key planning issues were highlighted including:-

- principle of development
- design, appearance and impact on the character of the area and AONB
- no undue impact on Uploaders and Loders Conservation Area
- no undue impact on agricultural enterprise

The barns had not been used for 15 years and this was considered to be a sustainable location due to its proximity to village amenities including a school and public house.

The Technical Officer read out the public written representations which are attached as an appendix to these minutes.

Cllr Alford addressed the committee saying that, in his view, the report recommendation had been favourable due to the site being surrounded by trees and that this might change in future. The proposal was for a new build outside the DDB that did not comply with Local Plan policies SUS2 and SUS3 in relation to accommodation purposed for local needs, rural worker homes and affordable housing. The NPPF also made clear the avoidance of building isolated homes in the countryside with a preference for proposals that enhanced the vitality of local communities. It also contravened the Loders Neighbourhood Plan that was a living, working document despite being more than 2 years old.

Responding to comments made during public participation, the Planning Officer confirmed the following points:-

- an additional home would add to the vitality of the village in allowing a family to move in and reach facilities in the village on foot.
- a condition for a tree plan had been included with replacement tree planting if necessary. Tree Preservation Orders could also be considered in the longer term.

Members asked about the mobile home on the site and were informed that this had been subject to an application for a temporary worker's dwelling in 1989, although it had been used for agricultural storage during the past 15 years. It was confirmed that the mobile home would be used during the construction and thereafter removed.

Councillor Nick Ireland commented that this was a further example of the DDB being ignored and that the proposal was not compliant with rule E5 of the Loders Neighbourhood Plan approved in July 2016. It also contravened Local Plan policies SUS2 and SUS4. He felt that the benefits were not sufficient to override these policies in order to approve an application for a single dwelling due to the lack of the 5 year housing land supply. He proposed refusal of the application which was seconded by Councillor Kelvin Clayton.

Members referred to paragraph 16.4 and 16.5 of the report, highlighting that the Loders Neighbourhood Plan was over 2 years old which affected its relevance with regard to the proposed scheme.

Despite the application being outside the DDB and contrary to the Loders Neighbourhood Plan, the proposal was considered to be a sustainable development due to its proximity to the village facilities and that the Loders Neighbourhood Plan had not specified development sites.

With the agreement of the proposer and seconder, the proposal to refuse the application was reluctantly withdrawn.

Proposed by Councillor Bill Pipe, seconded by Councillor David Shortell.

Decision: That the application be approved subject to the conditions outlined in the appendix to these minutes.

21. **WP/20/00361/OBL - Land South of Louviers Road, Weymouth**

The Committee considered a report concerning the modification of planning obligations on Section 106 Agreement dated 20 December 2018 (original planning approval WP/17/00832/FUL).

The Senior Planning Officer outlined the report that sought to remove the requirement for reinvestment of receipts in the local area, stating that the mix and tenure of the 40 affordable units would not change as a result of the alteration of the Section 106 Agreement.

Councillor Louie O'Leary stated that the development which was in his ward was well advanced and he had concerns about a clause preventing the reinvestment of social housing in the area. He proposed refusal of the recommendation.

This was supported by Councillor Kate Wheller who, whilst acknowledging that the Council may have benefitted from this clause in the past, was concerned that the proposal appeared to be giving up an opportunity for further investment when there was a significant need for affordable housing in the local area.

Members were advised that neither the NPPF nor Policy HOUS1 required reinvestment in the local area and therefore there was no policy basis upon which to draft a reason for refusal. The Housing Enabling Officer stated that this type of clause was expected by Registered Providers and did not necessarily mean that the area would lose out on future investment. The new developer could also be viewed as a welcome addition to the area.

Following this advice, Councillor Kate Wheller reluctantly withdrew her support for refusal of the proposal.

Proposed by Councillor Bill Pipe, seconded by Councillor Dave Bolwell

Decision: That authority be delegated to the nominated officer to modify the S106 agreement dated 20 December 2018, to

- modify mortgagee in possession clauses by changing the definition of

charge and paras 10.1 to 10.3 of schedule 3 in line with the Securitisation Working Groups standard mortgage in possession clause;

- and seek deletion of para 12 of Schedule 3 indicating they cannot be bound to reinvest in the same local authority area.

22. **Duration of Meeting - Time Limit**

A vote to continue the meeting was taken in accordance with Part 2, Paragraph 8.1 of the Council's Constitution.

Decision: That the meeting be extended to allow the business of the meeting to be concluded.

23. **Report to Committee to Modify a Planning Permission under Section 97 of the Town and Country Planning Act 1990 for the planning consent WP/14/00330/OUT, WP/16/00388/VOC and WP/19/00184/VOC**

The Senior Planning Officer advised that a report to remove the affordable housing obligation due to viability arising from the costs of unforeseen contamination of the site had been considered at the meeting on 10 September 2020. A number of the properties had been sold and others were currently being marketed.

The proposed modification related to public and environmental protection by preventing works that would compromise the capping systems across the site to prevent the risk of asbestos fibres in the soil from being released into the air as recommended by WPA Contaminated Land Consultants

A summary of correspondence received from a representative of Betterment properties had been included in a second update sheet circulated to members prior to the meeting that included a comment that an Article 4 direction would be more appropriate.

However, the Council's Legal Department considered that modifying the planning permission under Section 97 of the Town and Country Planning Act 1990 to include the proposed new condition would be more appropriate. If approved a notice would be served on all relevant parties and confirmed by the Secretary of State.

Councillor Susan Cocking stated that it was important to protect residents from contamination as more development took place on reclaimed land.

Members drew attention to the original conditions granted as part of the outline planning application and the covenants between the developer and homeowner at a time and questioned why it had taken a long time to suggest the report's proposal in order to safeguard owners' interests.

The Senior Planning Officer advised that this had come to light since occupation of the properties and that owners could be compensated for any loss of value to the properties. The same enforcement process would be

used as with any condition to require the owner to submit a planning application for works below 1m in depth.

Proposed by Councillor Susan Cocking, seconded by Councillor John Worth.

Decision: That Members agree to the modifying of the outline planning permission WP/14/00330/OUT and WP/16/00388/VOC and to include the condition in respect of WP/19/00184/VOC (if subsequently granted) by imposing the following new condition on such permissions:

No groundworks shall take place at a depth more than 1.0m below ground level of all buildings of the development or at a depth more than 0.60m below ground level for all private gardens, all privately owned external areas and all other areas of soft landscaping and groundworks shall not compromise the high visibility membrane present 1.0m below ground level of all buildings and 0.60m below ground level for all private garden areas, all privately owned external areas and all other areas of soft landscaping. For the avoidance of doubt this restriction shall apply to any works permitted pursuant to Article 3 of the Town and Country Planning (General Permitted Development Order) (England) Order 2015 as amended or any Order which replaces the same.

Reason for Decision

To protect the health of the persons living at the properties.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Reason for Decision

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

25. **WP/20/00417/TEL - Telecommunications Mast Site, Weymouth Way, Radipole, Weymouth**

The Committee considered a proposal for the installation of an 18m high monopole supporting 6 antennas, 3 equipment cabinets and ancillary development.

Councillor John Worth left the meeting at this juncture.

Members received a presentation on the key matters regarding the acceptability of the siting and appearance of the scheme on land to the north of Manor Roundabout, Weymouth. There were 2 existing poles of 12 metres and 15 metres in height in the wide area of highway verge rising to the north with trees and a bridleway.

The site was with the Weymouth DDB with a low risk of surface water and fluvial flooding. Distances were provided to nearby facilities including the main entrance to Radipole Primary School (250m), Radipole nature reserve (220m); Lorton Meadow (250m); Redlands Sports Centre (500m) and St Nicholas and St Laurence School further to the north. The nearest homes to the application site were in Greenway Road (30m).

The proposal was to upgrade the lower of the 2 monopoles with a higher and more substantial monopole 17metres to the west of the one to be removed. The existing 15m mast located further to the east was used by a different network operator and would be retained.

A new mast was needed to support 2, 3, 4, and 5G antennae and the desired network coverage could not be achieved without a higher mast as 5G antennae needed to be 3m above the other antennae on the mast. The pole would be wider with antennae not fully enclosed within a glass fibre shroud.

Councillor Louie O'Leary left the meeting at this juncture.

The Lead Project Officer advised that the update sheet circulated to members prior to the meeting included a response from the Dorset Council Highways Liaison Engineer and further representations. Some of the points raised related to health concerns that could not be considered as part of this application.

The main considerations were outlined including conformity with national and local planning policy for communications development, the adequacy of the justification of the proposal and the provision and adequacy of other background information in support of the application.

The site was considered to be a good location for communications development and the application was supported by a Declaration of Conformity with ICNIRP Public Exposure Guidelines. Members were further advised that paragraph 116 of the NPPF 2019 stated that *"Local planning authorities must determine applications on planning grounds only. They*

should not seek to prevent completion between different operators, question the need for an electronic comms system, or set health safeguards different from the International Commission guidelines for public exposure."

If the committee considered that there was a need to approve the siting and appearance of the mast, the statutory deadline was in 2 days' time.

Written representations received in accordance with the public speaking protocol were read out by the Administration Assistant and are attached as an appendix to these minutes.

In response to a question, members were advised that the acoustic fencing had been implemented as part of highways development and would not impact on this development.

Proposed by Councillor Bill Pipe, seconded by Councillor Dave Bolwell.

Decision: The applicant be informed that Dorset Council's prior approval as the local planning authority is not required.

Reason for Decision

Having regard to policy:

- (i) COM10 (The Provision of Utilities Service Infrastructure);
- (ii) ENV1 (Landscape, Seascape and Sites of Geological Interest);
- (iii) ENV2 (Wildlife and Habitats);
- (iv) ENV5 (Flood Risk);
- (v) Policy ENV10 (The Landscape and Townscape Setting); and
- (vi) ENV16 (Amenity),

of the adopted West Dorset, Weymouth and Portland Local Plan 2015 and other material considerations including national planning policy and planning practice guidance, the proposed development is considered to be in general accordance with the development plan in force in the area. Details of the siting and appearance of the proposed development have been set out within the application and would be subject to conditions set out in Class A of Part 16 of the Schedule to the Town and Country Planning (General Permitted Development) Order 2015 (as amended). The development would not be unduly detrimental to the appearance of the locality and the applicant has demonstrated that there is a need for the technology and that all technically feasible alternatives have been explored and that the application proposal results in the least visual harm. The application is therefore in accordance with policy COM10 of the Local Plan. The proposed development further accords with national planning policy for high quality communications set out in paragraphs 112 to 116 of the National Planning Policy Framework (February 2019). Various concerns have been expressed in representations made about the application regarding the siting and appearance of the proposed apparatus and other matters. However, having considered the impact of the development, the rights of the applicant, the general interest and the public sector equalities duty, the opinion is that

the proposed development as described in the application has been adequately justified and is satisfactory and that any effect on human rights, on protected characteristics and on the character, appearance and amenities of the locality do not outweigh the authorisation and permitting of the subject development in accordance with adopted and prescribed planning principles.

26. Appeal Decisions

The Committee considered a report outlining appeals and appeal decisions in order to take them into account as a material consideration in the Planning Committee's future decisions.

Noted

27. Urgent items

There were no urgent items.

28. Update Sheets

The two update sheets are attached to these minutes.

Appendix - Decision List

Duration of meeting: 10.00 am - 4.00 pm

Chairman

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Planning Committee – Update Sheet

| Application Ref. | Address | Agenda ref. | Page no. |
|--|---|-------------|----------|
| WP/19/00480/OUT | Marsh Road Garage, Marsh Road, Weymouth, DT4 8JD | 5a | 23 - 46 |
| <p>Summary of Email received from agent:</p> <ul style="list-style-type: none"> -The applicant has worked with the planning officer to produce a scheme and provide supporting evidence which is now acceptable. - The Town Council's holding objection has been overcome. - No highways objection and no other significant constraints on the site. - The LPA cannot prove a 5 year housing supply and site is within settlement boundary. - Outline application but indicative plans show what could be achieved on the site. - All planning guidance points to higher density development in this close proximity to the town centre. - It will remove commercial buildings that fail to add to the character of the area. - No issues with overlooking or loss of privacy. - The applicant agrees with the suggested conditions of your officer. | | | |
| WD/D/20/000597 | Land West of, 5 Chapel Lane, Maiden Newton | Item 5b | 47 - 60 |
| <p>Condition 3:</p> <p>No development above Damp Proof Course (DPC) level shall be commenced until details and samples of all external facing materials for the walls and roofs 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 such materials as have been agreed <u>approved</u>.</p> <p>REASON: To ensure a satisfactory visual appearance of the development.</p> <p>Condition 6:</p> <p>Before the development hereby approved is occupied or utilised the turning and parking shown on the submitted plan, <u>drawing number 9294/100 F</u> must have been constructed. Thereafter, these areas, must be permanently maintained, kept free from obstruction and available for the purposes specified.</p> <p>REASON: To ensure the proper and appropriate development of the site and to ensure that highway safety is not adversely impacted upon.</p> <p>Condition 8:</p> <p>No development 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 and a timetable for the implementation of the scheme, 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 <u>approved</u> details and timetable for implementation.</p> | | | |

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|--|---|---------------|------------------|
| REASON: To prevent the increased risk of flooding. | | | |
| Enforcement Report | Homestead Farm Bothenhampton - WD/D/19/003186 | Item 6 | 91 - 168 |
| <p>Update(s):</p> <p>Email received from applicants agent dated 30th Sept stating :</p> <p><i>As discussed, we are endeavouring to shut the site down as soon as possible. We have encountered some delays, primarily getting the approved foul and stormwater drainage connected to the mains and obtaining the sign-off from Wessex Water for them. This has now been completed.</i></p> <p><i>The site is now nearly ready for shutdown with the main outstanding item being the lime render to the farmhouse and the scaffolding required to carry this out. Fitting lime render is weather dependent, so we hope that this and the taking down of the scaffolding will be completed at the latest by early week commencing the 5th October 2020 though we hope it will be sooner. Also, a resident of Duck Street requested that the Duck Street road sign be re-fitted prior to shut down. To enable that, we had to rebuild 1.5m of the demolished boundary stone wall, so that the sign could be fitted and we could put the security fence behind it.</i></p> <p><i>The architect will be meeting on Wednesday 7th October so that the contractor can handover the keys and site to Mr & Mrs Hughes and the site will then be formally shut down. Should this date slip, we will inform you immediately with a revised site shut down date and the reason why it has slipped. The only access to the site after that will be for landscape maintenance, basic building maintenance, collecting any post and site security subject to the pending appeal.</i></p> <p>Email received from applicants agent dated 7th Oct stating :</p> <p><i>I am writing to confirm that the keys have been handed back to Mr and Mrs Hughes and the site has been formally shutdown. Access, however, will be required from time to time to manage the house and garden.</i></p> <p><i>As discussed, the site will be made available to residents to park on site, while the highway authority carry out repairs to the High Pavement.</i></p> <p><i>I would be grateful if you would pass these comments on to Committee.</i></p> | | | |
| WP/20/00417/TEL | Telecommunications Mast Site, Weymouth Way, Radipole, Weymouth | Item 7 | 169 - 188 |
| Corrections to Report: | | | |

Section 9.4 of published report incorrectly indicates that no response had been received from the Dorset Council's Highways Liaison Engineer. This should have indicated:

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

Further Representations and Written Statements:

Two written statements opposing the recommendation and 1 written statement supporting the recommendation have been received pursuant to the public participation protocol. In addition, two further representations objecting to the application have been received, the first indicating that the solid facts presented in representations to the application should be cause to think twice before embarking on a course of action which all evidence shows will damage, possibly irredeemably, the environment and physical well-being of all inhabitants of Weymouth, not only those who live and work in nearby vicinity, but also all those who pass through area. The representation further implores the Committee to invoke the precautionary principle and states that:

".... many of us who are convinced by the mountains of evidence available are experiencing great mental anguish, even terror, at the prospect of being bathed 24/7 in waves of destructive, life threatening forces. We cannot understand why you would wish to subject yourselves, your families and your friends to this when you have the power at the moment to save them.

Instead, I would implore you to join the ever increasing numbers of nations, cities and towns across the world who have put the brakes on this headlong drive into disaster. Surely enough doubt must have been raised in your minds to be unable to put your hands on your hearts and say you KNOW this is harmless?"

The second representation restates points submitted in an earlier representation relating primarily to potential health effects and the state of scientific knowledge on 5G exposure. The respondent asks that the precautionary principle be invoked and that the application be refused.

No Change to Recommendation.

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Planning Committee – Update Sheet - Additional

| Application Ref. | Address | Agenda ref. | Page no. |
|---|------------------------|-------------|----------|
| Section 97 report | Bumpers Lane, Portland | 5e | 85 - 90 |
| Update(s): Email received from Betterment Properties' representative: <ul style="list-style-type: none">- The report makes no reference to Section 98 of the Act.- Do not see how a condition helps as gardening is not development. How does anybody enforce on something like gardening?- Article 4 is not limited to visual amenity.- There is no reference in the report to it being expedient to modify the permission. Considers it to not be expedient as Betterment Properties have put covenants in the sales deeds.- It's putting sales at jeopardy. | | | |

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APPLICATION NUMBER: [WP/19/00480/OUT](#)

APPLICATION SITE: Marsh Road Garage, Marsh Road, Weymouth DT4 8JD

PROPOSAL: Demolish existing buildings and erect 20no. flats with parking and associated works (Outline);

DECISION:

A: Delegate authority to the Head of Planning to grant, subject to 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 provision of an off-site affordable housing contribution of £5,772 together with the following conditions (and their reasons):

1. Before any development is commenced details of 'reserved matters' (that is any matters in respect of which details have not been given in the application and which concern the layout, scale, appearance, access or landscaping) shall be submitted to the Local Planning Authority for its approval.

REASON: This condition is required to be imposed by the provisions of Article 4(1) of the Town and Country Planning (Development Management Procedure) Order 2010.

2. Application for approval of any 'reserved matter' must be made not later than the expiration of three years beginning with the date of this permission.

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

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

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

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

Location Plan - Drawing Number received on 08/01/2020

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

5. No development shall be commenced until details and samples of all external facing materials for the wall(s) and roof(s) of the built structures on any part of the site shall have been submitted to, and approved in writing by, the Local Planning Authority. Thereafter, the development shall proceed in strict accordance with such materials as have been agreed.

REASON: To ensure a satisfactory visual appearance of the development.

6. No development shall take place until a demolition and construction management plan has been submitted to and approved in writing by the Local Planning Authority. The approved management plan shall be adhered to throughout the demolition and construction period. The management plan shall provide for:

- Hours of demolition
- Hours of operation
- Start up and movement of vehicles / equipment etc will be limited to 30 minutes prior to the hours of demolition or construction only.
- Location for loading/unloading and storage of plant, waste or debris and construction materials;
- Activities which may give rise to dust shall be controlled, as far as practicable, to minimise dust emissions. This must include controlling dust from regularly trafficked road areas. Dust suppression may be achieved using water and locating equipment and machinery, away from residential areas.
- At all times, a contact telephone number shall be displayed on site for members of the public to use to raise issues. A named person will also be provided to Environmental Health in order for contact to be made should complaints be received.
- Any waste arising at the site shall be appropriately segregated and controlled prior to its removal by an appropriately licensed contractor. Any waste arising from the activity which could potentially be contaminated in any way shall also be segregated again, and removed appropriately. Environmental Protection must be informed if this occurs.
- Any future sub-contractors to the site shall be made aware of, and comply with any guidelines/conditions relating to site management of emissions of noise, dust, smoke, fumes etc, made in as part of the determination of this application.
- Letter drops to adjacent residents in close proximity should be considered as part of the Demolition / Construction phase to give a minimum of 48 hours' notice of any exceptional activities proposed.
- Parking of vehicle of site operative and visitors (including measures taken to ensure satisfactory access and movement of existing occupiers of neighbouring properties during construction);
- Routes of construction traffic;
- Arrangements for turning vehicles;
- Arrangements to receive abnormal loads or unusually large vehicles.

REASON: In the interest of neighbouring amenity.

7. Prior to the installation of any plant or machinery, a noise assessment of the plant or machinery shall be submitted to and agreed in writing by the Local Planning Authority. The assessment shall indicate noise levels from the plant or machinery, existing background noise levels and any attenuation that may be required. The assessment shall also include details of any proposed mitigation required. Thereafter, the development shall proceed in accordance with the agreed details.

REASON: In the interest of neighbouring amenity.

8. No development shall take place until a detailed surface water management scheme for the site, based upon the hydrological and hydrogeological context of the development, and providing clarification of how drainage is to be managed during construction and a timetable for implementation, has been submitted to, and approved in writing by the local planning authority. The surface water scheme shall be implemented in accordance with the approved details including the timetable for implementation.

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

9. No development shall take place until details of maintenance and management of the surface water sustainable drainage scheme have been submitted to and approved in writing by the local planning authority. The scheme shall be implemented and thereafter managed and maintained in accordance with the approved details. These should include a plan for the lifetime of the development, the arrangements for adoption by any public body or statutory undertaker, or any other arrangements to secure the operation of the surface water drainage scheme throughout its lifetime.

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

10. The development hereby approved shall be carried out in accordance with the mitigation measures, including the finished floor levels, of the Flood Risk Assessment and Drainage Strategy, dated 30 January 2020, unless a subsequent variation is first agreed in writing by the Local Planning Authority.

REASON: To reduce the risk of flooding to the proposed development.

11. The units shall not be first occupied until flood warning and emergency evacuation procedure notices shall have been erected in accordance with numbers, positions and with wording which shall have first been agreed in writing with the Local Planning Authority. Thereafter, the notices shall be retained on site in accordance with the agreed details and shall be kept legible and clear of obstruction.

REASON: To ensure that residents of the site are aware that the area is at risk of flooding, and the emergency evacuation procedure and route(s) to be used during flood events.

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

1. A preliminary risk assessment which has identified all previous uses, potential contaminants associated with those uses, a conceptual model of the site indicating sources pathways and receptors and potentially unacceptable risks arising from contamination at the site.
2. A site investigation scheme based on (1) to provide information for a detailed assessment of the risk to all receptors that may be affected including those off site.
3. The site investigation results and the detailed risk assessment (2) and based on these, an options appraisal and remediation strategy giving full details of the remediation measures required and how they are to be undertaken.
4. A verification plan providing details of the data that will be collected in order to demonstrate that the works set out in (3) are complete and identifying any requirements for longer term monitoring of pollutant linkages, maintenance and arrangements for contingency action.

The remediation strategy, as agreed in writing by the Local Planning Authority, shall be fully implemented before the development hereby approved first comes in to use or is occupied. Within 4 weeks of the completion of the remediation strategy a verification report demonstrating the completion of works set out in the approved remediation strategy and the effectiveness of the remediation shall be submitted to and approved in writing by the Local Planning Authority. The report shall include results of sampling and monitoring carried out in accordance with the approved verification plan to demonstrate that the site remediation criteria have been met.

REASON: To ensure potential land contamination is addressed.

13. 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 (as amended). Should any contamination be found requiring remediation, a remediation scheme, including a time scale, shall be submitted to and approved by the Local Planning Authority. Remediation work shall then be carried out in accordance with the remediation scheme. On completion of the approved remediation scheme a verification report shall be prepared and submitted within two weeks of completion and submitted to the Local Planning Authority.

REASON: To ensure risks from contamination are minimised.

Informatives:

Pollution Prevention during Construction

Safeguards should be implemented during the construction phase to minimise the risks of pollution and detrimental effects to the water interests in and around the site. Such safeguards should cover the use of plant and machinery, oils/chemicals and materials; the use and routing of heavy plant and vehicles; the location and form of work and storage areas and compounds and the control and removal of spoil and wastes. We recommend the applicant refer to our Pollution Prevention Guidelines, which can be found at: <https://www.gov.uk/guidance/pollution-prevention-for-businesses>

Waste Management

Should this proposal be granted planning permission, then in accordance with the waste hierarchy, we wish the applicant to consider reduction, reuse and recovery of waste in preference to offsite incineration and disposal to landfill during site construction.

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

Community Infrastructure Levy

This development constitutes Community Infrastructure Levy 'CIL' liable development. CIL is a mandatory financial charge on development and you will be notified of the amount of CIL being charged on this development in a CIL Liability Notice. To avoid additional financial penalties it is important that you notify us of the date you plan to commence development before any work takes place and follow the correct CIL payment procedure.

B: Refuse permission for the reasons set out below if the legal agreement is not completed within 6 months of the committee resolution or such extended time as agreed by the head of planning:

1. In the absence of a satisfactory completed Section 106 agreement the scheme fails to ensure provision of a financial contribution for the off-site provision of affordable housing. Hence the scheme is contrary to policy HOUS 1 of the West Dorset, Weymouth and Portland Local Plan 2015

APPLICATION NUMBER: [WD/D/20/000597](#)

APPLICATION SITE: Land West of, 5 Chapel Lane, Maiden Newton

PROPOSAL: Demolish existing outbuildings and erect 2 no 3 bedroom detached houses with parking.

DECISION: Grant 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:

Plot 2 Floor plans and Elevations - Drawing Number 9294/102 B received on 06/03/2020

Plot 1 Floor plans and Elevations - Drawing Number 9294/101 C received on 27/04/2020

Location, Block & Site Plans - Drawing Number 9294/100 F received on 15/09/2020

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

3) No development above Damp Proof Course (DPC) level shall be commenced until details and samples of all external facing materials for the walls and roofs 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 such materials as have been approved.

REASON: To ensure a satisfactory visual appearance of the development.

4) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 as amended (or any order revoking and re-enacting that Order with or without modification), no alteration(s) of the dwellings hereby approved, permitted by Class C of Schedule 2 Part 1 of the 2015 Order, shall be erected or constructed.

REASON: In the interest of residential amenity.

5) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 as amended (or any order revoking and re-enacting that Order with or without modification), no enlargement(s) of the dwellings hereby approved, permitted by Class A of Schedule 2 Part 1 of the 2015 Order, shall be erected or constructed.

REASON: In the interest of residential amenity.

6) Notwithstanding the provisions of the Town & Country Planning (General Permitted Development) (England) Order 2015 as amended (or any order revoking and re-enacting that Order with or without modification), the roof light serving the east elevation of both dwellings hereby approved shall be permanently glazed and maintained thereafter with obscured glass of a minimum obscurity of level 3 before the dwellinghouses are first brought into use.

REASON: To protect amenity and privacy.

7) Before the development hereby approved is occupied or utilised the turning and parking shown on the submitted plans, drawing number 9294/100 F 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.

8) No development 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 and a timetable for the implementation of the scheme, 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 approved details and timetable for implementation.

Reason: To prevent the increased risk of flooding.

Informatives:

1) NPPF

2) All species of bat in the UK are protected by both domestic and European legislation, making it illegal to harm, injure, kill or disturb them, or to destroy, obstruct or otherwise damage places where they roost or seek shelter. As such, should any bat species or evidence of bat species be found prior to or during the development, all works must stop immediately and an ecological consultant or John Stobart at Natural England (Tel: 07825844475) must be contacted for further advice before works can proceed. All contractors working on site should be made aware of the advice and provided with the contact details of a relevant ecological consultant.

This development constitutes Community Infrastructure Levy 'CIL' liable development. CIL is a mandatory financial charge on development and you will be notified of the amount of CIL being charged on this development in a CIL Liability Notice. To avoid additional financial penalties it is important that you notify us of the date you plan to commence development before any work takes place and follow the correct CIL payment procedure.

APPLICATION NUMBER: [WD/D/19/001514](#)

APPLICATION SITE: West Coombe, Smishops Lane, Loders, Bridport, DT6 3SA.

PROPOSAL: Demolish agricultural barn and erect detached dwelling and garage.

DECISION: Grant subject to the following conditions

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

Proposed Garage Floor plans and Elevations - Drawing Number 19 039 05A received on 12/06/2019

Proposed Ground Floor plans and Elevations - 19 039 03C received on 15/06/2020

First Floor plans and Elevations - 19 039 04D received on 15/06/2020

Site Location and Block Plan - 19 039 01C received on 15/06/2020

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

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

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

3 Prior to development above damp proof course level, details and samples of all external facing materials for the walls, including the mix, colour, finish and extent of the pointing to be used, and roofs shall be submitted to, and approved in writing by, the Local Planning Authority. Thereafter, the development shall proceed in accordance with such materials as have been agreed.

Reason: To ensure a satisfactory visual appearance of the development.

4 The development hereby approved shall be carried out in full accordance with the approved Hellis Tree Consultancy Tree Plan (dated December 2019).

Reason: To ensure that trees which contribute to the character and appearance of the area, and are to be retained, are not adversely affected by the development proposals

5 No occupation shall commence until a hard and soft landscape scheme has been submitted to and approved in writing by the Local Planning Authority. The scheme shall include the following details:

- (a) size, species and positions for new trees and plants,
- (b) boundary treatments,
- (c) surfacing materials (including roadways, drives, patios and paths) and
- (d) any retained planting.
- (e) a detailed programme of implementation

Any trees or plants indicated on the approved scheme which, within a period of five years from the date of planting, die, are removed or become seriously damaged or diseased shall be replaced during the next planting season either with the same tree/plant as has previously been approved, or with other trees or plants of a species and size that have first been approved in writing by the Local Planning Authority.

The development shall thereafter be carried out in accordance with the approved details.

Reason: To ensure the provision of an appropriate landscape setting to the development

6 The Biodiversity Mitigation Plan (BMP) signed by the Natural Environment Team on 12/02/2020 shall be implemented in full in accordance with the specified timetables in the BMP. The dwelling shall not come into first occupation until all mitigation measures have been carried out and thereafter shall be retained in perpetuity.

Reason: To minimise impacts on biodiversity.

7 No new external lighting, other than that shown on the approved plans, shall be installed within the boundary of the application site unless in accordance with details that shall have first been submitted to and approved in writing by the Local Planning Authority. Such details shall include the location, number, luminance, angle of illumination and type of each luminaire or light source and a lux diagram showing the light spill from the scheme. The lighting shall thereafter be installed, operated and maintained operated in accordance with the approved details.

Reason: To avoid adverse impacts to the dark night skies special quality of the AONB.

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.

2. Septic tanks should only be considered if it can be clearly demonstrated that discharging into a public sewer to be treated at a public sewage treatment works or a package sewage treatment plant is not feasible (taking into account cost and/or practicability). Details regarding the Environment Agency's formal requirements in respect of package sewage treatment plants and septic tanks can be found at:
<https://www.gov.uk/permits-you-need-for-septic-tanks>
3. The proposed use of soakaways at the site for surface water drainage must be in accordance with Building Regulations Part H (H3 - Section 3).

APPLICATION NUMBER: [WP/20/00361/OBL](#)

APPLICATION SITE: Land South of Louviers Road, Weymouth

PROPOSAL: Modification of planning obligations on Section 106 Agreement dated 20 December 2018 (original planning approval WP/17/00832/FUL)

DECISION:

Delegate authority to the nominated officer to modify the S106 agreement dated 20 December 2018, to

- modify mortgagee in possession clauses by changing the definition of charge and paras 10.1 to 10.3 of schedule 3 in line with the Securitisation Working Groups standard mortgage in possession clause,
- and seek deletion of para 12 of Schedule 3 indicating they cannot be bound to reinvest in the same local authority area.

Report to Committee to Modify a Planning Permission under Section 97 of the Town and Country Planning Act 1990 for the planning consent WP/14/00330/OUT, WP/16/00388/VOC and WP/19/00184/VOC

DECISION:

That Members agree to the modifying of the outline planning permission WP/14/00330/OUT and WP/16/00388/VOC and to include the condition in respect of WP/19/00184/VOC, if planning permission is subsequently granted, by imposing the following new condition on such permissions:

No groundworks shall take place at a depth more than 1.0m below ground level of all buildings of the development or at a depth more than 0.60m below ground level for all private gardens, all privately owned external areas and all other areas of soft landscaping and groundworks shall not compromise the high visibility membrane present 1.0m below ground level of all buildings and 0.60m below ground level for all private garden areas, all privately owned external areas and all other areas of soft landscaping. For the avoidance of doubt this restriction shall apply to any works permitted pursuant to Article 3 of the Town and Country Planning (General Permitted Development Order) (England) Order 2015 as amended or any Order which replaces the same.

REASON: To protect the health of the persons living at the properties.

Dorset Council

Covid-19 Pandemic – Addendum to the Guide to Public Speaking Protocol for Planning Committee meetings – effective from 20 July 2020

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

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

1. While planning committee meetings are held remotely during the Coronavirus outbreak public participation will take the form of written statements (and not public speaking) to the committee.
2. If you wish to make a written statement it must be no more than 450 words with no attached documents and be sent to the Democratic Services Team by 8.30am two working days prior to the date of the committee – i.e. for a committee meeting on a Wednesday written statements must be received by 8.30am on the Monday. The deadline date and the email contact details of the relevant democratic services officer can be found on the front page of the committee agenda. The agendas for each meeting can be found on the Dorset Council website

[Dorset Council Committee List](#)

3. During this period the council can only accept written statements via email and you should continue to bear in mind the guidance in the public speaking guide when preparing your representation.
4. The first three statements received from members of the public for and against the application (maximum six in total) will be read out together with any statement from the town and parish council, by an officer (but not the case officer), after the case officer has presented their report and before the application is debated by members of the Committee. It may be that not all of your statement will be read out if the same point has been made by another statement and already read to the Committee. This is to align with the pre-Covid-19 protocol which limited public speaking to 15 minutes per item, although the Chairman of the Committee will retain discretion over this time period as she/he sees fit. All statements received will be circulated to the Committee members before the meeting.
5. This addendum applies to members of public (whether objecting or supporting an application, town and parish councils, planning agents and applicants).
6. Councillors who are not on the Planning Committee may also address the Committee for up to 3 minutes by speaking to the Committee (rather than submitting a written statement). They need to inform Democratic Services of their wish to speak at the meeting two working days before the meeting.

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Dorset
Council

Western and Southern Area Planning Committee

Agenda Item 5

Application to divert Footpaths 24, 160,
161 and 162 and Bridleway 21,
Weymouth.

Date of Meeting: 5 November 2020

Lead Member: Cllr Tony Ferrari and Cllr. Louie O' Leary, Dorset Council
members for Littlemoor and Preston.

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

Executive Summary: This report considers representations received to the Dorset Council (Public Footpath 24 (Part), 160, 161 (Part), 162 and Public Bridleway 21 (Part), Weymouth) Public Path Diversion Order 2020, and addresses whether or not to submit it to the Secretary of State for confirmation and the stance that the Council should take if submitted.

Equalities Impact Assessment: see earlier Report to the Executive Director for Place (Appendix 1)

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

Reasons for Recommendation:

- (a) As there have been objections to the Order Dorset Council cannot confirm it itself but may submit it to the Secretary of State for an Inspector to be appointed to consider confirmation; and
- (b) The representations received to the Order oppose the diversion of the paths. The Council has accepted the application and agrees with the proposed effect of the Diversion Order.

Appendices:

1. Report to the Executive Director for Place - 10th June 2020
2. The Dorset Council (Public Footpath 24 (Part), 160, 161 (Part), 162 and Public Bridleway 21 (Part), Weymouth) Public Path Diversion Order 2020
3. Objections to the Order
4. Boundaries and surfaces plan

Background Papers:

The file of the Executive Director, Place Ref: (ref. RW/P221)

Officer Contact

Name: Paul Hopkins, Rights of Way Consultant.

Tel: 01974 282484

Email: paul.hopkins@countrysideaccess.co.uk

1 Background

- 1.1. The Executive Director of Place resolved on 10th June 2020 that an Order be made following consideration of an application to divert Bridleway 21 and Footpaths 24, 160, 161 and 162, Weymouth. (See Appendix 1 - Report to the Executive Director of Place - 10th June 2020).
- 1.2. The Dorset Council (Public Footpath 24 (Part), 160, 161 (Part), 162 and Public Bridleway 21 (Part), Weymouth) Public Path Diversion Order 2020 was sealed on 26 June 2020 and notice of the making of the Order was published on 6 July 2020 (Appendix 2).
- 1.3. Five objections have been received and are attached as Appendix 3.
- 1.4. As there have been objections to the Order, the Council is unable to confirm it itself; instead it may be sent to the Secretary of State for confirmation. In these circumstances the Secretary of State, through the Planning Inspectorate, may hold a local Public Inquiry or hearing at which issues can be explored fully before an Inspector decides whether the Order should be confirmed. Alternatively, at the discretion of the Inspector, the matter may be considered by way of written representations.
- 1.5. The Council must decide whether or not to submit the Order to the Secretary of State, and if submitted whether to take a supporting or neutral stance.

2 Law

- 2.1 The relevant law is set out in paragraphs 2.1 to 2.9 of the report to the Executive Director of Place. (Appendix 1).
- 2.2 The Local Authorities (Recovery of Costs for Public Path Orders) Regulations 1993 will apply. The Council may charge an applicant for the costs incurred in making an order, including advertisements. The Council shall, if asked, refund a charge where, having received objections, the Council fails to submit the Order to the Secretary of State for confirmation without the agreement of the applicant.

3 Representations to the Order

- 3.1 The Councillors for Littlemoor and Preston, Cllr Louie O'Leary and Cllr. Tony Ferrari, were consulted on the Order and made no comment.
- 3.2 There were six objections to the Order, one of which has subsequently been withdrawn. The outstanding five objections are included in full in Appendix 3 and summarised as follows.

- 3.3 Objector 1. In subsequent correspondence Objector 1 has confirmed their intention to maintain their objection. Objector 1 has opposed the diversion order on the following grounds:
- (i) The development should have provided for the retention of the existing paths without the need for their being diverted.
 - (ii) The proposed paths will run on footways within the estate.
 - (iii) Concerns for dog fouling on the proposed paths.
 - (iv) The detrimental effect of the diverted paths on wildlife habitats.
 - (v) The detrimental effect of the diverted paths on homes and the privacy of occupants of houses adjacent to the proposed paths.
 - (vi) The increase in distance of the proposed paths in comparison with the existing.
 - (vii) Other issues raised by this objector appear to relate to the process of the work being carried out to construct the development.
- 3.4 Objector 2. In subsequent correspondence Objector 2 has confirmed their intention to maintain their objection. This objector has opposed the diversion order on the following grounds:
- (i) The development should have provided for the retention of the existing paths without the need for their being diverted.
 - (ii) The proposed paths will run on footways within the estate, rather than on grass as at present.
 - (iii) Concerns for dog fouling on the proposed paths.
 - (iv) Concerns for high fencing alongside proposed paths.
 - (vi) The increase in distance of the proposed paths in comparison with the existing.
 - (vii) Other issues raised by this objector appear to relate to the process of the work being carried out to construct the development.
- 3.5 Objector 3. In subsequent correspondence Objector 3 has confirmed their intention to maintain their objection. Objector 3 has opposed the diversion order on the following grounds:
- (i) The path has been used by the objector's family for many years. (No information has been provided as to which path).

(ii) Objects to the positioning of the notices of the making of the Order.

3.6 Objector 4. This objection was received by letter, but no contact details were given therefore it has not been possible to contact the objector to discuss their reasons for opposing the order. This objector, who has identified themselves as a local resident, has opposed the diversion order on the following grounds:

(i) The development should have provided for the retention of the existing paths without the need for their being diverted.

(ii) The proposed paths will run on footways within the estate rather than on grass.

(iii) Concerns for dog fouling on the proposed paths.

(iv) Concerns for the detrimental effect of the diverted paths on wildlife habitats.

(vii) Other issues raised by this objector appear to relate to the process of the work being carried out to construct the development.

3.7 Objector 5. This objection was received by letter, but no contact details were given therefore it has not been possible to contact the objector to discuss their reasons for opposing the order. The name of the objector is also difficult to make out from the signature on the objection letter. This objector has opposed the diversion order on the following grounds:

(i) The proposed paths will run on footways within the estate rather than through fields.

(ii) Concerns for the privacy of occupants of houses.

(iii) Concerns for dog fouling on the proposed paths, and conflict between residents and path users as a consequence.

(iv) Concerns for the detrimental effect of the diverted paths on wildlife habitats.

(v) Other issues raised by this objector appear to relate to the process of the work being carried out to construct the development.

4 Comments on objections to the order

4.1 The Council must consider whether it is necessary to divert the paths to enable development to be carried out. It is clear that this legal test is met in this case.

- 4.2 Objectors 4 and 5 have not provided any contact details. It has not been possible to correspond with these objectors in order to discuss their concerns.

Built-up nature of the new paths

- 4.3 Objectors express concerns for the built-up nature of the environment through which the new paths will run, in that the paths will be on footways next to roads within the site rather than on grass paths within a rural setting.
- 4.4 The development is taking place on a greenfield site, which is allocated for development in the local plan. It is thus inevitable that there will be a change in character to at least parts of the paths to be provided within the development as a result of any proposal to divert them.
- 4.5 The land crossed by the paths will alter from an open, undeveloped field to a housing development. The allocation policy in the West Dorset, Weymouth & Portland Local Plan 2015, Policy WEY11 Land off Louviers Road, states “pedestrian links and wildlife corridors should be provided through the developments connecting to Lorton Valley Nature Park and adjoining areas of open countryside”, and this is what the proposals do.
- 4.6 Within the constraints of the development for which planning permission has been granted, the order seeks to provide suitable replacements for the existing paths. The proposed alternative routes for Footpaths 160 and 161 run through open space to the south of the built-up area and provide for a circular route within the site.

Proximity of paths to dwellings

- 4.7 Concerns have been made with regard to the proximity of the paths to dwellings. Parts of the proposed routes run along paths and pavements which mainly, where they are in proximity to dwellings, are to the front of properties, where it is normally expected that there will be some public activity and potential overlooking from those using roads and pavements.
- 4.8 However the potential for some overlooking to the front of properties will be from people passing on foot, (or by car), and will be of a transient nature and not of such a degree as to be considered unacceptable.
- 4.9 The merits of the development, including the impact on the public rights of way, and public access more generally, was considered and approved by the Council in the granting of planning permission. The Council considered that the overall benefits of the proposal, including the provision of Affordable Housing, outweighed any negative impacts of the development, including that upon the amenity, convenience and safety of the public. The proposed paths

would not disadvantage the public and would provide safe and convenient routes through the development.

Ongoing construction

- 4.10 Objectors have referred to work taking place on the site of the development. Whilst development on the site has begun, the construction program has taken into account the existing rights of way, and no dwellings have been constructed on the lines of the paths subject to the order.

Fencing

- 4.11 Objectors have raised concerns with regard to fences adjacent the proposed paths. The fencing in the areas adjacent the footpaths are low fences, whereas the fences around the gardens of dwellings are taller but set back from the routes. The plan at Appendix 4 shows details of the boundaries within the development.

Dog fouling and surfacing

- 4.12 The points regarding dog fouling and mud are noted. Persimmon Homes have agreed to provide dog bins and associated signage on the site, with the maintenance and emptying of bins being carried out by the residents' management company which will take over the responsibility for the maintenance of the development once it has been completed.

Notices of Order making

- 4.13 Objector 3 refers to the positioning of the notices of the making of the Order. These were placed on lamp-posts and other structures at the ends of the paths subject to the Order, and were displayed in accordance with legislative requirements.

Increased distance of the new routes

- 4.14 Several objectors have referred to an increase in distance of the proposed paths in comparison with the existing paths. The paths to be provided by the Order retain a network of paths through the site that reflects, as far as possible, the existing paths and the proposed changes are not considered to be inconvenient to path users.

Effect on wildlife

- 4.15 Several objectors have expressed concerns that there will be a detrimental effect on wildlife as a consequence of the diverted paths. The environmental implications of the development and public access within the site has been fully addressed as part of the granting of planning permission.

5 Discussion

- 5.1 As objections have been received, the Council is unable to confirm the Order itself and must either submit the Order to the Secretary of State for confirmation or abandon the Order.
- 5.2 The options now available to the Council are:
- To support the Order (maintaining the position of the Council to date);
 - To take a neutral stance; or
 - To abandon the Order.
- 5.3 Supporting the Order would entail the preparation of an extensive and detailed Statement of Case to be submitted to the Secretary of State for consideration. There would also be preparation for and active participation in any subsequent public inquiry which may be held.
- 5.4 If the Council takes a neutral stance in the matter, submitting copies of all correspondence relating to the case for consideration and taking no active part in any public inquiry which may be held, the burden on the resources of the Council is reduced.
- 5.5 If the Council decides to abandon the Order no further action is taken but the applicant may be entitled to a refund of their expenditure to date. The applicant has paid a total administration fee of £11,000 (this is based on the Council's standard fee structure for Public Path Orders of £3000 for the first path and £2000 per additional path on the same order). This fee covers the cost of the external consultant who is dealing with the application. Dorset Council would therefore be responsible for the cost of the refund. The administration fee excludes the cost of advertising which is non-refundable.
- 5.6 If the Council decides to abandon the Order and the developer subsequently proceeds with the development thereby obstructing the existing public rights of way, the Council would become responsible for enforcing the legal line of the paths.
- 5.7 In the event that the Order is submitted to the Secretary of State and they decide not to confirm the Order, Dorset Council may give the developer the opportunity to divert the obstructed rights of way under the Highways Act before any enforcement action is taken.

- 5.8 It is recommended that the Council supports the Order. The Council has granted planning permission for the development to take place, and is satisfied that the Order meets the legal test under the Town and Country Planning Act 1990.
- 5.9 Section 257 of the Town and Country Planning Act 1990 enables a local authority to make an order to divert or stop-up of any footpath, bridleway or restricted byway if it is satisfied that it is necessary to do so in order to allow development to be carried out in accordance with planning permission granted under Part III of the Act. The test for the confirmation of the order, contained in section 257 (1) of the Act, is that the diversion or stopping-up is necessary to enable development authorised by planning permission to take place.
- 5.10 The Council has made the Diversion Order because it is satisfied that it is necessary to divert the footpaths and bridleway to enable the development to be carried out in accordance with the grant of planning permission.
- 5.11 Section 257 does not provide a mechanism whereby objections to the Order may re-open considerations inherent in the grant of planning permission. None of the objections put forward contains information which challenges the test of the necessity to divert the paths to enable the development to take place.
- 5.12 The Order provides for a network of alternative footpaths and bridleway which would be safe and convenient for use by the public.
- 5.13 The alternative footpaths would have widths of two metres, and the alternative route for Bridleway 21 a width of four metres.
- 5.14 The paths would be surfaced to a standard that would make them easily accessible to most users.
- 5.15 The greater part of the alternative routes for Footpaths 160 and 161 would run within open space to the south of the built-up area of the development, and, in the context of the development for which planning permission has been granted and for which the Order has been made, the merits associated with the amenity opportunities for the public that may be provided by the alternative paths are considered to be of sufficient substance to warrant their acceptability as replacements for the lengths of footpath and bridleway to be diverted.

- 5.16 Officers are consequently satisfied that there will be no disadvantage or loss to members of the public as a result of the Order, and that it retains a means of access which will meet the needs of local residents and other members of the public.
- 5.17 In considering the impact of the Order on the convenience and enjoyment of the public, it is submitted that the diverted routes would provide a pleasant circular walk, as well as relatively direct routes through and across the site.
- 5.18 For these reasons, it is considered that the effect of the Order would not be to the detriment of the convenience, safety and welfare of path users.
- 5.19 It is submitted that proper consideration has been given to the provision of the alternative routes to be brought into being by the Order, and there is nothing in this regard to indicate that the Order should not be confirmed.
- 5.20 In summary, the alternative routes are suitable replacements for the existing footpaths and bridleway that would be diverted by the Order, and the diversion of the paths is necessary to enable the development to take place.
- 5.21 In view of this and the nature of the objections it is proposed that Dorset Council takes a supporting stance in the determination proceedings.

6 Conclusions

- 6.1 The objections raised remain outstanding; it is therefore necessary for an Inspector appointed by the Secretary of State to consider the confirmation of the Order or for Dorset Council to abandon the Order.
- 6.2 If the Council does not send the Order to the Secretary of State for confirmation the applicant may be entitled to a refund of their expenditure to date.
- 6.3 The recommendation is that
- (a) The Order be submitted to the Secretary of State for determination; and
 - (b) The Council takes a supporting stance in the proceedings.
- 6.4 This would enable an independently appointed Inspector to decide if the Order meets the legal tests for its making and confirmation.

Matthew Piles
Corporate Director for Economic Growth and Infrastructure

October 2020



Report to the Executive Director for Place

Application for an order under Section 257 of the Town and Country Planning Act 1990 to stop-up Footpath 160 and to divert Footpaths 24 (part) 161, 162, and Bridleway 21 (part), Weymouth.

Lead Members: Cllr Tony Ferrari and Cllr. Louie O' Leary ward, Dorset Council members for Littlemoor and Preston

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

Executive Summary: This report considers an application for an order under Section 257 of the Town and Country Planning Act 1990 to stop-up Footpath 160 and to divert Footpaths 24 (part) 161, 162, and Bridleway 24 (part), Weymouth, as shown on the plan at Appendix 1.

Equalities Impact Assessment:

The surface and gradient of the new routes are considered to be no less accessible than the current routes.

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 stop-up Footpath 160 and to divert Footpaths 24 (part) 161, 162, and Bridleway 24 (part), Weymouth, be accepted and an order made;
- (b) The order includes provisions to modify the definitive map and statement to record the changes made as a consequence of the diversion / stoppings up; and
- (c) If the Order is unopposed, or if any objections are withdrawn, it be confirmed by Dorset Council without further reference to the Executive Director for Place.

Reasons for Recommendations:

- (a) The proposed diversions and stopping up meets the legal criteria set out in the Town and Country Planning Act 1990.
- (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 / stopping up.
- (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.

Appendices:

- 1. Plan showing proposed stopping up and diversion order.
- 2. Summary of consultation responses.

Background Papers:

n/a

Officer Contact:

Name: Paul Hopkins, Consultant

Tel: 01974 282484 / 0748 465 7776

Email: paul.hopkins@countrysideaccess.co.uk

1 Background

- 1.1 Dorset Council has received an application from Persimmon Homes Ltd, to stop-up and divert a number of public rights of way on land to the south of Louviers Road, Weymouth, as shown on the plan attached as Appendix 1..
- 1.2 The application has been made in order to enable development to be carried out in accordance with Planning Permission granted under Part III of the Town and Country Planning act 1990.
- 1.3 Planning consent was granted by the former Weymouth and Portland Borough Council on 20th December 2018 for the construction of 114 dwellings, including creation of new access, landscaping, associated public open space and associated works on land to the south of Louviers Road, Weymouth. (Application no. WP/17/00832).
- 1.4 Footpaths 24, 160, 161 and 162, and Bridleway 21, Weymouth, run through the site of the development, and the developers have applied to Dorset Council for an order under section 257 of the Town and Country Planning Act 1990 to stop-up and divert the affected paths to enable the development to take place.
- 1.5 On 3rd September 2014 an application was made by Dr. M. Beeson under Section 53 of the Wildlife and Countryside Act 1980 for a modification order to add a number of footpaths to the definitive map, which run through the site of the development. These footpaths correspond to the lines of Footpaths 160, 161 and 162.
- 1.6 In order to provide for the inclusion of these lengths of path within a stopping-up and diversion order under Section 257 of the Town and Country Planning Act 1990, on 11th July 2018 the owners of the land dedicated the claimed paths as public footpaths.
- 1.7 However, this dedication of the paths as public footpaths does not remove the Council's duty under the Wildlife and Countryside Act 1981 to investigate the application that has been submitted by Dr. Beeson, and, if necessary, to make a modification order to add the paths to the definitive map. The application for the modification order is awaiting processing.
- 1.8 Should investigations indicate that the lines of the claimed paths correspond with the lines and status of the paths that are to be subject to a diversion order under Section 257 of the Town and Country Planning Act 1990, then it will be the case that the claimed paths will have been diverted by that order.
- 1.9 The length of footpath 160 that would be stopped-up by the order is shown on the plan as a bold line between points X and F.

- 1.10 The length of Footpath 24 that would be diverted by the order is shown on the plan as a bold line between points E and F. The proposed alternative length of footpath is shown as a broken black line between E, E1, E2, E3, M and F. The alternative length of footpath would have a width of 2 metres and in part a tarmac surface and part hoggin surface.
- 1.11 The length of Footpath 161 that would be diverted by the order is shown on the plan as a bold line between points T, G, H, I, J, K, L and F. The proposed alternative length of footpath is shown as a broken black line between M, M1, N, O, P, P1, Q, Q1, R, S and T, and between P, U and V. The alternative length of footpath would have a width of 2 metres and in part a tarmac surface, part herringbone block paving, and part natural/grass surface. Between U and V there would be a culvert with a grass surface.
- 1.12 The length of Footpath 162 that would be diverted by the order is shown on the plan as a bold line between points A and E. The proposed alternative length of footpath is shown as a broken black line between A1, B, C, D and E1. The alternative length of footpath would have a width of 2 metres and a tarmac surface.
- 1.13 The length of Bridleway 21 that would be diverted by the order is shown on the plan as a bold line between points A and A2. The proposed alternative length of bridleway is shown as a broken black line between A, A1, A6, A5, A4, A3 and A2. The alternative length of bridleway would have a width of 4 metres and in part a tarmac surface and part hoggin surface.
- 1.14 The land crossed by the paths to be subject to the order is owned by the applicants for the order, Persimmon Homes Ltd, with exception of a short length of the proposed footpath between point V and the boundary of the site, which is owned by F. H. Cummings Ltd. F. H. Cummings has been consulted and has supplied an e mail confirming that they have no objections to this length of path running over their land.
- 1.15 The diversion and stopping up of the paths as proposed is necessary to enable development of 114 dwellings, including creation of new access, landscaping, associated public open space and associated works on land to the south of Louviers Road, Weymouth. (Application no. WP/17/00832), to take place.

2 Law

Town and Country Planning Act 1990

- 2.1 Dorset Council has powers to make public path diversion / stopping up orders under Section 257 of the Town and Country Planning Act 1990.

- 2.2 Section 257 of the Town and Country Planning Act 1990 makes provision for a competent authority to authorise the diversion or stopping up of any footpath, bridleway or restricted byway through the making of an order if they are satisfied that it is necessary to do so in order to enable development to be carried out in accordance with a planning permission. The term “competent authority” is defined within Section 257 as being the local planning authority who granted the planning permission, in this instance Dorset Council.
- 2.3 The power contained in section 257 is available only if the development, insofar as it affects the path or way, is not yet substantially complete.
- 2.4 The power of confirmation is discretionary and non-confirmation may be justified in certain circumstances. After the expiry of a period of not less than 28 days to be provided by the notice of the making of the order, the Council may itself confirm the order if no objections had been made. Should objections be received, these may be withdrawn after discussion with the objector, leaving the Council free to confirm the order. If any objections are not withdrawn, the Council may pass the order to the Secretary of State for determination by an appointed Inspector, who would consider the matter by means of written representations, a hearing or a public inquiry, or, alternatively, the Council could resolve to withdraw the order.
- 2.5 An order would not come into force until such time as the works necessary to establish the alternative footpath had been carried out to a standard suitable for use by the public as footpaths.

Wildlife and Countryside Act 1981

- 2.6 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

- 2.7 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.

- 2.8 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.
- 2.9 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.

3 Compliance with the law

- 3.1 The proposed public path diversion / stopping up is necessary in order for development to take place.
- 3.2 If the order is unopposed it can be confirmed by the Council and need not be submitted to the Planning Inspectorate.

4 Consultation

- 4.1 The Council carried out a wide consultation in June 2019. Interested parties were sent details of the proposed stopping up and diversion order, and notices and plans were placed on the site.
- 4.2 A further consultation took place in September 2019. In response, the Open Spaces Society, Ramblers Association and Dr. Beeson expressed concern that the proposals put forward did not provide for a link between the alternative paths to be provided within the site and Bridleway 21, to the north.
- 4.3 The Ramblers Association also requested that the proposals provide for a length of footpath running within the informal recreation area in the south-western part of the site.
- 4.4 Following further consultations and negotiations between Persimmon Homes and the owners of the land to the north of the site, F. H. Cummings Ltd., a revised proposal was put forward by Persimmon Homes which provides for such a link.
- 4.5 The length of footpath shown between points P-U-V on the plan at Appendix 1 thus joins Bridleway 21 at point V. Persimmon Homes have also agreed to the provision of an additional length of path through the recreation area, which is shown on the plan between A and F.
- 4.6 Further consultations were carried out in November 2019 with the Ramblers Association, Open Spaces Society and Dr. Beeson.

- 4.7 Responses to this consultation were received from the Ramblers Association and Dr. Beeson.
- 4.8 The Ramblers responded to indicate that they would not oppose an order to make the revised proposals.
- 4.9 Dr. Beeson responded to say that the latest proposal address his 'primary concerns' but he still has reservations regarding the extinguishment of Footpath 160 and because of the possibility that cars might be parked on the footways on which the proposed new footpaths would run.
- 4.10 Further correspondence took place in February 2020 with Dr. Beeson and the local representative of the Open Spaces Society, both of whom have indicated that they would not oppose an order to effect the proposed changes.
- 4.11 The Councillors for Littlemoor and Preston ward, Cllr Tony Ferrari and Cllr. Louie o'Leary, were consulted on the application and have not objected to the proposed order.
- 4.12 All consultation responses are summarised in Appendix 2.

5 Discussion

- 5.1 The proposed stopping up and diversion meets the legal tests under the Town and Country Planning Act 1990.
- 5.2 The applicant will be responsible for carrying out the works that will be necessary to provide the new lengths of bridleway and footpath described in paragraphs 1.10 to 1.13 above to a standard suitable for use by the public.
- 5.3 The stopping-up and diversion order would not take effect until such time as the Council issues a certificate to confirm that these works have been carried out to a standard to its satisfaction. 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.
- 5.4 The works will be carried out and funded by the applicant, Persimmon Homes.

6 Conclusions

- 6.1 The application to stop up Footpath 160, Weymouth and divert part of Footpath 24, Footpath 161 and Footpath 162, and part of Bridleway 21 meets the tests set out under the Town and Country Planning Act 1990 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 stopping up / diversion.
- 6.3 If there are no objections to a public path order, the criteria for confirmation may be presumed to have been met as the Executive Director for Place would already have considered the relevant tests and therefore the order should be confirmed.

Matthew Piles

Corporate Director for Economic Growth and Infrastructure

June 2020

TO JUNE 2020
REPORT

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Ref:

Date: 16/12/19

Scale: 1:2500

Drawn: JV

Cent X: 36847

Cent Y: 08255

GRID REFERENCES:

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 A2 = SY 68411 82618 H = SY 68644 82567
 B = SY 68426 82586 I = SY 68634 82517
 C = SY 68424 82592 J = SY 68620 82510
 D = SY 68478 82603 K = SY 68612 82491
 E = SY 68496 82612 L = SY 68613 82448
 E1 = SY 68489 82601 M = SY 68485 82535
 E2 = SY 68484 82591 N = SY 68535 82538
 O = SY 68536 82545
 P = SY 68600 82536
 Q = SY 68630 82523
 R = SY 68627 82496
 S = SY 68583 82460
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 U = SY 68592 82583
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TOWN AND COUNTRY PLANNING

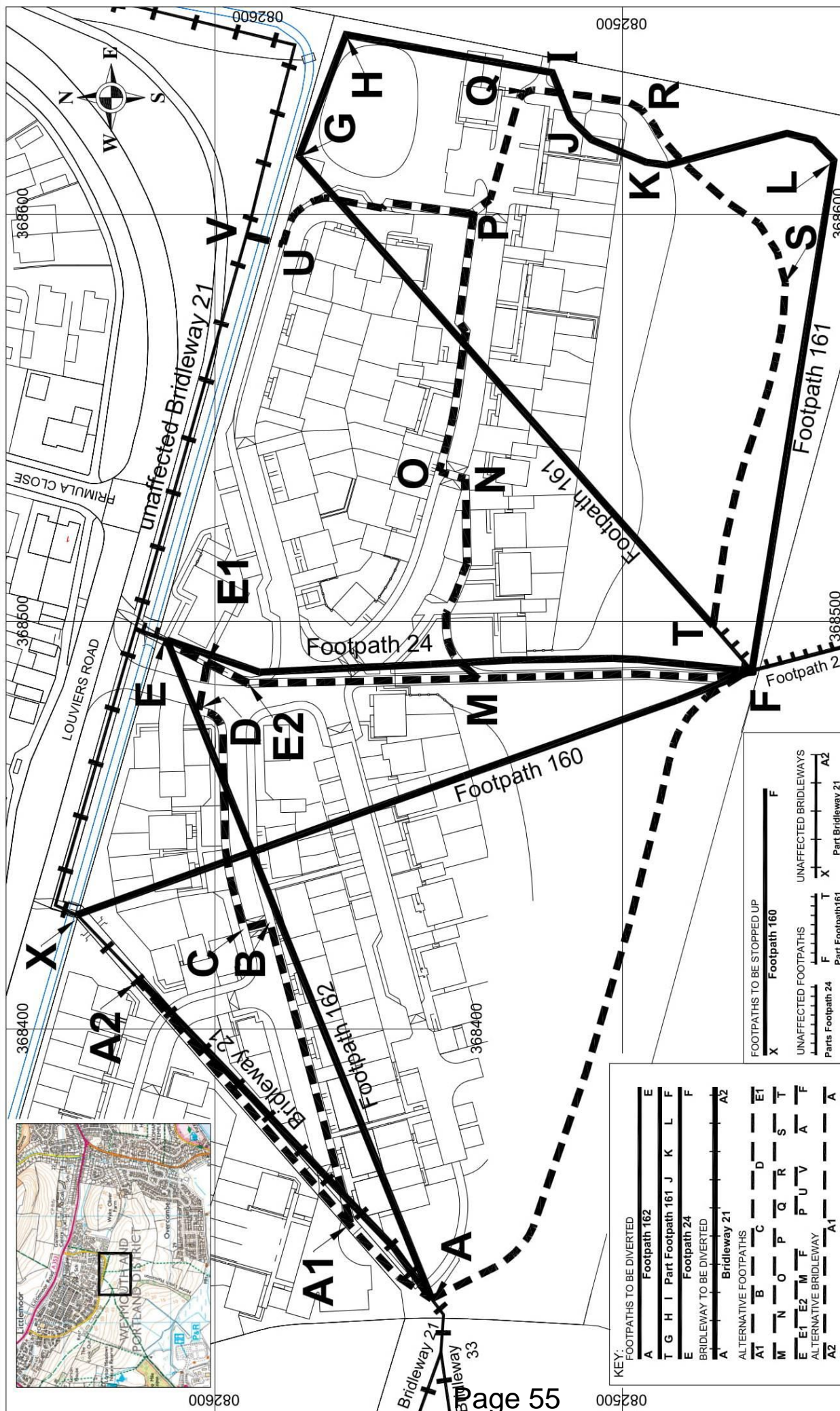
ACT 1990 SECTION 257

PUBLIC PATH DIVERSION & STOPPING UP ORDER

Public Footpath Nos. 24 (Part), 160, 161 (Part), 162 and

Public Bridleway No. 21 (Part) to

South of Louviers Road, WEYMOUTH



Summary of consultation responses**Objecting to the proposed diversions:**

| Name | Comments |
|--|--|
| Mr. R. Homes Open Spaces Society | Response received 10/6/20: Concerns for the stopping-up of footpath 160 and the absence of a link to bridleway 21 or footpath 24. E mail received 25/2/20: It is not expected that the Society would object to the revised proposals for the order. |
| Ms. J. Wardell Group Secretary, The Ramblers | Response received 30/10/19: supporting comments in K. Gocher's letter of 29/7/19. |
| Ms. K. Gocher Group Secretary The Ramblers | <p>Response received 29/7/19: Requests a link to bridleway 21 to the north of the suite, and a length of footpath running through the informal recreation are in the south-west part of the site.</p> <p>Response from Ms. K. Gocher and Ms. J. Wardell 26/11/19: Will not object to revised proposals.</p> |
| Dr. M. Beeson | <p>Response received 17/6/19: consultation passed on to neighbours. Response received 9/9/19: objection to stopping-up of part of footpath 161 and request for link between footpath 161 and Louviers Road.</p> <p>Response received 26/11/19: consultation passed on to neighbours. Revised proposals address primary concerns and reservations. Concerns for the extinguishment of footpath 160 and the possibility of the obstruction of the proposed footpaths by parked cars.</p> <p>E mail received 13/2/20: Dr. Beeson will not object to revised proposed order.</p> |

Other responses received:

| Name | Comments |
|--|--|
| Ms. C. Pinder Senior Archaeologist Dorset County Council | 10/6/19: historic environment considerations do not constitute a constraint in the context of this proposal. |
| Mr D J Ackerley Senior Ranger Dorset Council. | 10/6/19: No objection. |
| Ms. C. Shoopman British Horse Society | Response received 28/11/19: No objection |
| Ms. D. Heath Community Highways Team Leader Dorset Council | Response received 10/6/19: No objection. |
| Southern Gas Networks | Response received 17/6/19: Not affected |
| Atkins Global | Response received 13/6/19: No objection. |
| National Grid/Cadent | Response received 13/6/19: No objection. |
| Environment Agency | Acknowledgement Received 10/6/19 |
| Cllr. T. Ferrari | Response received 18/6/19, 19/6/19 and 28/6/19: No objections raised |
| Cllr. L. O'Leary | Response received 23/6/19: No objections raised |
| F. H. Cummings Ltd. | Letter received: 29/7/19: No objection. E mail received 6/12/19: No objection to proposed changes. |

Recommendations accepted:

Signed:

.....V Penny.....

Date:.....10 June 2020.....

Vanessa Penny

Definitive Map Manager

Spatial Planning



**Dorset
Council**

APPENDIX 2

**Public Path Diversion Order
and
Definitive Map and Statement Modification Order**

**Town and Country Planning Act 1990, Section 257
Wildlife and Countryside Act 1981, Section 53A(2)**

**Dorset Council
(Public Footpath 24 (Part), 160, 161 (Part),
162 and Public Bridleway 21 (Part), Weymouth)
Public Path Diversion Order 2020**

This Order is made by Dorset Council ("The Authority") under section 257 of the Town and Country Planning Act 1990 ("The 1990 Act") because it is satisfied that it is necessary to divert the footpaths and bridleway to which this Order relates in order to enable development to be carried out in accordance with planning permission granted under Part III of the Town and Country Planning Act 1990, namely the construction of 114 dwellings, including creation of new access, landscaping, associated public open space and associated works on land to the south of Louviers Road, Weymouth. (Application no. WP/17/00832).

This Order is also made under section 53A(2) of the Wildlife and Countryside Act 1981 ("the 1981 Act") because it appears to the authority that the County of Dorset definitive map and statement require modification in consequence of the occurrence of an event specified in section 53(3)(a)(i) of the 1981 Act, namely, the diversion (as authorised by this Order) of a highway hitherto shown or required to be shown in the map and statement.

BY THIS ORDER:

1. The footpaths and bridleway over the land shown by bold black lines on the attached map and described in Part 1 of the Schedule to this Order ("the Schedule") shall be diverted as provided below and the County of Dorset definitive map and statement shall be modified accordingly.
2. There shall be created to the reasonable satisfaction of Dorset Council alternative highways for use as replacements for the said footpaths and bridleway as provided in Part 2 of the Schedule and shown by bold black dashes on the attached map.
3. The diversion of the footpaths and bridleway shall have effect on the date on which Dorset Council certify that the terms of Article 2 above have been complied with and upon the occurrence of that diversion the County of Dorset definitive map and statement shall be modified accordingly.
4. The following works shall be carried out in relation to the highways described in Part 2 of the Schedule; namely the provision of:
 - (i) a footpath 2 metres wide with a tarmac surface between points A1, B, C, D and E1;
 - (ii) a footpath 2 metres wide with a tarmac surface between points E, E1, E2 and E3;
 - (iii) a footpath 2 metres wide with a compacted hoggin surface with treated timber edges between points E3, M and F;

- (iv) a footpath 2 metres wide with a compacted hoggin surface with treated timber edges between points M and M1;
- (v) a footpath 2 metres wide with a tarmac surface between points M1 and N;
- (vi) a footpath 2 metres wide with a herringbone block paving surface between points N and O;
- (vii) a footpath 2 metres wide with a tarmac surface between points O, P and P1;
- (viii) a footpath 2 metres wide with a herringbone block paving surface between points P1 and Q;
- (ix) a footpath 2 metres wide with a tarmac surface between points Q and Q1;
- (x) a footpath 2 metres wide with a well-drained grass surface between points Q1, R, S and T;
- (xi) a footpath 2 metres wide with a well-drained grass surface between points A and F;
- (xii) a bridleway 4 metres wide with a 3 metre wide compacted hoggin surface with treated timber edges and a grass surface either side of the hoggin between points A2 and A3;
- (xiii) a bridleway 4 metres wide with a tarmac surface with a stone chipping surface dressing between points A3 and A4;
- (xiv) a bridleway 4 metres wide with a 3 metre wide compacted hoggin surface with treated timber edges and a grass surface either side of the hoggin between points A4 and A5;
- (xv) a bridleway 4 metres wide with a tarmac surface with a stone chipping surface dressing between points A5 and A6;
- (xvi) a bridleway 4 metres wide with a 3 metre wide compacted hoggin surface with treated timber edges and a grass surface either side of the tarmac between points A6 and A1 and A;
- (xvii) a footpath 2 metres wide with a tarmac surface between points P and U;
- (xviii) a footpath 2 metres wide with a culvert with a grass surface between points U and V.

5. Persimmon Homes Limited is hereby required to pay for the cost of carrying out the said works.
6. Where immediately before the date on which the footpaths and bridleway are diverted there is apparatus under, in, on, over, along or across it belonging to statutory undertakers for the purpose of carrying out their undertaking, the undertakers shall continue to have the same rights in respect of the apparatus as they then had.

SCHEDULE

(The points specified relate to the map attached to the Order and their positions are identified by national grid references)

Part 1

Description of site of existing path or way

- A – E Footpath 162, Weymouth:
The whole length and width of public Footpath 162, Weymouth, running from point A (SY 68335 82547) in an east north easterly direction for 175 metres to point E (SY 68496 82612). Width to be diverted: 2 metres.
- T – G – H Part of Footpath 161, Weymouth:
– I – J – K That length and the whole width of public Footpath 161, Weymouth, running
– L – F from point T (SY 68498 82477) in a north easterly direction for 153 metres to point G (SY 68614 82579), then in an east south easterly direction for 32 metres to point H (SY 68644 82567), then in a southerly direction for 51 metres to point I (SY 68634 82517), then in a south westerly direction for 15 metres to point J (SY 68620 82510), then in a south south westerly direction for 24 metres to point K (SY 68612 82491), then in a south easterly turning south westerly direction for 44 metres to point L (SY 68613 82448), then continuing in a west north westerly direction for 127 metres re-joining Footpath 161 at point F (SY 68488 82468). Width to be diverted: 2 metres.
- E – F Part of Footpath 24, Weymouth:
That length and the whole width of public Footpath 24, Weymouth, running from point E (SY 68496 82612) south of Louviers Road, in a southerly direction for 148 metres to the junction of Footpath 161 at point F (SY 68488 82468).
- A2 – A Part of Bridleway 21, Weymouth:
That length and the whole width of public Bridleway 21, Weymouth, running from point A2 (SY 68411 82618) south of Louviers Road for 104 metres in a south westerly direction to point A (SY 68335 82547).
- X – F Footpath 160, Weymouth
That length and the whole width of public Footpath 160, Weymouth, running from its junction with Bridleway 21, south of Louviers Road at point X (SY 68428 82634) in a south easterly direction for 178 metres to its junction with Footpath 24 at point F (SY 68488 82468). Width to be diverted: 2 metres.

Part 2

Description of site of alternative highway

- A1 – B – C Footpath 162, Weymouth: A length of public footpath at a width of 2 metres
– D – E1 running from point A1 (SY 68352 82566) for 77 metres in an east north easterly direction to point B (SY 68426 82586), then in a generally northerly direction for 7 metres to point C (SY 68424 82592) then in a generally easterly turning northerly direction for 57 metres to point D (SY 68478 82603) and then in an east south easterly direction for 12 metres to Footpath 24 at point E1 (SY 68489 82601).

- M – M1 – Footpath 161, Weymouth: A length of public footpath at a width of 2 metres
 N – O – P running from point M (SY 68485 82535) on Footpath 24 in a generally east
 – P1 – Q – north easterly direction for 18 metres to point M1 (SY 68500 82543), then
 Q1 – R – S continuing in a generally easterly direction for 35 metres to point N (SY 68535
 – T 82538), then in a generally northerly direction for 7 metres to point O (SY
 68536 82545) then in a generally easterly direction for 65 metres to point P
 (SY 68600 82536), then in a south easterly direction for 5 metres to point P1
 (SY 68603 82532), then turning in an east south easterly direction for 26
 metres to point Q (SY 68628 82525), then in a south easterly turning
 southerly direction for 10 metres to point Q1 (SY 68630 82516) then in a
 southerly direction for 21 metres to point R (SY 68627 82496), then in a south
 westerly direction for 57 metres to point S (SY 68583 82460) then in a
 westerly direction for 86 metres to Footpath 161 at point T (SY 68498 82477).
- E – E1 – Footpath 24, Weymouth: A length of public footpath at a width of 2 metres
 E2 – E3 – running from point E (SY 68496 82612) south of Louviers Road, in a south
 M – F south westerly direction for 12 metres to point E1 (SY 68489 82601) then
 continuing in a south south westerly direction for 12 metres to point E2 (SY
 68484 82591) then in a southerly direction for 36 metres to point E3 (SY
 68485 82555) then in a southerly direction for 20 metres to point M (SY
 68485 82535) and then continuing in a southerly direction for 67 metres to
 Footpath 161 at point F (SY 68488 82468).
- V – U – P Footpath 163, Weymouth: A length of public footpath at a width of 2 metres
 running from point V (SY 68594 82592) on Bridleway 21, in a southerly
 direction for 9 metres to point U (SY 68592 82583) then in a south easterly
 turning southerly direction for 54 metres to point P (SY 68600 82536).
- A – F Footpath 160, Weymouth: A length of public footpath at a width of 2 metres
 running from Bridleway 21 at point A (SY 68335 82547) in an east south
 easterly direction for 179 metres to Footpath 24 at point F (SY 68488 82468).
- A2 – A3 – Bridleway 21, Weymouth: A length of public bridleway at a width of 4 metres
 A4 – A5 – running from point A2 (SY 68411 82618) in a south westerly direction for 12
 A6 – A1 – metres to point A3 (SY 68402 82611), then in a south westerly direction for 5
 A metres to point A4 (SY 68399 82608), then in a south westerly direction for 51
 metres to point A5 (SY 68360 82574), then in a south westerly direction for 8
 metres to point A6 (SY 68354 82568), then in a south westerly direction for 3
 metres to point A1 (SY 68352 82566) then continuing in south westerly
 direction for 28 metres to point A (SY 68335 82547).

Part 3

Modification of Definitive Statement Variation of particulars of path or way

Footpath 162, Weymouth:

Delete:

From: SY 6849 8261 To: SY 6833 8254

From its junction with Footpath 24 south of Louviers Road at SY68498261, south west
 across Lines Field to its junction with Bridleway 21 at SY68338254.

Add:

From: SY 68352 82566 To: SY 68489 82601

A length of public footpath at a width of 2 metres running from SY 68352 82566 for 77 metres in an east north easterly direction to SY 68426 82586, then in a generally northerly direction for 7 metres to SY 68424 82592 then in a generally easterly turning northerly direction for 57 metres to SY 68478 82603 and then in an east south easterly direction for 12 metres to Footpath 24 at SY 68489 82601.

Footpath 161, Weymouth:**Delete:**

From: SY 68488246 To: SY 68488246

From its junction with Footpath 24 and Footpath 160 at SY 68488246 north east across Lines Field to SY 68618257 then south south west to SY 68648256, then south south west to SY 68638251, then generally south west then south east to SY 68618244, continuing west north west to SY 68488246.

Add:

From: SY 68485 82535 To: SY 68488 82468

A length of public footpath running from SY 68485 82535 on Footpath 24 in a generally easterly direction for 18 metres to SY 68500 82543, then continuing in a generally easterly direction for 35 metres to SY 68535 82538, then in a generally northerly direction for 7 metres to SY 68536 82545 then in a generally easterly direction for 65 metres to SY 68600 82536, then in a south easterly direction for 5 metres to SY 68603 82532, then turning in an east south easterly direction for 26 metres to SY 68628 82525, then in a south easterly turning southerly direction for 10 metres to SY 68630 82516 then in a southerly direction for 21 metres to SY 68627 82496, then in a south westerly direction for 57 metres to SY 68583 82460 then in a westerly direction for 86 metres to SY 68498 82477 then south west to junction with Footpath 24 and Footpath 160 at SY 68488 82468. Width SY 68485 82535 - SY 68498 82477 is 2 metres.

Footpath 163, Weymouth:**Add:**

From: SY 68594 82592 To: SY 68600 82536

A length of public footpath at a width of 2 metres running from SY 68594 82592 on Bridleway 21, in a southerly direction for 9 metres to SY 68592 82583 then in a south easterly turning southerly direction for 54 metres to SY 68600 82536.

Footpath 24, Weymouth:**Delete:**

From: 685825 To: 685819

Junction of Path 21 (Nr Littlemoor Road) southwards to Southdown Dairy.

Add:

From: SY 68496 82612 To: SY 68570 81923

A length of public footpath running from SY 68496 82612 south of Louviers Road, in a south south westerly direction for 12 metres to SY 68489 82601 then continuing in a south south westerly direction for 12 metres to SY 68484 82591 then in a southerly direction for 36 metres to SY 68485 82555 then in a southerly direction for 20 metres to SY 68485 82535 and then continuing in a southerly direction for 67 metres to SY 68488 82468 and then southwards to Southdown Dairy at its junction with Footpath 34 at SY 68570 81923. Width SY 68496 82612 - SY 68488 82468 is 2 metres.

Bridleway 21, Weymouth:

Delete:

From: SY 68728297 To: SY 67378325

Littlemoor Road, in a southerly direction to SY 6864 8258, then in a north westerly direction to SY 68438263, then south west to its junction with Bridleway 33, then north westwards to its junction with Bridleway 145 on the eastern side of the Weymouth Relief Road. Width SY 68728297 - SY 68648258 - SY 68438263 is 2.5 metres.

Add:

From: SY 68728297 To: SY 67378325

Littlemoor Road, in a southerly direction to SY 6864 8258, then in a north westerly direction to SY 6843 8263, then south west to SY 68411 82618 continuing in a south westerly direction for 12 metres to SY 68402 82611, then in a south westerly direction for 5 metres to SY 68399 82608, then in a south westerly direction for 51 metres to SY 68360 82574, then in a south westerly direction for 8 metres to SY 68354 82568, then in a south westerly direction for 3 metres to SY 68352 82566 then continuing in south westerly direction for 28 metres to SY 68335 82547 and continuing to its junction with Bridleway 33, then north westwards to its junction with Bridleway 145 on the eastern side of the Weymouth Relief Road. Width SY 68728297 - SY 68648258 - SY 68438263 is 2.5 metres. Width SY 68411 82618 - SY 68335 82547 is 4 metres.

Footpath 160, Weymouth:

Delete:

From: SY 68428263 To: SY 68488246

From its junction with Bridleway 21 south of Louviers Road at SY 68428263, south east across Lines Field to its junction with Footpath 24 at SY 68488246.

Add:

From: SY 68335 82547 To: SY 68488 82468

A length of public footpath at a width of 2 metres running from Bridleway 21 at SY 68335 82547 in an east south easterly direction for 179 metres to Footpath 24 at SY 68488 82468.

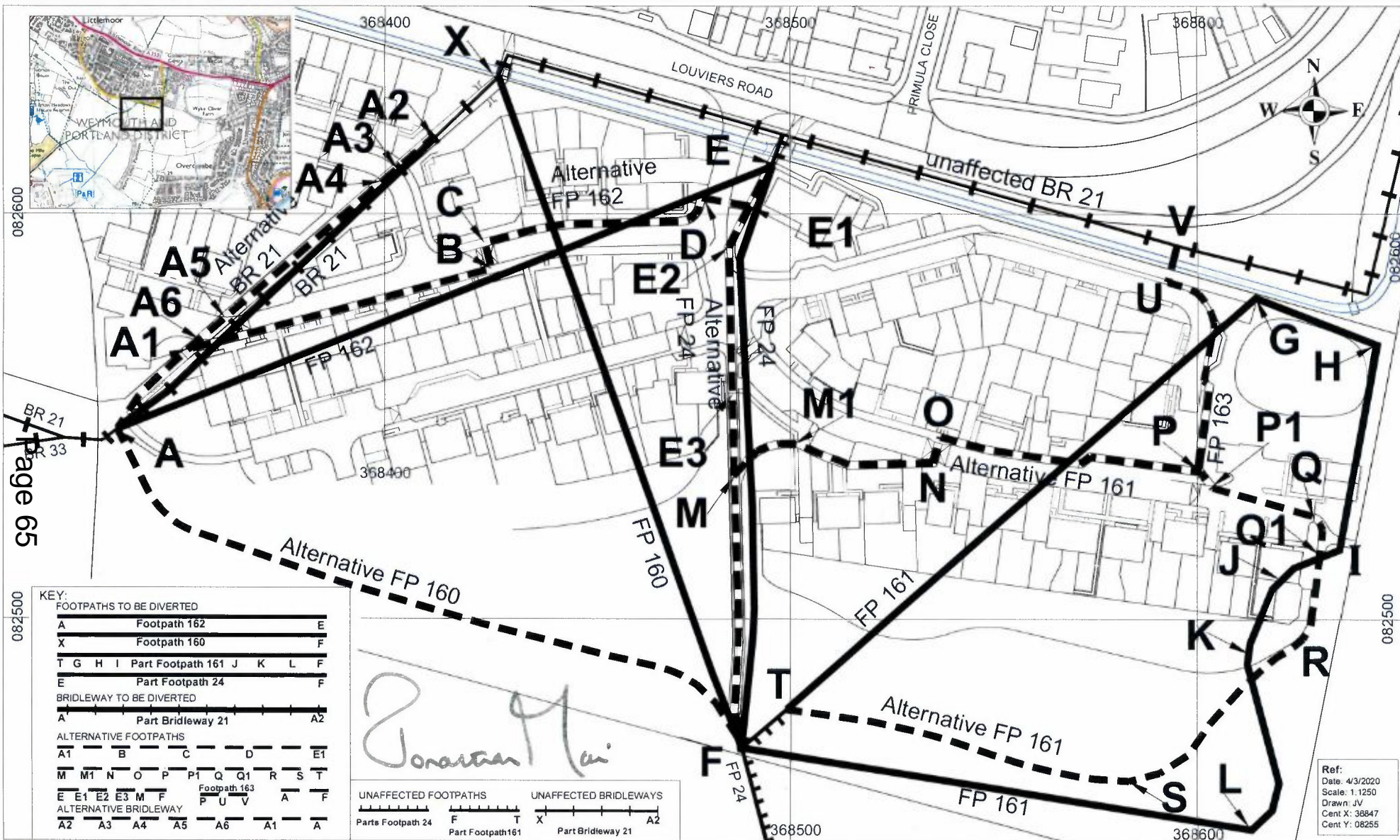
Dated this 26th day of JUNE 2020

THE COMMON SEAL of
DORSET COUNCIL
was affixed in the presence of:-

Jonathan Hain

278/20

Authorised signatory



KEY:

| | |
|--------------------------|-------------------|
| FOOTPATHS TO BE DIVERTED | |
| A | Footpath 162 |
| X | Footpath 160 |
| T G H I | Part Footpath 161 |
| J K L | F |
| E | Part Footpath 24 |
| BRIDLEWAY TO BE DIVERTED | |
| A | Part Bridleway 21 |
| A2 | |
| ALTERNATIVE FOOTPATHS | |
| A1 | B C D E1 |
| M M1 N O P P1 Q Q1 R S T | |
| E E1 E2 E3 M F | Footpath 163 |
| U V | A F |
| ALTERNATIVE BRIDLEWAY | |
| A2 | A3 A4 A5 A6 A1 A |

| | |
|----------------------|-----------------------|
| UNAFFECTED FOOTPATHS | UNAFFECTED BRIDLEWAYS |
| Parts Footpath 24 | Part Bridleway 21 |
| F | X |
| Part Footpath 161 | A2 |

Ref:
Date: 4/3/2020
Scale: 1:1250
Drawn: JV
Cent X: 36847
Cent Y: 08255

PUBLIC PATH DIVERSION ORDER AND DEFINITIVE MAP AND STATEMENT MODIFICATION ORDER

TOWN AND COUNTRY PLANNING ACT 1990, SECTION 257
WILDLIFE AND COUNTRYSIDE ACT 1981, SECTION 53A(2)
DORSET COUNCIL (PUBLIC FOOTPATH 24 (PART), 160, 161 (PART)
162 AND PUBLIC BRIDLEWAY 21 (PART) WEYMOUTH)
PUBLIC PATH DIVERSION ORDER 2020 AND
DEFINITIVE MAP AND STATEMENT MODIFICATION ORDER 2020

GRID REFERENCES:

| | | | |
|---------------------|---------------------|---------------------|---------------------|
| A = SY 68335 82547 | D = SY 68478 82603 | J = SY 68620 82510 | Q = SY 68628 82525 |
| A1 = SY 68352 82566 | E = SY 68496 82612 | K = SY 68612 82491 | Q1 = SY 68630 82516 |
| A2 = SY 68411 82618 | E1 = SY 68489 82601 | L = SY 68613 82448 | R = SY 68627 82496 |
| A3 = SY 68402 82611 | E2 = SY 68484 82591 | M = SY 68485 82535 | S = SY 68583 82460 |
| A4 = SY 68399 82608 | E3 = SY 68485 82555 | M1 = SY 68500 82543 | T = SY 68498 82477 |
| A5 = SY 68360 82574 | F = SY 68488 82468 | N = SY 68535 82538 | U = SY 68592 82583 |
| A6 = SY 68354 82568 | G = SY 68614 82579 | O = SY 68536 82545 | V = SY 68594 82592 |
| B = SY 68426 82586 | H = SY 68644 82567 | P = SY 68600 82536 | X = SY 68428 82634 |
| C = SY 68424 82592 | I = SY 68634 82517 | P1 = SY 68603 82532 | |



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To. Vanessa Penny
PMH/DC/W21

Footpaths 161
162
163

I have left this objection until late to follow and watch the putting in of dropped curbs on the main road , the tarmac and curb stones on the estate for areas of footpath , I was under the illusion that work on these needed to be granted and this is what the notices and objections are for to see if permission was to be granted , is this blatant disregard by the developer or do the council already know of this and are happy for it to be done before the outcome of the enquiry?

L will be sending a copy of this letter to Richard Drax our local MP to express this concern that the system has not been followed and even blatantly overlooked by the developer and even possibly the council purely for the need to build houses for making money !

This reason being that the footpath could have been easily incorporated into the plans for the estate , like many others around Dorset with fencing, this would not create mugging areas like some councillors seemed to think when asked at a previous meeting !

The footpaths are basically being put onto the road and pavements of the estate increasing the footpath diversions by over 50% and taking the safety of the old walks away .

I can see if this was given the go ahead people walking there dogs in the darker mornings and evenings allowing them to wee and poo along the frontage of peoples homes and on the pavements and not clearing it up , are there any dog bins to be placed and maintained by the council ?

The work on houses being squeezed into gaps left while this enquiry runs its course, would be pure hell for the new owner's of homes next to these being built , with months of noise , dust and mostly the health and safety aspect. Some being built within 2 meters of existing homes , having scaffolding so close with the risk of falling objects, the movement of construction vehicles right next to family homes and risk to young and old !

All of these could have been so easily avoided if thought about early in the planning stage, why should others suffer for months because of developers oversights and a case of we will just get permission later .

The site having to accommodate into the new homes bat boxes and nests for birds etc , but no concern for the areas that would be affected by relocating the footpaths , which some run along side hedgerows and still could if this relocation is turned down .

The footpaths if allowed would run in front of peoples homes on the pavements reducing any privacy , as the public would be walking 2 meters from the windows , even causing possible anti social behaviour , youngsters being asked to move on and dog owners whose dogs are relieving themselves onto peoples property. Surly a fence on existing footpaths would have been so much better for all. The possible costs of the local police call outs , calls to councillors and the local council with complaints over time to deal with any of these matters in the future .

Yours sincerely

To whom it may concern

Pmh/dc/w21

In regards to POSSIBLE relocation of footpaths !
Lodmoor sands development
Footpaths 161 , 162, and 163

I find it totally unacceptable that footpaths and tarmac are already being put in place destroying the habitat before any decisions are made , the water holding area fenced off thereby blocking another footpath, our natural grass footpaths being replaced and moved for the sake of squeezing in more houses , surely these should have been taken into consideration by the planners as to where houses could be built without having to move footpaths . We would now not have the freedom to walk our young children and dogs along wildlife hedgerows, we would have to go through the middle of an housing estate on roads and tarmac , dogs and children not safe to wonder as we have always had the right to do. Maybe post and rail fences along the existing footpaths would have been nice , no feeling of being hemmed in or worry about high fences and not being seen or seeing what goes on behind them and hope nobody says you need a high fence as the proposed footpaths run along in front of houses with no fence at all More likely abuse would be shown from residents when dogs wee or mess on there borders or so called footpaths .

The footpaths have increased by more than 50 % distance. Which is not acceptable and I still wonder how and why you would start relocating and laying footpaths before an official decision has been looked into and made

Yours sincerely.

Dear Vanessa,

I am writing to you regarding the relocation of the footpath at Lodmoor sands!

I and my family have used this footpath for many years and object to the relocation. We feel its just to line the pockets of these big building firms.

I have got my friends and family asking local people who use these footpaths to log there concerns also, but many are older and find it harder to communicate with emails and letters.

Would it have been more sensible and fair to have sent letters to local residents rather than these rather primitive signs on lamp posts!

Regards

PMH/DC/W21)

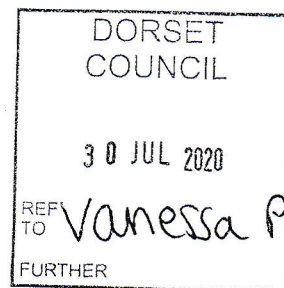
To the people dealing with footpaths and bridleway
Lodmoor sands housing estate
161. 162. And 163 etc

APPENDIX 3
OBJECTOR 4

Objection to the countryside footpaths. Being relocated basically onto pavements running along side the roads they have built for access to the houses !

Footpaths have always been along the hedgerows and open fields. To want to move them onto roads built for the estate and not being able to take my children and others and dogs for walks with the freedom we have had , do we want to walk along looking into peoples houses , shouted at when are dogs relieve themselves on new tarmac footpaths , coming into possible conflict. Surly you could leave some as they are without disturbing us and the local wildlife .

A compromise, rather than building as many as possible, there are houses and gardens already built over some footpaths , how is this possible ? I will certainly be taken this further as Think this is a blatant disregard of planning and law ! Do we have right of way to walk all over the estate on these new private roads ? Well that's not relocating, that's using the roads they built , very convenient for them .

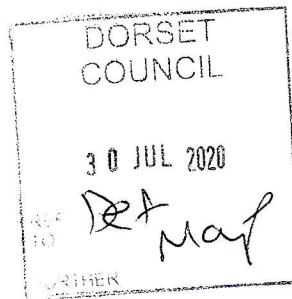


APPENDIX 3
OBJECTOR 5

To whom it may concern fn regards to POSSIBLE relocation of footpaths ! PMH/DC/W21

I find it totally unacceptable that footpaths and tarmac are already being put in place destroying the habitat before any decisions are made , the water holding area fenced off thereby blocking another footpath, our natural grass footpaths being replaced and moved for the sake of squeezing in more houses , surely these should have been taken into consideration by the planners as to where houses could be built without having to move footpaths . We would now not have the freedom to walk our young children and dogs along wildlife hedgerows, we would have to go through the middle of an housing estate on roads and tarmac , dogs and children not safe to wonder as we have always had the right to do.

Yours sincerely.





| | | | | |
|-----|----------|---|----|----|
| d | 21.05.18 | Updates respond to Highways comments 18.05.18 | ia | db |
| c | 30.04.18 | Plots 67/68 rear boundary adjusted | ia | db |
| b | 04.04.18 | Updates respond to Highways comments 15.04.18 | ia | db |
| a | 14.03.18 | Tactile & Corduroy paving added to key / Block paving colour matched (plan & key) | ia | db |
| a | 14.03.18 | Refer to cover note dated 15.03.18 | ia | db |
| Rev | Date | Revision Details | Dr | Ch |



PERSIMMON
Together, we make a home

| | | |
|------------------------------------|------------|----------|
| Job Title | | |
| Louviers Road, Weymouth | | |
| Drawing Title | | |
| Boundary & Surface Treatments Plan | | |
| Job No | Drawing No | Rev |
| 110 | LP08 | d |
| Drawn | Checked | Date |
| ia | ke | Sept '17 |
| Scale | | |
| 1:500 @ A1 / 1:1000 @ A3 | | |
| metres 10 20 30 40 50 | | |
| Status | PLANNING | |

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1.0 Application Number – [WP/20/00136/FUL](#)

Site address – **375 Dorchester Road, Weymouth**

Proposal - **Demolition of existing dwelling & erection of 6no. dwellings with associated landscaping & parking**

Applicant name – Mr Eiles Clark

Case Officer – Jo Riley

Ward Member(s) - Cllr Legg

This application has been called in to the committee as a result of the Scheme of Delegation process due to the comments received from the Town Council who objected to the proposal, which is contrary to the Officer's recommendation of approval.

2.0 Summary of Recommendation: Grant subject to conditions.

3.0 Reason for the recommendation:

- The location is considered to be sustainable and the proposal is acceptable in its design and general visual impact.
- The development would have no undue impact on the wider landscape being in an urban area and would not impact on the LLLI or green infrastructure network.
- There would not be any significant harm to neighbouring residential amenity.
- The development would not harmfully impact upon local highway safety, ecology or flood risk
- The proposal would not affect any conservation area or designated heritage assets.
- There are no material considerations which would warrant refusal of this application

4.0 Table of key planning issues

| Issue | Conclusion |
|---|---|
| Principle of development | The proposal is for the demolition of an existing dwelling and to erect 6 dwellings within the DDB of Weymouth. |
| Design, appearance and impact on the character of the area. | Design, scale and siting would be considered appropriate for the site and reflects the urban form of surrounding development. |
| Impact on amenity | The proposal would not result in a significant adverse effect on living conditions of either neighbouring properties or future occupiers of the proposed development. |
| Access and Parking | The proposed development would have an acceptable impact in terms of access and parking. No objection |

| | |
|--------------------|---|
| | from Highways officers. |
| Biodiversity/Trees | Following the submission of a Biodiversity, Mitigation and Enhancement Plan (BMEP) and its subsequent approval by the natural environment team it is considered that the proposed development would have an acceptable impact on biodiversity. No protected species were found on site. However mitigation/improvement measures are provided. A landscape condition is included to ensure some soft planting and 5 fruit trees as mitigation for trees lost prior to the submission of the application. |
| Affordable Housing | National planning policy as is now set out in the NPPF 2019 establishes thresholds below which affordable housing contributions should not be sought. As this site falls below these thresholds an affordable housing contribution is not required. |
| Climate Change | Policy ENV13 advises that new buildings are expected to achieve high standards of environmental performance. The scheme would have low energy and low water usage design. |

5.0 Relevant Planning History - There is no recent planning history.

6.0 List of Constraints

- Within the DDB of Weymouth
- Not Conservation Area
- Not AONB
- Not Listed Building
- Not Flood Zone 2/3.

7.0 Consultations

Weymouth Town Council – Objects on the grounds of density and loss of habitat as compared to existing. However the proposal is in keeping with adjacent development and it is noted that currently there is not a five year land supply.

Transport Development - No objection subject to conditions relating to access closure, turning and parking, and access construction. Add informative re section 184.

8.0 Representations

Weymouth Civic Society - Object. It is overdevelopment, crammed into space available and does not respect character or the setting. Poor access, traffic

generation. No reference in the application to the historic significance of North Lodge or Corfe Hill House dating from 1837. This should be treated as a non-designated heritage asset.

There is also a representation from Cllr Northam. He does not object on planning grounds but concerned with trees being cut down in November 2019. Lack of replacement trees and there should be more permeability to the footpath. Also that there is a lack of affordable housing.

Another 6 representations have been received from neighbouring properties. These raise the following concerns:

- The siting of the refuse and recycling store
- Loss of trees
- Traffic turning right into property would conflict with those turning right to the petrol station.
- Loss of privacy being overlooked in 18 Westmacott Road (one of the flats on the corner of the access to No's 20 and 22).

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

9.0 Relevant Policies

West Dorset, Weymouth and Portland Local Plan (2015):

- INT1 Presumption in favour of sustainable development
- ENV1 Landscape and seascape and sites of geological interest
- ENV2 Wildlife and habitats
- ENV3 Green Infrastructure Networks
- ENV4 Heritage assets
- ENV10 Landscape And Townscape Setting
- ENV12 Design And Positioning Of Buildings
- ENV13 Achieving high levels of environmental performance
- ENV15 Efficient And Appropriate Use Of Land
- ENV16 Amenity
- SUS2 Distribution Of Development
- HOUS1 Affordable Housing
- HOUS3 Open Market Housing Mix
- COM7 Safe and Efficient Transport Network
- COM9 Parking Standards in New Development

NPPF:

- Section 2 – Sustainable Development
- Section 4 – Decision-making
- Section 5 – Delivering a sufficient supply of homes
- Chapter 11 – Making effective use of land
- Chapter 12 – Achieving well-designed places
- Chapter 15 – Conserving and enhancing the natural environment
- Chapter 16 – Conserving and enhancing the historic environment

Decision making:

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

Other material considerations

- Urban Design (SPG3)
- English Heritage Listed Buildings
Corfe Hill House

SY68SE RADIPOLE LANE, Radipole 873-1/2/500 (North side (off)) 14/06/74 Corfe Hill House
(Formerly Listed as: DORCHESTER ROAD, Radipole Corfe Hill House) Grade II

Country house in own grounds. 1821. For Edward Balston. Yellow brickwork or rendered, slate roofs. PLAN: a substantial square principal range with large service range to the W. The corps de logis has a square entrance lobby opening to a fine open-well staircase, flanked by 2 rooms each side. EXTERIOR: 2 storeys, 3 windows; at first floor wide 12-pane sashes, above deeper 12-pane to ground floor, with central square flat-roofed portico on Portland stone Roman Doric columns and 5 nosed steps, over a panelled door with side-lights, to a flat elliptical arch containing a semicircular fanlight. The Portland stone plinth rises to ground-floor level; a mid band, moulded cornice with blocking-course, and parapet. This range has a large central stack in yellow brick. The S front, to the left, is rendered, with 2 large 12-pane sashes and a smaller central light at each floor, and a projecting lean-to conservatory, and the N front has 12-paned sashes, with an extra painted-in sash at the first floor. The large service range is on 3 floors, with hipped roof to plain eaves, 16-pane sashes at first and second floors, and 20-pane to the ground floor. A low wall links to an outbuilding beyond a service yard on the W side. INTERIOR: formerly divided into several apartments, now in single ownership and use; the ground floor only was inspected. The entrance lobby has a moulded ceiling cornice and central rosette, and opens to the staircase hall through glazed doors with side panels and large elliptical fanlight corresponding with the porch doorway. The stone-floored hall has a grand stone stair with flush soffit, wrought-iron balustrade and polished hardwood handrail, and moulded cornice. The panelled doors are in reeded doorcases with paterae. The principal reception rooms have moulded cornices, and the marble fireplaces are imported. Original or repaired panelled shutters remain to the ground-floor windows. A very elegant house, in splendid cream brickwork, and organised in the main building to bring all flues to the central stack. The building occupies a commanding position on a hill-top above the village.

10.0 Human rights

Article 6 - Right to a fair trial.

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

The first protocol of Article 1 Protection of property

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

11.0 Public Sector Equalities Duty

As set out in the Equalities Act 2010, all public bodies, in discharging their functions

must have “due regard” to this duty. There are 3 main aims:-

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

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

12.0 Financial benefits

12.1 The additional population would help generate spending in the local community, provision of infrastructure and services. The proposed development would also result in the creation of construction jobs during the build period. It is therefore considered the proposal would contribute albeit to a small degree to economic development and job creation.

13.0 Climate Implications

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

13.2 The development is also considered to be in a sustainable location on a bus route. The site would be within walking and cycling distance of all the Town Centre and local facilities.

13.3 Policy ENV13 advises that new buildings are expected to achieve high standards of environmental performance. The scheme would have low energy and low water usage design. The Design and Access statement advises that the houses would have low energy lighting, low water usage facilities, double glazed energy efficient (timber) windows, modern insulation and uses natural light and ventilation.

14.0 Planning Assessment

Principle of Development

14.1 In terms of the principle of the development the site 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.

14.2 The Council cannot currently demonstrate a five-year supply of deliverable housing sites. The Council has 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.*

14.3 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 because of its sustainable location. As such, the principle policy support for this scheme is policy INT1 (Presumption in favour of sustainable development) of the adopted local plan which is still afforded full weight in decision making.

Design and impact on the street scene:

14.4 It is considered that the layout of Plots 1 and 2 at the front of the site which can be read as one large dwelling and which are in line with the frontage of the existing house and neighbouring property to the south would not be out of character in the street scene. There are a mix of styles of detached properties in the area along Dorchester Road. The loss of some of the boundary wall is regrettable but not overly harmful. The siting of four houses to the back of the front 2 plots in pairs of semis and accessed from the driveway along with substantial amounts of parking is not considered out of character, in fact, No. 875 appears almost undeveloped being surrounded to the rear and south by housing in Westmacott Road and four additional houses at the rear is not considered to be anymore dense than the flat and terraced housing to the south.

14.5 It is unfortunate that the verdant character of the site has altered with the loss of the trees which were removed before the application being submitted. However the site is not conservation area, not listed and not protected with any TPOs so consent was not required to remove the trees. In terms of space for replacement trees, it appears that parking has taken priority over landscaping. There is a modest amount of space left for minimal tree planting. There is space to the front of the site for some planting which would help the new houses sit better in the street scene and a landscape condition is attached for a landscaping scheme to be agreed.

14.6 The density of the overall scheme is heavy with parking and hard surfaces but the overall ratio of site to built dwellings is not considered any more developed than the

development to the south. The density works out as 26 dph which is quite low density within the DDB.

14.7 Each of the dwellings would have some form of private amenity and usable outdoor space. The properties at three bedrooms each are considered to be family homes and the space whilst not huge is adequate and acceptable in terms of Policy ENV10. It should also be noted that there is no set sizes in the local plan or NPPF for garden sizes, it is relative to the character of the area. Having regard to development to the south where some properties and flats have no outdoor usable space the proposal is acceptable.

Impact on neighbouring amenity

14.8 It is considered that the proposal would not be contrary Policy ENV16 of the adopted Local Plan and the NPPF (para 17) which seeks a good standard of amenity to all existing occupiers. There is a comment about loss of privacy but the majority of windows from the rear properties would be to the north to their own rear gardens. There is adequate distance between windows and properties in Westmacott Road and Dorchester Road to prevent direct overlooking between windows. It is noted that the outlook from window of properties in Westmacott Road would alter from sylvan treed garden but this would have been the same situation when Westmacott was built. Side windows on the terraces are limited at first floor level to en-suites and there would be small living room windows. This is not considered to be overly harmful. The rear bedroom windows from the semis would allow overlooking to gardens but this is a characteristic of semis or terraces and not out of character with the area. All plots are separated by 1.8m panel fencing.

Heritage Assets

14.9 The Civic Society have asked that the existing dwelling be considered as a non-designated heritage asset given its association as the North Lodge to Corfe Hill House and the age of the building dating from 1837. Whilst the original gatehouse structure is of merit, this is completely compromised by the inappropriate later house extension on its southern side. As such, in its current form, the entire building cannot be considered of merit and whilst the original gatehouse loss is regrettable, it forms a small proportion of the overall property. In addition, the building is not within the Conservation Area so is not locally listed. It is a significant distance from Corfe Hill House that the two are not relative to each other any more (with intervening development in between) and there is no mention of the lodge within listing details.

14.10 As such, when balancing the retention of the small proportion of original gatehouse with the benefits of 6 dwellings to housing land supply, it is considered that the benefits outweigh the harm in this particular case and had the gatehouse not been so inappropriately extended previously, the Council would have sought to retain it through the design.

Highway safety and parking

14.11 The Highway officer has not raised any concern. This is a sustainable location outside of the town centre but with frequent bus stops and footpaths around the site

with a sports centre and convenience store nearby. The car parking provision including visitor spaces is more than ample given that there are no parking restrictions along Dorchester Road. The loss of the boundary to the front to widen the driveway to improve visibility is acceptable as the majority of the boundary would remain.

Affordable Housing

14.12 The NPPF at paragraph 63 says provision of affordable housing should not be sought for residential developments that are not major developments, other than in designated rural areas (where policies may set out a lower threshold of 5 units or fewer). As this site is not in designated rural area and is not a major – no affordable housing required.

Community Infrastructure Levy

14.13 Having regard to Community Infrastructure Levy. 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 rate at which CIL is charged will be £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.

15.0 Conclusion

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

16. **Recommendation:** Grant Permission 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 Plan, Block Plan
- Proposed site plan
- Plots 1 & 2 Floor Plans, Elevations
- Plots 3 & 4 Floor Plans, Elevations
- Plots 3 & 6 Floor Plans, Elevations

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

- 3) Before the commencement of development, full details of both hard and soft landscaping works shall be submitted to and approved in writing by the Local Planning Authority. The soft landscaping details to be submitted shall include planting plans, protection measures for existing features, planting maintenance

schedules. All hard landscaping works shall be carried out prior to first occupation of the dwellings hereby approved. Planting shall be carried out before the end of the first available planting season following substantial completion of the development. In the five year period following the substantial completion of the development any trees that are removed without the written consent of the Local Planning Authority or which die or become (in the opinion of the Local Planning Authority) seriously diseased or damaged, shall be replaced as soon as reasonably practical and not later than the end of the first available planting season, with specimens of such size and species and in such positions as may be agreed with the Local Planning Authority. In the event of any disagreement the Local Planning Authority shall conclusively determine when the development has been completed, when site conditions permit, when planting shall be carried out and what specimens, size and species are appropriate for replacement purposes.

Reason: In the interests of continued visual public amenity.

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

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

- 5) Before the development is occupied or utilised the first 10m of the vehicle access measured from the rear edge of the highway excluding the vehicle crossing must be laid out and constructed to a specification submitted to and approved in writing by the Local Planning Authority:

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

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

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

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

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

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

Reason: In the interests of a protected species.

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

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

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

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

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

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

Informatives: NPPF, CIL, Section 184 Highways Act.

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1.0 Application Number - [WD/D/20/001700/OBL](#)

Site address - **Land to north and west of Cockroad Lane, Beaminster**

Proposal - **Discharge of planning obligations on Section 52 Agreement dated 10 March 1989 (original planning approval 1/W/88/458)**

Applicant name – Gladman Developments Limited

Case Officer –Bob Burden

Ward Member(s) –Cllr Rebecca Knox

The application is brought to committee because of objections by the Parish Council, and because it falls outside the Officers' the Scheme of Delegation

2.0 Summary of Recommendation:

2. That the Council revoke the S52 Agreement dated 10 March 1989

3.0 Reason for the recommendation:

3.1 It is considered that the proposed discharge of the agreement would be acceptable and conducive to the development of the site.

4.0 Key planning issues

| Issue | Conclusion |
|--|--|
| Release of obsolete planning obligations (a) for payment of £25k index-linked since 1987 towards sewerage infrastructure, and (b) for the formation of a rainfall attenuation basin (or tank) on –site | The proposed discharge of the S52 agreement is appropriate since it relates to a development for which planning permission has expired and is no longer implementable. Also, it clears the way for development of the site in accordance with a recent planning permission |

5.0 Description of Site

5.1 The site lies on the western side of Beaminster and largely comprises a mix of sheep and pony grazing land with some boundary hedgerows and established tree planting to the eastern side. The site is accessed via a surfaced farm trackway known as Cockroad Lane.

The Section 52 Agreement dated 10 March 1989 relates to this land. It is linked to an outline planning permission for the development of land for industrial and

commercial purposes and the formation of new vehicular and pedestrian access approved on 10/3/1989 (1/W/88/458).

6.0 Description of Proposal

6.1 This application seeks to revoke the Section 52 Agreement and requests the consequential removal of any notice relating to it from the local land charges register planning register. However, we are advised that although the Section 52 Agreement can be revoked and an entry to that effect made on the register, it should not be removed. Therefore, the decision before the Committee is solely whether to revoke the Section 52 Agreement

7.0 Relevant Planning History

| Application No. | Proposal | Decision | Decision Date |
|------------------------|--|-----------------|----------------------|
| 1/W/88/358 | Develop land for industrial and commercial purposes and the formation of new vehicular and pedestrian access. | Approved | 10/3/1989 |
| WD/D/19/000613 | Outline planning permission for up to 58 residential dwellings (including 35% affordable housing) , amenity area for recreational use, planting, landscaping, informal public open space, children's play area and sustainable drainage system, including demolition of agricultural structures. | Approved | 7/4/2020 |

8.0 Relevant Constraints

Within Defined Development Boundary for Beaminster.

9.0 Consultations

Beaminster Town Council -

Recommend refusal-the loss of employment land will have a detrimental effect on the future of Beaminster conflicting with Local Plan 14.2.1 A Vision for Beaminster (in 2031) –“retain its historic character and respect the beauty of the surrounding countryside whilst developing on a small scale, primarily to meet local needs for housing, employment and community facilities” –BEAM1

Also 14.2.2 Opportunities for development in Beaminster include:

“Land to the north of Broadwindsor Road, west of Beaminster, has the capacity to provide around 120 homes and approximately 0.5ha employment land. Live-work units would be supported as part of this development. The north-eastern section is potentially more suited to employment uses.. “

10.0 Representations

10.1 No comments received at the time of report writing.

11.0 Relevant Policies

West Dorset, Weymouth and Portland Local Plan:

BEAM1 – Land to the North of Broadwindsor Road.

National Planning Policy Framework:

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

12.0 Human rights

Article 6 - Right to a fair trial.

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

The first protocol of Article 1 Protection of property

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

13.0 Public Sector Equalities Duty

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

- Removing or minimising disadvantages suffered by people due to their protected characteristics
- Taking steps to meet the needs of people with certain protected characteristics where these are different from the needs of other people

- Encouraging people with certain protected characteristics to participate in public life or in other activities where participation is disproportionately low.

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

14.0 Financial benefits

There are no financial benefits to the Council arising directly from revocation although when the site is redeveloped for housing, Community Infrastructure Levy payments will accrue to the Council for spending on infrastructure projects benefitting the community.

15.0 Climate Implications

15.1 The proposed discharge of the Section 52 Agreement is not considered to alter the climate implications.

16.0 Planning Assessment

16.1 The Section 52 Agreement provided for a £25,000 payment (index-linked from 1987) to be made to the then West Dorset District Council (as Agent for the Wessex Water Authority) as a contribution towards uprating the sewerage system serving western Beaminster.

It also included a requirement to construct an on-site rainfall storage area (or tank) of capacity to contain the total run-off from the developed area in a quantified rainfall period.

However, the planning permission does not appear to have been implemented; there is no evidence of the condition submissions required under the outline application being made within the 3 year validity period. These included pre-start conditions on details of estate road construction and a tree planting scheme. Nor is there any evidence of the payment or details of the water storage structure being submitted.

The applicant is seeking formal discharge of this Section 52 Agreement, which was attached to the defunct planning permission. Such Agreements are not intended (save in rare cases which are not relevant here) to have an independent life of their own. A section 52 agreement does not authorise development in its own right, it simply imposes certain obligations on the related development.

Section 106 of the 1990 Act replaced Section 52 of the 1971 Act. Current Section 106 Agreements almost invariably contain clauses for their own automatic expiry if the associated planning permission expires. Had such a clause been included in the Section 52 Agreement this matter would not have required determination..

The site has recently received planning permission for up to 58 dwellings granted on 7 April 2020 (WD/D/19/000613) and is allocated for development in the West Dorset, Weymouth and Portland Local Plan 2015.

The applicant indicates that discharge of the agreement is necessary to enable the development of the site to commence in accordance with the most recent planning permission. In the Council's view this is a reasonable request as the section 52 Agreement could be interpreted as applying to any future development of the site. In practice, if it is not revoked, purchasers' solicitors will ask the Council for further details, and ask for their clients to be released or indemnified, all of which will add to the administrative burden on local land charge, planning and legal staff, whilst serving no interest of or benefit to the Council, the public or the area.

The Town Council have objected to the discharge of the agreement, with a particular concern over what they regard as a potential loss of an opportunity to provide employment on this site. They do -understandably- wish to ensure employment sites are available for the town. However, a Section 52 Agreement cannot create or confer employment status on land. Authorising land use is granted by way of planning permission, not Section 52 (now section 106). Therefore, the Parish Council's objection is not legally sustainable, and it would be impossible to defend the position in Court if the Council refuse the application on that basis.

However, for the information of Members, and to put the concerns of the Parish Council in context, the history of the current change in status is as follows:

The issue of employment is included in Policy BEAM1 which allocated a tract of land (part of which falls in this site) for not just housing but employment also.

This issue was explored in the planning committee report (paras 15.5-15.8) relating to the recent planning permission (WD/D/19/000613) on the site as follows:

Adopted Policy BEAM1 has an expectation that about 0.5 ha of land will be developed for employment use. The submitted application does not include any employment land. However, on this topic it is expedient to mention that under the emerging Dorset

Council Local Plan (the West Dorset, Weymouth and Portland Local Plan Review is not proceeding as decided by Dorset Council Cabinet on 25th June 2019 and work has begun on a new Dorset-Wide Local Plan) the proposed land-use allocation is changing. The emerging development strategy for Beaminster as set out in the Preferred Options Consultation 2018 (POC) is for development to be focused to the west and north of the town. As mentioned, the adopted Local Plan contained a mixed use allocation on land North of Broadwindsor Road (BEAM1). This site contained a requirement for employment land to be provided adjacent to the existing employment uses to the east of the site- partly prefaced on the proximity of that area to the then employment use at Clipper Teas, north of the Broadwindsor Road.

However, circumstances have now changed; the area close to the east of the site (part of the Clipper Teas site) has now been granted permission for residential development substantially reducing the appropriateness for employment uses to be located adjacent to housing (the reserved matters application WD/D/18/002592 for 38 dwellings has now been approved and planning condition requirements are now being processed). Furthermore, the emerging local plan strategy proposes to remove the requirement for employment land on the BEAM 1 site. It is now proposed that land to the south of Broadwindsor Road (BEAM4) is proposed for employment uses (up to 3.8ha) in the emerging local plan allowing for the expansion of existing businesses and for new businesses to move in or start. BEAM4 is located between the main Clipper Teas site and Lower Barrow Farm. Also, as part of that Review another area - Land to the West of Tunnel Road is proposed for residential development in the emerging local plan, and Land at Lane End Farm is allocated for employment uses as in the adopted local plan.

The preamble to BEAM1 also refers to “live-work units would be supported as part of this development”. Live/work units have not been specifically included in this application, but this is not a policy requirement - rather a possible option. They were not included in the other adjacent application. However, in reality with modern ways of working an increasing number of people work on a part or full-time basis from home and this would be likely to occur in any event.

The removal of employment use from the current BEAM1 allocation is further reinforced by the comments that were made by the Senior

Economic Regeneration Officer in relation to the application the Committee resolved to approve in January::

I was involved in about 2006 with SWRDA (the former South West Regional Development Agency), who undertook a development appraisal of the site, which was then allocated purely for employment uses. I recall there were exceptional costs for drainage and utility connections as well as possible contamination and need for edge planting which concluded the size may not be viable for employment uses.

I note the policy requirement for the retention of part of the site for employment uses, you may wish to reconsider this given the recent residential outline consent granted on the adjacent employment area, Clipper Teas to east.

I note that there remains in Beaminster the BEAM2 site (Land at Tunnel Road) which if brought forward by the owner or third party could provide some future employment needs for Beaminster.

It should also be noted that these factors were taken into consideration by the West Dorset District Council Planning Committee in January 2019, leading them to resolve to approve the application on the southern part of the allocation without any requirement for employment. Hence it would now be inconsistent with the emerging employment strategy for employment to be required on this part of the allocation. Moreover the Senior Economic Development Officer is content with the direction of employment policy and has commented “*I understand other sites are being considered for employment uses in Beaminster so am not concerned about the loss of the employment allocation at this site.*”

The laudable objective of the Town Council to encourage the identification of further employment land can be facilitated by engagement with the current Local Plan review process, but is not material to the decision on this application to revoke the Section 52 Agreement.

17.0 Conclusion

17.1 There is no legal or planning ground for retaining the Section 52 Agreement, which left in place could hamper or prevent redevelopment for housing, and lead to unnecessary administrative costs for the Council.

18.0 Recommendation

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

Western and Southern area Planning Committee

5th November 2020

Appeal Decisions

1. PURPOSE AND RECOMMENDATIONS

Purpose of Report: To inform Members of notified appeals and appeal decisions and to take them into account as a material consideration in the Planning Committee's future decisions.

Recommendations: It is **RECOMMENDED** that:
This report is for Information

Wards: Those covered by the area planning committee

3.0 APPEAL DECISIONS

Appeal Reference: APP/D1265/W/20/3254861

Planning Reference: WD/D/19/002178

Proposal: Erect 2 dwellings (Outline Application – Access and Layout)

Address: Land West of Watton Lane, Bridport

- 3.1 The planning application was considered by the Western and Southern Area Planning Committee in January 2020. The case officer for the application recommended to the committee that the application be approved. The committee decision was to refuse planning permission for the following reasons:

1. Having regard to the location of the site outside of the defined development boundary for Bridport it is considered that future occupiers of the dwellings would be reliant upon their cars to access day to day living requirements and facilities and as such the dwellings would not be in a suitable location for residential development, would not accord with the National Planning Policy Framework (2019) in its requirement to actively manage growth, through limiting the need to travel and offering a genuine choice of transport modes and would not be sustainable development. The Council has declared a climate emergency and a proactive approach to mitigating climate change should be taken in accordance with paragraph 149 of the National Planning Policy Framework (2019).

2. The site is within the Area of Outstanding Natural Beauty (AONB) and it is considered that the proposed development would adversely impact on the AONB contrary to paragraph 172 of the National Planning Policy Framework (2019) which requires that great weight should be given to conserving and enhancing landscape and scenic beauty within an Area of Outstanding Natural Beauty.
- 3.2 The applicant subsequently appealed the refusal of planning permission and the Council in September 2020 received the appeal decision. The appeal was allowed and planning permission was granted for the development.

Character and Appearance:

- 3.3 The Inspector noted that the proposal would be located in an area which is predominantly enclosed by residential development, both existing and recently permitted. While the site is undeveloped, given that the site is bordered to the north, east and west by substantial amounts of residential development, which include dwellings of modern design with domestic gardens which adjoin the field, the site makes a very limited contribution to the landscape and scenic qualities of the AONB.
- 3.4 The Inspector considered that the development would not result in visually isolated or sporadic dwellings within the countryside as they would be seen as forming part of the existing development at Watton and specifically in the context of the nearby residences that are located within Broad Lane and which are more prominent in the wider landscape than the proposed dwellings. The Inspector concluded that the proposal would not disrupt any long distance views of this section of the AONB, from within the wider surrounding landscape.
- 3.5 The Inspector notes that the scheme proposes low density housing which would not appear cramped within the site when considered in the context of the pattern of development in the immediate area.
- 3.6 The Inspector concluded in respect of character and appearance and the impact on the AONB:

“In view of the modest scale of development and its particular location, subject to matters of design and landscaping, I consider that the development would not result in harm to the character and appearance of the surrounding area or would fail to conserve and enhance the landscape and scenic beauty of the AONB. Consequently, the appeal scheme would not conflict with the provisions of paragraph 172 of the Framework.”

Location of Development:

- 3.7 The Inspector acknowledged that the proposed location for the appeal scheme would be outside of the DDB and would not strictly accord with Policy SUS2 of the Local Plan, but that the site is nonetheless situated close to, and within convenient walking distance to, the built up area of Bridport Town and the

wide range of services and facilities, such as schools, supermarkets and leisure centre, that the settlement provides.

- 3.8 The Inspector accepted that future occupants may have to walk on a short section of highway without lighting or footways but considered that the short section of highway provides good levels of visibility for pedestrians and vehicles alike in both directions and is wide enough to allow for cars to safely pass pedestrians. The Inspector also noted that there appeared to be public footpaths close to the site that provide alternative pedestrian access into Bridport.
- 3.9 The Inspector considered the scheme would appear to be adequately located, benefiting from good access by means of walking or cycling, which would thus help reduce the reliance on motor vehicles and that this position would not be altered by the additional traffic that would be generated from nearby sites which have been permitted for development. The proposal would therefore accord with the provision of paragraph 108 of the Framework.
- 3.10 The Inspector concluded that by reason of the site's convenient location where access to services and facilities can be achieved without the need to travel by car, and given that efficient use of water and energy resources could be included within the design of the proposed units at the reserved matters stage the Inspector concluded that the scheme would not fail to accord with the provisions, aims or objective of paragraph 149 of the Framework.

Planning Balance:

- 3.11 The Inspector stated:

“The evidence before me indicates that the Council cannot currently demonstrate a five year housing land supply and, in this regard, it appears that the shortfall is not significant. Paragraph 11(d) of the Framework provides that where there are no relevant development plan policies, or the policies most important for determining the application are out-of-date (including housing, where the Local Planning Authority cannot demonstrate a five year supply of deliverable housing sites), permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits when assessed against the policies in the Framework as a whole.

I have found that the proposal would not be harmful to the character and appearance of the surrounding area and would not be harmful to the landscape and scenic beauty of the AONB. Whilst the appeal scheme would be conveniently and suitably located with regard to access to services and facilities by means other than private motor vehicle, the proposed development would be outside the DDB and would conflict with the development plan in this regard. However, Policy SUS2 of the Local Plan does provide that some growth outside of the DDB could be permitted to meet local needs and given the shortfall in housing supply and that Watton could be considered to be a settlement without a DDB, I attach only limited weight to the proposal's conflict with Policy SUS2 of the Local Plan.”

- 3.12 The Inspector went on to consider the benefits arising from the scheme. He considered that the economic benefits would be limited in terms of employment during the construction phase and in terms of the additional spend of future occupants with local businesses which will contribute to the vitality of Bridport and to the viability of existing services. In terms of social and environmental benefits he considered it would contribute to the shortfall in housing supply and be located in close proximity to Bridport. Further environmental benefits could arise in his view given that the efficient use of water and energy resources could be included within the design of the proposed units at the reserved matter stage. Cumulatively he attached moderate weight to these considerations in the determination of the appeal.
- 3.13 The Inspector found that the cumulative benefits associated with the proposal would be moderate and the harm arising from the proposal's conflict with Policy SUS of the Local Plan would not significantly or demonstrably outweigh the benefits of the appeal scheme when assessed against the provision of the Framework when taken as a whole and as such allowed the appeal.