



Western and Southern Area Planning Committee

Date: Thursday, 7 January 2021
Time: 10.00 am
Venue: MS Team Live Event This meeting will be held remotely as an MS Teams Live Event [see link below]

Membership: (Quorum 6)

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

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

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



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

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

[Link to observe Western and Southern Area Planning Committee on 7 January 2021](#)

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 5 January 2021. This must include your name, together with a summary of your comments and contain no more than 450 words.

If a councillor who is not on the Planning Committee wishes to address the committee, they will be allowed 3 minutes to do so and will be invited to speak before the applicant or their representative provided that they have notified the Democratic Services Officer by 8.30am on Tuesday 5 January 2021.

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

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

Using social media at virtual meetings

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

A G E N D A

Page No.

1 APOLOGIES

To receive any apologies for absence

2 DECLARATIONS OF INTEREST

To receive any declarations of interest

3 MINUTES

5 - 22

To confirm the minutes of the meeting held on 3 December 2020.

4 PUBLIC PARTICIPATION

23 - 24

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 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 5 January 2021.**

5 PLANNING APPLICATIONS

To consider the applications listed below for planning permission.

- a** **WD/D/20/001703 - Land Adjacent to Buckland House,
Buckland House Lane, Buckland Rippers, DT3 4FT** 25 - 38

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

- 6** **UPDATE ENFORCEMENT REPORT - HOMESTEAD FARM, MAIN
STREET, BOTHENHAMPTON, BRIDPORT, DT6 4BJ** 39 - 92

Breach of Planning: Demolition of original farmhouse and Erection of a dwelling not in accordance with planning approval WD/D/17/002888 as amended via the approved non material amendment approvals WD/D/19/000355/NMA & WD/D/19/000624/NMA.

7 **URGENT ITEMS**

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



DORSET COUNCIL - WESTERN AND SOUTHERN AREA PLANNING COMMITTEE

MINUTES OF MEETING HELD ON THURSDAY 3 DECEMBER 2020

Present: Cllrs 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 - Planning) and Cllr Brian Heatley

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

Ann Collins (Area Manager – Western and Southern Team), Bob Burden (Senior Planning Officer), Philip Crowther (Legal Business Partner - Regulatory), Paul Derrien (Housing Enabling Team Leader), Anna Lee (Service Manager for Development Management and Enforcement), Allison Sharpe (Business Support Officer), Anita Skelson (Technical Support Officer), Huw Williams (Lead Project Officer - Corporate Projects) and Denise Hunt (Democratic Services Officer)

39. Apologies

An apology for absence was received from Councillor Mike Barron.

40. Declarations of Interest

The following declarations were made:-

Councillor Kate Wheller declared an interest in Application WP/20/00477/FUL - Adult Education Centre, 45 Dorchester Road, Weymouth, DT4 7JT as Chairman of the Corporate Parenting Board and confirmed that she had not been involved in discussions in relation to this application.

Councillor Sarah Williams declared an interest in WD/D/20/001420 - Lyme Regis Harbour, The Cobb, Lyme Regis as a member of the Harbours Committee. She confirmed that the application had not been considered by the Harbours Committee and that she had not pre-determined the application.

Councillor Louie O'Leary also declared an interest in WD/D/20/001420 - Lyme Regis Harbour, The Cobb, Lyme Regis as a member of the Harbours Committee and confirmed that he had not pre-determined the application.

41. Minutes

The minutes of the meeting held on 5 November were confirmed and would be signed at a future date.

42. **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.

43. **Planning Applications**

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

44. **WP/19/01016/FUL - St Nicholas Church, Buxton Road, Weymouth, DT4 9PJ**

The Committee considered an application to demolish an existing church and the erection of 18 flats (including at least 6 affordable units) with associated external amenity space and parking spaces. The application had been previously considered in July 2020 and had been brought back before the Committee due to a change to the terms of the Section 106 Agreement.

The Senior Planning Officer gave a presentation of the proposed site within the Defined Development Boundary and the Connaught Road Conservation Area. The church was a 1960s structure in a poor state of repair.

Members were shown the site of the existing church in relation to other dwellings in the immediate area. A block plan indicated the footprint of the proposed development and existing wide bell mouth access that would be reduced to 5m. The proposal included a new pedestrian access, amenity space, recycling store, cycle racks (1 per flat) and 18 parking spaces, the majority of which were undercroft parking.

The relationship with the bungalow at No 16 Buxton Road which was at a higher level to the rear of the proposed development had been explored and a plan and associated photographs demonstrated that the outlook across Portland Harbour and Portland from the bungalow would be maintained as a result of the proposed development.

A particular feature of the floor plans included pop out windows on the rear and east elevations which would be obscure glazed to mitigate overlooking of nearby properties. A plan of the proposed street scene showed the development would be 0.7m lower than the Victorian Villas, 5.6m higher than the existing church and a distance of 22m from the front of the bungalow at No 16 Buxton Road.

The main planning issues were highlighted including:-

- principle
- residential development within the DDB
- minimum 35% affordable housing provision
- contribution towards the 5 year housing land supply
- effect on the Conservation Area and residential amenity
- highway safety

The Senior Planning Officer explained that it had been necessary to amend the draft S106 Agreement due to a change in the way affordable housing schemes were funded by Homes England. This meant that 35% could be funded via the S106 Agreement and although it remained the intention of Sovereign Housing to develop an 100% affordable housing scheme, this could not be guaranteed.

Public written representations received were read out at the meeting and are attached to these minutes.

Cllr Brian Heatley, Dorset Council Ward Member for Rodwell & Wyke, highlighted that the provision of 18 affordable housing units had been a balancing factor that outweighed objections by residents when the application was considered in July 2020 and that he hoped that this could still be the case.

Responding to comments made during public participation, the Senior Planning Officer advised that he had met with the occupants of No 16 Buxton Road to discuss the impact on residential amenity due to overlooking and shading and that this had been mitigated by the use of obscure glazing and the 22m distance between the bungalow and the development.

The intention remained to provide social rented units as indicated in the report and although 6 affordable units could be guaranteed within the S106 Agreement, it was not possible to confirm the remaining 12 units. However, the objective to provide an 100% affordable housing scheme was apparent in a short letter from Sovereign Housing included in the update sheet advising that it would *"be utilising grant funding to make all 18 units affordable housing. To use grant funding the scheme requires a standard planning approval as discussed. We look forward to providing these units."*

The Housing Enabling Team Leader added that it was unfortunate that funding had been impacted by a recent decision taken by Homes England not to fund anything controlled by a S106 Agreement. However, he recognised the need to work with the new funding model if the Council was going to increase the amount of affordable housing in future. He was therefore keen to progress this development and had worked with the developer and Sovereign Housing for some time on this proposal.

It was also confirmed that the application included the provision of an electric vehicle charging scheme which had been included in the conditions.

On balance the committee was mindful that the development complied with the policy requirement for 35% affordable housing and supported the intention to provide an 100% affordable housing scheme.

Prior to voting on the application the Area Manager - Western and Southern Team highlighted that the recommendation included amendments to conditions in respect of windows and flat numbers (that were incorrectly recorded in the July 2020 report) in addition to clarifying that members considered that the S106 agreement should specify affordable rented units.

Proposed by Councillor Bill Pipe, seconded by Cllr Susan Cocking.

Decision

A: That authority be delegated to the Head of Planning to grant subject to the completion of a Section 106 Agreement to secure provision of 35% affordable housing (6 flats and a financial contribution to off-site affordable housing provision – the latter not being required if more than 6 affordable units are provided on site) and subject to the planning conditions outlined in the appendix to these minutes.

B: Refuse permission for the reasons set out if the legal agreement under Section 106 of the town and country Planning Act 1990 (as amended) is not completed within 6 months of the date of the committee resolution or such extended time as is agreed by the Head of Planning.

1. Policy HOUS1 of the adopted West Dorset, Weymouth and Portland Local Plan 2015 requires a minimum on-site provision of units as affordable housing and in the absence of a planning obligation to secure these affordable units the scheme would fail to meet the substantial unmet need for affordable housing in the district and the proposal would therefore be contrary to Policy HOUS1 of the adopted West Dorset Weymouth and Portland Local Plan. Furthermore, the community-related benefits inherent in the scheme would not be achieved. Hence the scheme would be contrary to the objectives of paragraph 92 of the National Planning Policy Framework (2019).

45. WD/D/20/002313 - Land at Whites Meadow, Mosterton

The Committee considered a proposal for the modification/discharge of planning obligations on section 106 dated 5th April 2016 (linked to planning application WD/D/14/002887).

Members were shown a location plan of the site to the western side of Mosterton in a sustainable village location and block plan showing 5 pairs of semi-detached cottages. Ground works had commenced on site in respect of the foundations and sewerage.

The Senior Planning Officer explained that the existing Section 106 Agreement allowed for 4 affordable housing units or an off-site contribution to be made. As a Registered Social Landlord, it was the intention of the applicant, LiveWest Homes Ltd, to provide 10 affordable housing units, (4 shared ownership and 6 social rent).

Proposed by Councillor Louie O'Leary, seconded by Councillor Kate Wheller.

Decision: That authority be delegated to the nominated officer to modify the S106 agreement dated 5th April 2016 requiring the disposal of the 10 houses to LiveWest Homes Ltd.

46. **WD/D/20/001420 - Lyme Regis Harbour, The Cobb, Lyme Regis**

The Committee considered an application concerning the extension and repairs to the existing slipway and extension of existing boat storage. The application was being considered by the Committee as the applicant was Dorset Council.

The Senior Planning Officer referred to an additional plan included in the update sheet circulated to members concerning boundary fencing that had been included in the plans list.

Members were given a presentation that included a site location plan and aerial view of the existing boat storage area; the proposed location of a 20m by 20m new raised platform to extend the area for marine craft to be stored and a 5m extension of the slipway. A post and chain fence would be installed on 3 sides of the structure that allowed increased capacity of the slipway storage area. This was a sensitive site with the Conservation Area with a number of Listed Buildings in the area.

The key planning points were also highlighted.

Members asked about the impact of the Committee's decision should an objection be received by the Ministry of Defence and were advised that although an objection would be unlikely, if this were to be the case the matter would be referred back to the Committee.

Proposed by Councillor Kate Wheller, seconded by Councillor Louie O'Leary.

Decision: That authority be delegated to the head of planning to approve the planning application subject to receipt of no objection from the Ministry of Defence or no comment is received by 8th December 2020.

47. **WD/D/20/001014 - Creek Caravan Park, Fishers Place, Ringstead, Dorchester, DT2 8NG**

Following publication of the agenda, the application was withdrawn by the applicant.

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

Prior to the committee meeting the application was deferred to the Area Planning Committee meeting on 7 January 2021.

49. **WP/20/00477/FUL - Adult Education Centre, 45 Dorchester Road, Weymouth, DT4 7JT**

The Committee considered an application for the demolition of an existing single storey modular building, glazed link corridor and privacy wall and change of use of the existing property from office use to residential use on first and second floors, to erect a two storey residential children's home,

installation of boundary fencing and railings and alterations to vehicle access and gates. The application was being considered by the Committee as the applicant was Dorset Council.

Members were shown a location plan of the land and buildings in the area including Grade II listed Cranford House. The site was within the Defined Development Boundary for Weymouth and the Lodmoor Hill Conservation Area.

An aerial photo identified trees on the site, the vast majority of which would be retained as they were protected by Tree Preservation Orders (TPOs). Two trees were to be removed in line with the Tree Officer's recommendations, one from the rear boundary with Park Lane and one adjacent to the access.

A number of photographs were shown of the site, the surrounding area and its relationship with Kildare Court which had a number of side facing windows potentially impacted by this development. The existing access had been previously widened to accommodate mini buses and would now be narrowed as part of this proposal. A considerable amount of tarmac would be removed in order to reinstate garden and amenity space with parking to the south of the site.

A shadow analysis presented as part of the design & access statement revealed only a slight change relative to the existing situation. A shadowing photo presented by the Weymouth Civic Society who had objected to the scheme, showed a degree of overshadowing of the ground floor window at Kildare Court. The Lead Project Officer had visited the occupants of the ground and first floors and was satisfied that the impact of the development was acceptable.

A representation on behalf of Dorset Council was read out and is attached to these minutes.

Members asked questions regarding the railings dividing the site, the width of the proposed access and how many bedrooms were to be provided.

The Lead Project Officer advised that although both buildings would be used by Children's services, the railings provided a degree of separation between the uses within the site. Seven children could be accommodated in the children's home and the conversion to residential accommodation of No 45 would allow accommodation for young people such as care leavers and associated office use by Children's Services. There would be a total of 12 rooms across the 2 buildings with communal lounge and kitchen areas. He confirmed that the width of the proposed access of 3.5m would be satisfactory for access by emergency vehicles.

Proposed by Councillor Louie O'Leary, seconded by Councillor Kate Wheller.

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

50. **Appeals Summary**

The report was presented by the Area Manager - Western & Southern Team and was noted by the committee.

51. **Urgent items**

There were no urgent items.

52. **Update Sheet**

Appendix - Decision List

Duration of meeting: 10.00 - 14.37

Chairman

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APPLICATION NUMBER: WP/19/01016/FUL

APPLICATION SITE: St Nicholas Church, Buxton Road, Weymouth, DT4 9PJ

PROPOSAL: Demolition of the existing church and erection of 18 flats (including at least 6 affordable units) with associated external amenity space and parking spaces.

DECISION:

A: Delegate authority to the Head of Planning to grant subject to the completion of a Section 106 Agreement to secure provision of 35% affordable housing (6 flats for rent and a financial contribution to off-site affordable housing provision – the latter not being required if more than 6 affordable units are provided on site) and subject to planning conditions as follows:

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

Site location plan 39 received 20/12/19
Proposed floor plans & street scene 32H received 16/6/20 Proposed
floor plans/extended site section 33D received 18/6/20
Proposed elevations 34D received 16/6/20
Railing details 41A received 24/4/20
Proposed Block Plan 38A received 10th July 2020
Proposed Plan/ground floor plan 30G received 10th July 2020
Proposed Site Plan/First Floor Plan 31G received 10th July 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. No development shall take place above damp proof course level until samples of all facing and roofing materials, (and details of the design and materials of the new road frontage wall section) have been submitted to and approved in writing by the local planning authority and the development shall be completed in accordance with those details thereafter.

REASON: To ensure the external appearance of the completed development in the conservation area is sympathetic to the locality.

4. The windows shall be of powder coated aluminium in a colour which shall first have been submitted to and agreed in writing by the local planning authority. The windows including frames shall be retained in the agreed colour thereafter. The railing details applicable to the south elevation shall be carried out in accordance with the details shown on plan 41A and retained as such thereafter.

REASON: To ensure the external appearance of the completed development in the conservation area is sympathetic to the locality.

5. Prior to the commencement of any development a detailed surface water sustainable drainage scheme for the site, based on an assessment of the hydrological and hydrogeological context of the development including details of the maintenance and management of the surface water sustainable drainage scheme and any receiving system and shall be designed to include a plan for the lifetime of the development for its maintenance and management, 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, and a timetable for implementation shall have been submitted to and approved in writing by the local planning authority. The approved scheme shall be fully implemented in accordance with the submitted details and timetable for implementation. The scheme shall be managed and maintained thereafter in accordance with the approved details.

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

6. The finished floor levels shall be in accordance with the levels details shown on plan 33C.

REASON: In the interests of visual amenity.

7. No development above damp proof course level shall be carried out until a hard and soft landscaping scheme shall first have been submitted to, and approved in writing, by the local planning authority. The approved scheme shall be implemented and completed during the planting season November-March inclusive, immediately following commencement of the development, or as may be agreed otherwise in writing by the local planning authority. The scheme shall include provision for the maintenance or replacement as necessary of the trees and shrubs for a period of not less than 5 years from completion of the development and the soft landscaping shall be maintained and replaced as necessary in accordance with the approved scheme.

REASON: In the interests of visual amenity.

8. No flat shall be first occupied until all the following glazing measures shall have been installed: The "pop-out" windows on the east elevation shall have obscure glazing facing east (with transparent glazing facing south), and the two pop-out windows in the north elevation to bedroom 2 of both flats 15 and 9 shall have obscure glazing on the north (with transparent glazing to the east and west sides). There shall

be no pedestrian access to the external top floor hatched areas as shown on plan 33D. The third floor east elevation balcony and the screening to the external stair and landing on the north elevation shall be obscure glazed. All obscure glazing shall be to Code 3 standard. Thereafter, all the foregoing measures shall be permanently retained.

REASON: In the interests of residential amenity.

9. The development shall be carried out in accordance with the measures contained in the agreed Biodiversity Mitigation Plan (BMP) dated 31/3/20. All works within the BMP shall be carried out in accordance with the agreed timescale unless otherwise agreed in writing by the local planning authority. The completed works shall be retained thereafter.

REASON: To ensure nature conservation interests are fully addressed.

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

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

11. No flat shall be first occupied until details of the means of enclosure to the boundaries, including materials and height, shall have been submitted to and approved in writing by the local planning authority. Thereafter the means of enclosure as are agreed shall be erected prior to first occupation of any flat and permanently retained thereafter.

REASON: In the interests of privacy and visual amenity.

12. Before the development is occupied or utilised the first 10 metres of the vehicle access, measured from the rear edge of the highway (excluding the vehicle crossing – see the Informative Note below), must be laid out and constructed to a specification submitted to and approved in writing by the Local Planning Authority.

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

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

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

14. Before the development hereby approved is occupied or utilised provision must be made to ensure that no surface water drains directly from the site onto the adjacent public highway in accordance with details which shall have, prior to development above damp proof course level, been submitted to and approved by the local planning authority. The development shall be carried out in accordance with the approved details and the approved drainage works shall be retained and maintained for the lifetime of the development.

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

INFORMATIVE NOTE: Dorset Highways

The vehicle crossing serving this proposal (that is, the area of highway land between the nearside carriageway edge and the site's road boundary) must be constructed to the specification of the County Highway Authority in order to comply with Section 184 of the Highways Act 1980. The applicant should contact Dorset Highways by telephone at Dorset Direct (01305 221000), by email at dorsetdirect@dorsetcc.gov.uk, or in writing at Dorset Highways, Dorset County Council, County Hall, Dorchester, DT1 1XJ, before the commencement of any works on or adjacent to the public highway. (

B: Refuse permission for the reasons set out below if the legal agreement under Section 106 of the town and country Planning Act 1990 (as amended) is not completed within 6 months of the date of the committee resolution or such extended time as is agreed by the Head of Planning.

1. Policy HOUS1 of the adopted West Dorset, Weymouth and Portland Local Plan 2015 requires a minimum on-site provision of units as affordable housing and in the absence of a planning obligation to secure these affordable units the scheme would fail to meet the substantial unmet need for affordable housing in the district and the proposal would therefore be contrary to Policy HOUS1 of the adopted West Dorset Weymouth and Portland Local Plan. Furthermore the community-related benefits inherent in the scheme would not be achieved. Hence the scheme would be contrary to the objectives of paragraph 92 of the National Planning Policy Framework (2019).

APPLICATION NUMBER: WD/D/20/002313

APPLICATION SITE: Land at Whites Meadow, Mosterton

PROPOSAL: Modification/discharge of planning obligations on section 106 dated 5th April 2016 (linked to planning application WD/D/14/002887)..

DECISION: Delegate authority to the nominated officer to modify the S106 agreement dated 5th April 2016 requiring the disposal of the 10 houses to LiveWest Homes Ltd.

APPLICATION NUMBER: WD/D/20/001420

APPLICATION SITE: Lyme Regis Harbour, The Cobb, Lyme Regis

PROPOSAL: Extension and repairs to existing slipway and extension of existing boat storage.

DECISION: Delegate authority to the head of planning to approve the planning application subject to receipt of no objection from the Ministry of Defence or no comment is received by 8th December 2020.

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

Location Plan, Received 22nd July 2020

Block Plan, Received 2nd December 2020

Proposed slip platform, received 22nd July 2020

Proposed fencing, received 09th November 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. The storage area hereby approved shall be used for marine storage only and for no other storage purpose (including any other use in Class B of the schedule to the Town and Country Planning (use Classes) Order 1987, as amended, or in any provision equivalent to that Class in any statutory instrument revoking and re-enacting that Order).

Reason: The Council considers an unrestricted Class B use may not be compatible with the living conditions of surrounding residential properties and the visual impact on the sensitive location.

4. The proposed development shall subject to condition 5, be carried out in accordance with the Method Statement received 10th November 2020, unless otherwise first agreed in writing by the local planning authority.

Reason: in the interest of safeguarding the surrounding heritage assets.

5. The hours of construction shall be 08.00 until 17.00 Monday to Friday, 08.00 until 13.00 Saturdays and no construction on Sundays or any bank holidays.

Reason: In the interest of neighbouring amenity.

6. The posts of the proposed fence around the edge of the raised storage area shall be black in colour and retained and maintained as such thereafter.

Reason: In the interest of safeguarding the heritage assets and visual amenity.

Informatives

1. Marine Licensing

A proportion of the works appear to be proposed below the Mean High Water mark and so contact should be made with the Marine Management Organisation to ascertain whether a Marine Licence is also required for the works.

2. 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>

3. Waste Management

In accordance with the waste hierarchy, the applicant should 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>

4. Bio-security

Bio-security precautions should be undertaken when working on sites with water bodies. You can view some general advice through the following link: [Biosecurity](#)

APPLICATION NUMBER: WP/20/00477/FUL

APPLICATION SITE: Adult Education Centre, 45 Dorchester Road, Weymouth, DT4 7JT

PROPOSAL: Demolition of existing single storey modular building, glazed link corridor and privacy wall, change of use of existing property from office use to residential use on first and second floors, erect two storey residential children's home, installation of boundary fencing and railings and alterations to vehicle access and gates.

DECISION: Grant planning permission subject to the following conditions:-

Time Limit – Commencement of Development

1. The development hereby permitted shall be begun not later than the expiration of three years from the date of this permission.

Reason: In accordance with section 91 of the Town and Country Planning Act 1990 (as amended).

Development in Accordance with Approved Plans and Drawings

2. Unless otherwise required by the conditions of this permission the development hereby permitted shall be carried out in accordance with the following approved plans and drawings:

- (i) Dorset Property Drawing No. L101 Revision P1 dated 20.04.20 and titled Site Location Plan;
- (ii) Dorset Property Drawing No. L102 Revision P1 dated 20.04.20 and titled Tree Constraints and Demolition Plan Site as existing;
- (iii) Dorset Property Drawing No. L110 Revision P1 dated 07.07.2020 and titled Proposed Site Layout Landscape Strategy Plan;
- (iv) Dorset Property Drawing No. A300 Revision P3 dated 15.07.2020 and titled Proposed GA Plans;
- (v) Dorset Property Drawing No. A301 Revision P2 dated 15.07.2020 and titled Proposed Elevations and Site/Location Plan;
- (vi) Dorset Property Drawing No. A302 Revision P1 dated 15.07.2020 and titled Proposed External Elevation Finishes Plan; and
- (vii) Dorset Property Drawing No. 2 010 dated 16.07.2020 and titled Proposed Planning Plans.

Reason: To ensure appropriate control over the proposed development having regard to policies ENV2 (Wildlife and Habitats), ENV4 (Heritage Assets), ENV10 (The Landscape and Townscape Setting), ENV11 (The Pattern of Streets and Spaces), ENV12 (The Design and Positioning of Buildings), ENV13 (Achieving High Levels of Environmental Performance) and ENV16 (Amenity) of the adopted Weymouth and Portland Local Plan 2015.

Submission and Approval of External Materials

3. The erection on-site of the Residential Children's Home hereby permitted shall not commence unless and until details and samples of all external materials and finishes to be used in the construction of the building have been submitted to and approved in writing by the local planning authority. The Residential Children's Home shall be constructed using the materials and finishes as approved.

Reason: In the interest of the character and appearance of the locality having regard to policies ENV4 (Heritage Assets), ENV10 (The Landscape and Townscape Setting), ENV12 (The Design and Positioning of Buildings), and ENV16 (Amenity) of the adopted Weymouth and Portland Local Plan 2015.

Implementation and Maintenance of Landscape Proposals

4. Hard and soft landscaping shall be undertaken in accordance with the arrangements detailed on the approved plans and drawings listed in condition 2 of this permission. All planting and seeding comprised in the soft landscaping proposals shall be carried out before the end of the first planting season (October to March) following the substantial completion of any adjacent development hereby permitted. Any trees or plants that within a period of five years after planting are removed, die or become seriously damaged or defective shall be replaced as soon as practicable with others of species, size and number as originally approved.

Reason: In the interest of the character and appearance of the locality, amenity, biodiversity and climate change mitigation having regard to policies ENV2 (Wildlife and Habitats), ENV4 (Heritage Assets), ENV10 (The Landscape and Townscape Setting), and ENV11 (The Pattern of Streets and Spaces) of the adopted Weymouth and Portland Local Plan 2015.

Access and Parking Arrangements

5. Prior to the first occupation of the Residential Children's Home hereby permitted the access, turning and parking arrangements shown on Dorset Property Drawing No. L110 Revision P1 dated 07.07.2020 and titled Proposed Site Layout Landscape Strategy Plan shall be laid out and constructed in accordance the arrangements shown on that Plan. Thereafter these areas shall be kept free from obstruction and shall be made available and maintained for the purposes specified.

Reason: To ensure the proper and appropriate development of the site having regard to policies ENV4 (Heritage Assets), ENV10 (The Landscape and Townscape Setting), and ENV11 (The Pattern of Streets and Spaces) of the adopted Weymouth and Portland Local Plan 2015.

Tree Protection and Implementation of Biodiversity Plan

6. The development hereby permitted shall be carried out in accordance with the Arboricultural Impact Assessment and Arboricultural Method Statement dated 19th May 2020 prepared by Dorset Council's Arboricultural Officer submitted with the application the biodiversity mitigation and enhancement measures documented in the Biodiversity Plan dated 30.06.20 prepared by Dorset Council's Natural Environment Team and submitted with the planning application shall be implemented in accordance with that Plan.

Reason: In the interest of biodiversity having regard to policy ENV2 (Wildlife and Habitats) of the adopted Weymouth and Portland Local Plan 2015.

Informative Notes

Statement of Positive Involvement

1. In accordance with paragraphs 186 and 187 of the National Planning Policy Framework, Dorset County Council, as local planning authority, takes a positive and proactive approach to development proposals focused on solutions. The Council worked with the applicant/agent in a positive and proactive manner by:

- (i) providing a pre-application advice service;
- (ii)
- (iii) updating the applicant's agent of issues as they arose in the processing of the application;
- (iv) discussing possible solutions to material concerns raised; and
- (v) providing the applicant with the opportunity to address issues of concern with a view to facilitating a recommendation to grant permission.

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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APPLICATION NUMBER: WD/D/20/001703

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

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

APPLICANT – Higher Moor Farm

Case Officer – Emma Telford

Ward Member(s) – Cllr J Dunseith & Cllr J Worth

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

1.0 Summary of Recommendation:

1.1 Grant subject to conditions.

2.0 Reason for the recommendation:

- The toilet/shower block would serve the existing, authorised camp site.
- The toilet/shower block is acceptable in its design and general visual impact subject to conditions.
- It is not considered to result in any significant harm to neighbouring residential amenity.
- There are no material considerations which would warrant refusal of this application.

3.0 Key planning issues

Issue	Conclusion
Principle of development	Toilet/shower block to serve camping site.
Visual Amenity	Would not have an adverse impact on the visual amenity of the site or locality.
Residential Amenity	No significant adverse impact on the living conditions of occupiers of residential properties.
Contamination	Environmental Health made no comments.

Highway Safety	Highway raised no objections.
Trees	No damage would have been done to the hedgerow.
Biodiversity	Further planting enhancement would be conditioned.
Community Infrastructure Levy	Not CIL liable.

4.0 Description of Site

4.1 Planning permission was granted under the reference WD/D/18/002905 for the piece of land located adjacent to the access track leading to Buckland House to be used as a camping site during July and August. This application relates to the toilet/shower block positioned adjacent to the western boundary of the field close to the vehicular access.

4.2 The application site is located outside of a defined development boundary.

5.0 Description of Proposal

5.1 As part of the previous application for camping, permission was also granted for a smaller toilet/shower block that would be removed from the site when it wasn't being used for camping. Instead a larger unit was erected on the site and this application seeks retrospective permission for a toilet/shower block and the associated decking and steps to remain on the site all year round.

6.0 Relevant Planning History

Application No.	Application Description	Decision	Date of decision
WD/D/19/002872	Use of land as camping site during July and August only (Variation of Conditions 1 & 4 of Planning Approval WD/D/18/002905)	Withdrawn	-
WD/D/18/002905	Use of land as camping site during July and August only	Approved	10/07/2019
WD/D/18/000360	Change of use of land for camping site including the stationing of 8 shepherds huts (6 one bed units & 2 no. toilet/shower units)	Withdrawn	—

7.0 Relevant Constraints

Contaminated land buffer
Outside of a defined development boundary

8.0 Consultations

8.1 Natural England – *The application falls within the scope of the Dorset Biodiversity Protocol, recommended by your authority which requires the submission of a Biodiversity Plan (BP) for all developments of this nature. Natural England therefore recommends that permission is not granted until a BP has been produced and approved by the Dorset Council's Natural Environment Team (NET). Provided the BP has been approved by the DC NET and its implementation in full is made a condition of any permission, then no further consultation with Natural England is required.*

8.2 Highways – *The proposal is for the installation of welfare facilities to an existing campsite. The Highway Authority has no objection to the proposal.*

8.3 Countryside Access Team – *The proposed works are in the vicinity of a public right of way, as recorded on the County Definitive Map and Statement of rights of way. However, I am unaware of any unrecorded paths that may be affected.*

I have no objection to the proposed development, as shown in the plans accompanying the application. However, throughout the duration of the development the full width of the public footpath must remain open and available to the public, with no materials or vehicles stored on the route.

The free passage of the public on all rights of way must not be obstructed at any time. If the public are unlikely to be able to exercise their public rights on the above path, then a Temporary Path Closure Order must be obtained. This can be applied for through this office, but the application must be completed and returned at least thirteen weeks before the intended closure date. It should be noted that there is a fee applicable to this application.

8.4 Trees Officer – *The hedgerow immediately behind the facilities trailer is comprised of elm regeneration and elder for the most part. The development is sufficiently distant from the boundary, and I'm satisfied that no damage will have been done.*

In terms of landscape impact, I can see that there are one or two spots from where the unit is rather prominent. That being the case, if you're minded to approve the scheme I'd suggest imposing a planting condition so that we can address that.

8.5 Environmental Health – *No comment.*

8.6 An additional comment was made by Environmental Health:

Environmental Health has received a complaint in relation to the toilet / shower block which hasn't been fully investigated at this time. The toilet shower / block facilities

should not be sited in proximity to other premises so as to cause a Statutory Nuisance and Environmental Health has a duty to investigate any such complaints under the Environmental Protection Act.

8.7 Environment Health were contacted regarding the comments made and the case had been closed off and there was nothing outstanding.

8.8 Chickerell Town Council – *Chickerell Town Council recommend refusal of this application as follows:*

The original permission was for a temporary use of the land for a campsite which was very clear in the description of the works.

The current application is for a structure to be permanently positioned on the site and is therefore considered to conflict with the purpose of the original permission and is considered a fundamental change.

8.9 Dorset Wildlife Trust – *The application site (specifically access road) lies adjacent to the Site of Nature Conservation Interest (SNCI); SY68/043 Buckland Ripers Meadow, cited for its neutral grassland.*

SNCIs are identified and selected for their local nature conservation value, acting as buffers, stepping-stones and ecological corridors for species between nationally and internationally designated wildlife sites. SNCIs often contain priority habitats and species listed under Section 41 of the Natural Environment and Rural Communities (NERC) Act 2006. Section 40 of this Act states that “The public authority must, in exercising its functions, have regard, so far as is consistent with the proper exercise of those functions, to the purpose of conserving biodiversity”.

DWT consider it unlikely that the proposal will have any significant adverse impacts upon the SNCI.

Biodiversity Plan

As the application site is 0.1 hectares in area, an approved Biodiversity Plan from Dorset Council’s Natural Environment Team (NET) is required in line with the Dorset Biodiversity Appraisal Protocol (DBAP). The Biodiversity Plan should include an assessment of the impacts upon biodiversity as a result of the siting of the toilet/shower block and associated infrastructure on a permanent (rather than previously temporary) basis.

It is vital that independent scrutiny of the Biodiversity Plan is undertaken, to ensure adequate mitigation, compensation and net gains for biodiversity is secured. DWT recommend that permission is not granted until a valid Certificate of Approval is issued by NET for any submitted Biodiversity Plan, and its implementation secured through a planning condition.

8.10 Mineral Planning Authority – No comments received at the time of report writing.

9.0 Representations

9.1 Sixteen third party responses have been received objecting to the application, further responses were received from the same people who had already commented. A summary of the objections received are set out below:

Visual Amenity:

- Detrimental effects on the visual amenities of the locality
- Shower/Toilet block is highly visible from the road and the nearby public footpath
- Clearly visible from other footpaths in the area and from up on the ridgeway
- Utility building which is a blight on the surrounding countryside
- Toilet block is much larger, unnecessary excess of the minimum requirements stipulated in the site licence
- Colour chart provided shows a metallic paint
- A commercial enterprise in a quiet rural residential hamlet which is detrimental to its natural environment both visually and practically and provides no benefit to the village
- Out of keeping in the surrounding countryside
- Permission was granted for a much smaller unobtrusive construction
- Stark white colour
- Double the size of the agreed unit
- Unnecessarily large and out of keeping with the character of its surroundings
- Looks like an enlarged container unit with doors
- Decking and steps appear oversized and prominent
- The block has a very large roof, it is static, next to trees and cannot be garaged – it will be subjected to pollutants and tree sap suggesting it will soon lose its colour
- It would not cover the stairs which would remain a stark white colour
- A metallic colour appears to be that of a polished metal and will create a reflective surface
- Further exaggerate the blot on the landscape
- Bulk and intrusive size of the toilet/shower block
- Proposed covering is not fit for purpose
- Design and bulk of the unit is ugly, overbearing, out of scale and out of character in terms of its appearance
- Out of place in a rural area
- Photo of toilet/shower block was not covered in vinyl and was manufactured using green coloured materials
- The value of the visual amenity of the area was considered important enough to be considered as a factor in the planning process in 2019
- Complete unit has a total of 52 lights

Principle of Development/Process:

- It is a seasonal site so no reason to change the permission for a temporary toilet/shower block to a permanent installation
- Application is retrospective, previous conditions were not adhered to
- Campsite and its structures were only approved on a temporary basis
- Whole situation makes a mockery of the planning laws
- Structure is purpose made to be removed and disconnected easily from the site
- The unit has remained on site contravening the timeframe stipulated in the condition
- No requirement for larger unit
- Several other permanent structures on site for which no permission has been sought
- Facilities are only required for 8 weeks of camping, but will be on show for the other 44 weeks of the year
- Facilities provided are much larger than necessary for the numbers catered for
- The proposed toilet shower block fails to meet the requirements of Disability Legislation

Highway Safety:

- Increased traffic and pedestrians in a narrow country lane with vastly more traffic
- Increased traffic along the verges

Neighbouring Amenity:

- Noise – shouting and screaming heard at 1.30am
- Nuisance to nearby residents from smoky barbeques
- Site was allowed to operate this year, and given the facilities, social distance seems of little importance
- Close proximity of the toilet block and associated odours along with cooking smells and noise adversely affects the quality of village life
- Detrimental impact through increased traffic flow, generated rubbish, intrusion of walkers on private land, noise from facility and damage to habitat
- Foul water smells have been experienced on a number of occasions
- Buckland Rippers has no street lights and is far away from any form of light pollution – when the campsite is in operation it floodlights the house adjacent to the site

Foul Sewage:

- No reference to the cesspool installed without planning permission or building regulation approval
- Question where the drainage from this unit is being discharged
- Cess pit is grossly undersized for the number of showers, toilets and washing up points
- Cess pool installed without planning approval (cannot be permitted development) and building regulations
- Tank is not suitable for a campsite of 45 pitches where there may be 150 people
- Cesspool is probably in breach of the Public Health Act and is too small and requires emptying far too frequently by large vehicles
- Cesspool not properly vented and is repeatedly causing an unpleasant smell in the area
- Application makes use of a cesspool which does not have planning

Biodiversity:

- No reference to lighting schemes or biodiversity of the adjoining SNCI
- Previous ecology report failed to take into account both the areas of SNCI's
- BMEP did not consider the impact of a permanent rather than temporary structure
- Planting schedule not undertaken which was meant to take place between last November and March
- No ecology survey or BMEP

10.0 Relevant Policies

West Dorset, Weymouth and Portland Local Plan

ENV 1 – Landscape, Seascape and Sites of Geological Interest
 ENV 2 – Wildlife and Habitats
 ENV 9 – Pollution and Contaminated Land
 ENV 10 – The Landscape and Townscape Setting
 ENV 11 – The Pattern of Streets and Spaces
 ENV 12 – The Design and Positioning of Buildings
 ENV 13 - Achieving High Levels of Environmental Performance
 ENV 15 – Efficient and Appropriate Use of Land
 ENV 16 – Amenity
 SUS 1 – The Level of Economic and Housing Growth
 SUS 2 – Distribution of Development
 ECON 7 – Caravan and Camping Sites
 COM 7 – Creating a Safe and Efficient Transport Network
 COM 9 – Parking Standards in New Development
 COM 10 – The Provision of Utilities Service Infrastructure

National Planning Policy Framework

- 2. Achieving sustainable development
- 4. Decision-making
- 6. Building a strong, competitive economy
- 12. Achieving well-designed places
- 14. Meeting the challenge of climate change, flooding and coastal change
- 15. Conserving and enhancing the natural environment

Other material considerations

Design and Sustainable Development Planning Guidelines (2009)

West Dorset Landscape Character Assessment 2009

11.0 Human rights

Article 6 - Right to a fair trial.

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

The first protocol of Article 1 Protection of property

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

12.0 Public Sector Equalities Duty

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

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

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

13.0 Financial benefits

13.1 None, camp site already approved under reference WD/D/18/002905.

14.0 Climate Implications

14.1 None, camp site already approved under reference WD/D/18/002905.

15.0 Planning Assessment

Principle of Development

15.1 This application seeks permission for the use of land to site toilet/shower block and erection of decking and steps. This application is retrospective and the toilet/shower block is already positioned on the site. Planning permission was previously granted on the site under the application WD/D/18/002905 for the use of land as camping site during July and August only. This permission included a toilet/shower block which was subject of a condition to only be sited on the land between 23rd June and 8th September, inclusive, in any one year. Instead a larger unit was erected on the site which is subject to this application and permission is sought for it to remain on the site all year round.

15.2 In terms of the principle of development a toilet/shower block to serve the existing camping use is considered acceptable. A condition would be placed on any approval granted for the block to only be used in association with that use.

Visual Amenity

15.3 This application seeks permission for the use of land to site toilet/shower block and erection of decking and steps. The toilet/shower block has already been positioned on the site. The toilet/shower block and associated decking and steps comprised of three porta cabins, one slightly larger one in the middle containing showers with a cabin joined either side each containing four toilets. The decking is positioned to the front of the block with steps at either side and in the middle. Both the blocks and the decking are white in colour. The toilet/shower block is positioned close to the western boundary of the field.

15.4 Third party concerns have been raised regarding the design of the building including that it is a utility building that is much larger and bulkier than required and in its stark white colour results in a development which is out of keeping and prominent in its surroundings. Further concerns were also raised that the shower/toilet block is highly visible from the road and the nearby public footpath resulting in detrimental effects on the visual amenities of the locality. In the months of July and August the site will be used for camping so the toilet/shower block would be viewed in the context of the tents and such a facility is expected with a camp site. In the other months of the year the block will not be viewed in that context. The toilet/shower block is visible from Nottingham Lane to the north of the block. From further down Nottingham Lane only the top of the block is visible as the remainder of it is behind the existing boundary hedging of the site. From the road closer to the site, slightly more of the block is visible as well as the railings of the decking to the front. The whole of the block is not visible and the orientation of the block means you are viewing the block end on. It is considered that it is the white colour that means your attention is drawn to the small part of the block you can see. It is therefore considered that from this viewpoint if the block was dark green in colour and additional planting was undertaken the toilet/shower block would not be obtrusive.

15.5 Third party concerns were also raised regarding the views of the block from nearby public footpaths. The closest footpath runs up the beginning of the driveway to Buckland House, this footpath does not run through the camping site itself. From the footpath you see the rear of the toilet/shower block and therefore the wider expanse of the unit. However the footpath is set back from the block and the existing hedging and planting means again you are only seeing the top of the block and not the whole of the rear elevation. A condition would be placed on any approval granted for this part of the hedging to be retained. The other nearest footpath is located to the east of the site, from this footpath you will view the front of the toilet/shower block however this would be at a much greater distance and again some screening is provided from the existing hedging around the site. The Trees Officer was consulted on the application and raised no objections however recommended a planting condition be added to any approval granted to provide further screening. Planting was required as part of the previous permission for camping on site which has not yet been undertaken which is now part of a separate enforcement case. However once undertaken that planting will provide further screening and as part of this application a condition would be placed on any approval granted for tree planting in the adjacent hedging as set out in more detail in the biodiversity section of this report.

15.6 Concerns were raised with the agent for the application regarding the stark white colour of the block resulting in the block being more visually prominent. In response the agent set out that the block would be wrapped in an olive green (non-metallic) film, the agent set out that this would be permanent and durable. A colour card was provided as part of the application documents showing the proposed colour wrap, Matte Pine Green Metallic. Concerns were raised by third parties that the colour proposed would be metallic resulting in a reflective surface. It is considered that a dark green colour would help the block blend in with the surrounding planting. Further third party concerns were raised that the proposed wrapping of the block would not be fit for purpose. A condition would be placed on any approval granted for the toilet/shower block to be finished in a matte dark green colour and to be permanently retained as such to ensure it will be kept in that colour.

15.7 Given the above it is considered that the toilet/shower block would not have an adverse impact on the visual amenity of the site or locality.

Residential Amenity

15.8 This application relates to the toilet/shower block only and not the camping use previously approved under the application WD/D/18/002905. Concerns were raised regarding noise, cooking odours and increase in people in the area however these are not considered to relate to this application but to the camping use already authorised. Concerns were also raised regarding light pollution from the scheme. The agent has set out that there is 4 low level LED lights adjacent to each of the doors into the shower/toilet blocks this does result in 40 lights around the doors. A

third party has also set out that there are light panels in each of the steps and there are 12 steps in total. The lights will only be in operation when the camp site is in operation which is in July and August and this would be conditioned as such on any approval granted. It is also considered that a degree of lighting is expected in association with a campsite and the neighbouring properties do not face onto the front of the toilet/shower block where the lights are positioned. Environmental Health were also consulted on the application and made no comments.

15.9 Concerns and comments were also made regarding the foul drainage arrangement for the toilet/shower block. The agent has clarified that this takes the form of a septic tank (not a sealed tank which was stated in error) positioned to the rear of the block. Comments were made that this would require planning permission in its own right. However it is considered that although not clearly set out as part of the previous application WD/D/18/002905, the application did make reference to this foul sewerage arrangement and therefore was authorised by that previous application. Concerns were also raised by the capacity of the septic tank, this is a consideration in so far that the facilities subject of this application are connected to it but if the tank does not have the capacity and a further tank is required then that would be a separate matter in due course. Nor does this application remove the need for the foul drainage arrangement to be agreed with the Local Authority under the site licence. Given all of the above it is considered that the siting of the toilet/shower block would not have a significant adverse impact on the living conditions of occupiers of residential properties.

Contamination

15.10 The application site is located within a contaminated land buffer. This application seeks permission for the use of land to site the toilet/shower block already positioned where it does not involve ground works. Environmental Health were consulted and raised no comments.

Highway Safety

15.11 The development involves a toilet/shower block in association with the previously approved camping site. Concerns have been raised in relation to highway safety due to increased traffic and pedestrians and increased traffic along the verges. However these are not considered to be the result of the toilet/shower block which is the subject of this application. Highways were consulted on the application and raised no objection.

Trees

15.12 There are trees located on the wider site and hedgerow located to the rear of the toilet/shower block. The Trees Officer was consulted on the application and considered that the development is sufficiently distance from the boundary and was satisfied that no damage would have been done.

Biodiversity

15.13 Concerns have been raised that no ecological survey or BMEP has been submitted as part of the current application. This application relates to just the erection of the toilet/shower block not the wider site. The size of the plot therefore does not trigger the requirement of a Biodiversity Plan. The toilet/shower block as part of the previous application was to be temporary in nature and would be removed when the site was not in use for camping. However as part of this application it would be positioned on the site all year round any biodiversity impacts were discussed with the Natural Environment Team. As the toilet/shower block would be permanent the NET team explained they would seek further planting enhancement than that required previously to ensure bat foraging/ commuting route was maintained and enhanced. This would involve the inclusion of standard British native trees within the hedges, at least 20m apart to allow full crown development as an enhancement and to mitigate for the permanent structure. This would be conditioned on any approval granted.

15.14 Concerns were also raised that the planting required as part of the Biodiversity Plan for the previous application WD/D/18/002905 has not been undertaken. This is a separate matter enforcement matter.

Community Infrastructure Levy

15.15 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.

15.16 The development proposal however is not considered to be CIL liable as the application is for a toilet/shower block for a camping site.

16.0 Conclusion

16.1 The application seeks permission for the use of land to site toilet/shower block and erection of decking and steps. The works are retrospective and the block is on the site. The block is considered acceptable in principle as it provides facilities for the authorised camping site. The proposal is also considered acceptable subject to conditions in relation to visual amenity, residential amenity, highway safety, trees, contamination and biodiversity.

17.0 Recommendation

GRANT, SUBJECT TO CONDITIONS

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

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

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

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

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

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

REASON: In the interest of visual amenity.

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

REASON: In the interests of visual amenity.

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

REASON: In the interests of biodiversity and visual amenity.

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

REASON: In the interests of visual amenity.

Informatives:

1. NPPF Approval Statement

UPDATE REPORT - ENFORCEMENT ACTION

**HOMESTEAD FARM, MAIN STREET, BOTHENHAMPTON,
BRIDPORT, DT6 4BJ**

Planning Committee date: 7th January 2021

Case Ref: WD/D/19/003186

Breach of planning: Demolition of original farmhouse and Erection of a dwelling not in accordance with planning approval WD/D/17/002888 as amended via the approved non material amendment approvals WD/D/19/000355/NMA & WD/D/19/000624/NMA

Location: **HOMESTEAD FARM, MAIN STREET, BOTHENHAMPTON,
BRIDPORT, DT6 4BJ**

Case Officer: **Darren Rogers**

1 Full details of the breach of planning control

1.1 The carrying out of operational development comprising the “Demolition of original farmhouse and Erection of a dwelling” not in accordance with planning approval WD/D/17/002888 **Approved April 2018** as amended via the approved non material amendment approvals set out under:

- WD/D/19/000355/NMA - Non-material amendment to Planning Permission No. WD/D/17/002888 for changes to external materials and the omission of rooflights, photovoltaic panels and external staircase. **Approved March 2019**
- WD/D/19/000624/NMA - Amendment to planning permission reference WD/D/17/002888 - Change to dormer windows on west and east elevation. **Approved March 2019**

2 The site and surrounding areas

2.1 This is as described in paras 5.1 - 5.3 of the attached report to Planning Committee held on 12th August 2020 as regards application number WD/D/19/003186. That application sought retrospective planning permission for the variation of Condition 1 (the plans list) on application approval ref WD/D/17/002888/FUL – described as “Demolition of original farmhouse in Conservation Area. Erection of 1.no. new 4 bed low carbon house”.

3 Relevant planning and enforcement history

3.1 The following applications set out the planning history of this site in chronological order.

WD/D/17/002888/FUL - Demolition of original farmhouse in Conservation Area. Erection of 1.no. new 4 bed low carbon house. **Approved April 2018**

WD/D/18/001167/CWC - Request for confirmation of compliance of conditions 9 (proposed access onto Duck Street is commenced full construction details) & 10 (details of the days and hours that operations shall take place on site during the demolition and construction phases of the development and details of site operative parking arrangements) of planning approval WD/D/17/0028. **Approved Dec 2018**

WD/D/18/002892/CWC - Request for confirmation of compliance with conditions 3 (details and samples of all facing and roofing materials including details of the proposed glass (to be of a non-reflective type) to be installed in the rear lower extensions , 4 (proposed heritage greenhouse; compost bins; wooden shed; mobile chicken caravan; outdoor shelter; and tool shed) & 6 (proposed drainage works (foul and surface water) of planning approval

WD/D/17/002888 - **Approved Dec 2018**

Jan 2019 Enf Investigation opened - Alleged construction of building higher than approved.

WD/D/19/000355/NMA - Non-material amendment to Planning Permission No.

WD/D/17/002888 for changes to external materials and the omission of rooflights, photovoltaic panels and external staircase. **Approved March 2019**

WD/D/19/000624/NMA - Amendment to planning permission reference WD/D/17/002888 - Change to dormer windows on west and east elevation. **Approved March 2019**

WD/D/19/000782/CWC - Request for confirmation of compliance with condition 3 (Further to previous submissions of tile samples; the Phalempin Single Camber Clay Plain Roof Tile - Val De Siene (104) size 170mm x 270mm; is considered to be acceptable) of planning approval WD/D/17/002888 **Approved May 2019**

WD/D/19/001329/CWC - Request for confirmation of compliance with condition 3 (Proposed materials have been agreed previously except for the non-reflective glass to be installed in the rear lower extensions. The Guardian clear float glass with a Guardian Clarity low reflectance coating as submitted is considered to be acceptable) of planning approval WD/D/17/002888 - **Approved Oct 2019**

WD/D/19/002277/NMA - Amendment to planning permission WD/D/17/002888 - alterations to height and width of dwelling (as part of Enf Investigation) **Refused Oct 2019**

WD/D/19/002463/CWC - Request for confirmation of compliance with condition 3 (The render mix to be a traditional lime render with a mix of 1:3 Non-Hydrated Lime with washed sand is acceptable of planning approval WD/D/17/002888. **Approved 30th October 2019**

WD/D/19/003186 - Demolition of original farmhouse in Conservation Area. Erection of 1.no. new 4 bed low carbon house (with variation of condition 1 of planning approval WD/D/17/002888 to amend approved plans) **Refused 13th August 2020**

4 Officer's investigation and evidence

4.1 As Members will be aware at their Committee meeting on 12 August 2020, retrospective planning permission ref WD/D/19/003186 was refused for the "Demolition of original farmhouse in Conservation Area. Erection of 1.no. new 4 bed low carbon house (with variation of condition 1 of planning approval WD/D/17/002888 to amend approved plans)".

4.2 Permission was refused for the following 2 reasons:

1 *The proposal is a visually dominating and prominent built form of development, out of character to the area. The site is located within the Conservation Area and where the wider setting of that area is affected such that the proposal does not 'preserve' or 'enhance' that area*

as is required and set out given the statutory Section 72 test of the Planning (Listed Buildings and Conservation Areas) Act 1990. On that basis it has an adverse impact on the existing Conservation Area character and harms the Conservation Area character and appearance. That harm would be less than substantial but there are no wider public benefits arising from the proposal that would outweigh that harm in the planning balance. As such the proposal would not be in accordance with Policies ENV4, ENV10 or ENV12 of the West Dorset, Weymouth & Portland Local Plan (2015) ; Policies HT2, D1 & D8 of the Bridport Neighbourhood Plan; nor paragraph 127 and section 16 of the National Planning Policy Framework (2019) and in particular para 192 which states:

In determining applications, local planning authorities should take account of:

c) the desirability of new development making a positive contribution to local character and distinctiveness.

2 *The proposed development by reason of its mass, scale and bulk has an unduly dominating and overbearing impact when viewed from existing neighbouring properties in Main Street and Duck Street. As a result it sits uncomfortably in relation to those neighbouring occupiers and is detrimental to their amenity (outlook). Its mass, scale and bulk is also detrimental to the character and appearance of the area. As such the proposed development would be contrary to Policies ENV10; ENV12 & ENV16 of the West Dorset, Weymouth & Portland Local Plan (2015); Policies D1 & D8 of the Bridport Neighbourhood Plan; and Section 12 of the National Planning Policy Framework (2019) and in particular paragraph 127 which states amongst other things that decisions should ensure that developments provide a high standard of amenity for existing and future users.*

6 Consideration as to whether formal enforcement action is appropriate

6.1 At your Committee meeting on 8 October, Members considered a report by officers (as attached) as to what, if any, enforcement action be taken. Committee's decision was:

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.

6.2 The above resolution was reported back to the applicant's agent, and they have now submitted an appeal against the decision to refuse planning permission. The appeal was submitted on 20 December 2020, outside the timescale requested by the planning committee at its meeting on 8 October. Officers are therefore bringing this matter back to committee, in accordance with the above resolution. Nonetheless, given that the appeal has since been lodged (albeit at a later date) officers consider that the Council should not take enforcement action at this stage, pending the outcome of the appeal.

6.4 Further construction work at the site has since ceased until any planning appeal against the refused application has been determined.

6.5 In the time since the committee meeting on 8 October, officers have received revised plans from the planning agent. These plans have been submitted by the agent as part of the appeal and show both the approved heights and the as built heights.

6.6 Officers have checked the plans and a survey has been carried out to check the accuracy of the heights shown. This survey was completed by the Council's Engineering Officer and below are the measurements obtained.

As constructed ridge levels from Dorset Council survey 10/12/2020:

Old Barn 32.18m. Farmhouse Clay 32.41m. Farmhouse Slate - Unable to get accurate height.

Winter Garden 31.97m. Bedroom Cottage 30.67m. Dairy Barn 30.66m.

As constructed ridge levels as shown on plans submitted by the Agent:

Old Barn 32.18m. Farmhouse Clay 32.44m. Farmhouse Slate 32.15m.

Winter Garden 31.97m. Bedroom Cottage 30.67m Dairy Barn. 30.65m

The Council surveyor could not obtain a reliable height of the Farmhouse Slate element of the building but it should be noted that this part of the building sits between two parts that have been confirmed.

6.7 The below table shows the difference in the ridge heights between that approved and the as built plans submitted.

Plans as submitted with difference in height between as approved and as built:	
Old Barn	+27cm
Farmhouse Slate	+32cm
Farmhouse Clay	+15cm
Winter Garden	+68cm
Bedroom Cottage	+81cm
Dairy Barn	+76cm

6.8 Having considered the latest submitted plans, and officers remain of the view that enforcement action should not be taken at this stage, as the Council would be in a stronger position to defend formal action if the appeal against the planning decision is dismissed. The matter would be brought back to Committee as soon as possible if permission is refused on the appeal.

7 Human rights and Equality considerations

7.1 The provisions of the European Convention on Human rights including the following articles;

Article 1 of the First Protocol (Right to peaceful enjoyment of possessions and protection of property)

Article 8 – Right to respect for private and family life, home and correspondence

Article 14 – Prohibition of discrimination

are relevant when considering enforcement action. These rights are not absolute and need to be balanced against the wider public interest. Local planning authorities have a duty to enforce planning legislation in a proportionate way. Enforcement action should be necessary in the public interest of upholding the integrity of the planning system to address the planning harm caused by the unauthorised development, and proportionate to the harm which it is identified that the breach is causing.

7.2 The recipient of any such notice will have the opportunity to submit an appeal against an Enforcement Notice.

7.3 Consideration has also been given to the Council's duties under the Equalities Act 2010, to have regard to the need to eliminate discrimination, harassment, victimisation, or other conduct prohibited by this Act, to advance equality of opportunities and fostering good relations between those who share characteristics protected by the Act and those who do not share them. Taking enforcement action would not conflict with the Council's duties under this Act.

8 Statutory authority.

Section 172 of the Town and Country Planning Act 1990 (as amended)

9 Financial implications

The financial implications of taking enforcement action would include staff resources, the costs of any subsequent appeal/prosecution and any legal representation required. These costs would be met by the existing budget.

A Costs award to the applicant could be an issue if an application for Costs is made by the applicant for any unreasonable behaviour of the Council in seeking to defend the appeal and/or issue formal enforcement action but this is unknown at this stage.

10 Recommendation

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

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

Kevin Perry
Senior Enforcement Officer (Western Area)

1 APPLICATION NUMBER: [WD/D/19/003186](#)

APPLICATION SITE: HOMESTEAD FARM, MAIN STREET, BOTHENHAMPTON, BRIDPORT, DT6 4BJ

PROPOSAL: Demolition of original farmhouse in Conservation Area. Erection of 1.no. new 4 bed low carbon house (with variation of condition 1 of planning approval WD/D/17/002888 to amend approved plans)

APPLICANT: Mr & Mrs Hughes

CASE OFFICER: Darren Rogers

WARD MEMBER(S): Cllrs Bolwell/Clayton/Williams

The application is reported to Committee as agreed by the Head of Planning given that the site has a contentious background and given the level of representations from local residents.

2 RECOMMENDATION SUMMARY: Grant subject to conditions.

3 Reason for the recommendation:

- The location is considered to be sustainable being within the defined development boundary of Bothenhampton.
- Impact on the character and appearance of the Conservation Area is considered acceptable .
- Impact on the character and appearance of the AONB is considered acceptable.
- There is not considered to be any significant adverse effect on neighbouring residential amenity.
- There is not considered to be any sever harm to highway safety with no highway objections.

4.0 Key planning issues

Issue	Conclusion
Principle of Development	Presumption in favour of sustainable development being within the defined development boundary of Bothenhampton .
Design	Design and scale considered appropriate for the site.
Conservation Area/AONB	Impact on both the character and appearance of the Conservation Area and AONB is acceptable.
Neighbouring Amenity	There is not considered to be any significant harm to neighbouring

	residential amenity.
Highways	There is not considered to be any sever harm to highway safety with no highway objections.
Community Infrastructure Levy (CIL)	CIL liable.

5 DESCRIPTION OF SITE:

5.1 The site is located on the corner of Main and Duck Street within the village of Bothenhampton, which is on the edge of Bridport. It sits within the designated Conservation Area (CA) and the previous farmhouse that stood on this site was a building of special interest as set in the CA, but was not listed. The site is also within the Dorset Area of Outstanding Natural Beauty (Dorset AONB).

5.2 Planning permission has previously been granted to replace the former farmhouse buildings on this site. The southern half of the site was previously in agricultural use and the site slopes gently from the northern frontage on Main Street down to the southern boundary with an approximate drop of 12m across the 100m length of the site. The site had prior to its redevelopment been left unattended for some years, and was previously in a poor condition and overgrown state with the former buildings in a dilapidated state with warning/health and safety notices placed on the Main Street frontage.

5.3 There is established housing opposite the site to the north in Main Street and to the west in Duck Street. To the east is the village hall. The southern boundary is bounded by a commercial greenhouse and agricultural storage with some residential properties. No other properties directly overlook the site but there is a 1970s housing estate ¼ mile away to the South which would have distant views.

6 DESCRIPTION OF DEVELOPMENT:

6.1 This is a Section 73A application that essentially seeks to vary the plans list condition associated with originally approved planning permission for this site (WD/D/17/002888/FUL - Demolition of original farmhouse in Conservation Area - Erection of 1.no. new 4 bed low carbon house. Approved April 2018 refers). Section 73A of the Town and Country Planning Act 1990 permits retrospective planning applications to be made for developments which have been carried out without permission, or which have been carried out without complying with some of the planning conditions imposed on a planning permission. The changes between this application and that previously approved are detailed below

6.2 **Planning Background** - As the Planning History below sets out, planning permission was granted for a development described as “new 4 bed low carbon house” in April 2018. This was followed by applications for ‘compliance with condition’ requests under ref numbers WD/D/18/001167/CWC and WD/D/18/002892/CWC that sought to deal with

- access onto Duck Street construction details;

- details of the days and hours that operations should take place on site during the demolition and construction phases of the development and details of site operative parking arrangements;
- samples of all facing and roofing materials including details of the proposed glass (to be of a non-reflective type) to be installed in the rear lower extensions;
- details of the proposed heritage greenhouse; compost bins; wooden shed; mobile chicken caravan; outdoor shelter; and tool shed; and
- proposed drainage works (foul and surface water).

6.3 The above were all approved in December 2018.

6.4 In January 2019 after construction works had commenced complaints were received alleging that the proposal was not being built in accordance with the approved plans but no further action was taken after it was considered that there was (at that time) no breach of planning control.

6.5 The Council then received a Non Material Amendment (NMA) application (WD/D/19/000355/NMA) for some changes to external materials and the omission of rooflights, photovoltaic panels and an external staircase. When planning permission is granted, development must take place in accordance with the permission and conditions attached to it, and with any associated legal agreements. However new issues may arise after planning permission has been granted, which require modification of the approved proposals. Where these modifications are fundamental or substantial, a new planning application under section 70 of the Town and Country Planning Act 1990 will need to be submitted. But where less substantial changes are proposed, then a NMA application can be made. There is no statutory definition of 'non-material'. This is because it will be dependent on the context of the overall scheme – an amendment that is non-material in one context may be material in another. The local planning authority must be satisfied that the amendment sought is non-material in order to grant an application under the NMA method.

6.6 The NMA changes under application WD/D/19/000355 were to comprise:

- Change approved Purbeck rubble stone finish to lower ground floor eastern and southern elevations to approved lime render above DPC with approved Purbeck rubble stone below DPC.
- Change approved Purbeck rubble stone finish to southern ground floor elevation of Bedroom Cottage to approved timber cladding.
- Change approved Purbeck rubble stone finish to part of ground floor eastern elevations of Dairy Barn to approved timber cladding.
- Omit one rooflight & PV panels to southern roof of Bedroom Cottage.
- Change sedum roof of Entrance link to lead effect metal roof with same pitch.
- Omit rooflights to WC & Bin Store to entrance link roof.
- Change lead and glass roof of glazed link roof to lead effect metal roof. NOTE- large full length window of glazed link retained to maintain transparency.
- Omit external metal staircase to eastern end of ground floor balcony.

6.7 These amendments were approved in March 2019 despite some local opposition to those changes on the basis that they were not considered to be changes that would have significantly altered the whole appearance of what was approved nor were they considered to impact adversely on the amenity of any neighbouring occupier or the character of what was originally approved, nor have any significant adverse impact on the character and appearance of the Conservation Area. When considering those proposed changes as a whole given the approved scheme and the development as a whole they would affect only minor aspects of the approved development.

6.8 The Council then received a further NMA application (ref WD/D/19/000624/NMA) for “Changes to dormer windows on west and east elevation”. These changes were approved in March 2019 and comprised of:

- the southern most dormer on the west elevation which has had to be marginally increased in size in order to accommodate an internal lift as part of the approved scheme. That results in it being wider (2.06 compared to the approved 1.596m) and taller than approved (2.577 compared to 2.134) but it would still be set in from the eaves and set just below the ridge of the main roof.
- the northernmost dormer on the west elevation would be altered in width to 1.596 (from 1.501 as approved) and height to 2.134 from an approved 2.152.
- the dormer on the east elevation would be 2.192 compared to 2.355 highest and 2.058 width compared to 2.686.
- Some minor changes to rooflights on two of the elevations.

6.9 Those changes as outlined above came about partly as a result of an internal lift being provided as part of the approved scheme which led to a change largely related to the southernmost dormer on the west elevation. That however along with the other changes proposed were not considered to be changes that would have significantly altered the whole appearance of what was approved nor were they considered to adversely impact on the amenity of any neighbouring occupier or the character of what was originally approved; nor have any significant adverse impact on the character and appearance of the Conservation Area. When considering those proposed changes as a whole given the approved scheme and the development as a whole they would affect only minor aspects of the approved development.

6.10 The Council then approved in May 2019 under an application for ‘compliance with condition’ request ref number WD/D/19/000782/CWC, a request for an alternative tile sample namely; the Phalempin Single Camber Clay Plain Roof Tile - Val De Siene (which was considered acceptable) and then a further ‘compliance with condition’ request ref number WD/D/19/001329/CWC. This was for confirmation of compliance with condition 3 of the original approval (Proposed materials have been agreed previously except for the non-reflective glass to be installed in the rear lower extensions), and the use of the Guardian clear float glass with a Guardian Clarity low reflectance coating was considered acceptable and was Approved in Oct 2019.

6.11 Application number WD/D/19/002277/NMA then sought further amendments to the original approval (planning permission WD/D/17/002888) for alterations to the height and

width of the dwelling (as a result of further complaints received alleging that the proposal was not being built in accordance with the approved plans). The amendments proposed alterations to:

- the height, width and length of the elements of the building as approved,
- together with the previous changes made under previous NMA applications to the dormer windows on west and east elevations, external materials, the omission of roof-lights, photovoltaic panels and an external staircase.

6.12 As a whole these changes were considered to be material changes and therefore not acceptable as a Non Material Amendment – However this was not a refusal of planning permission – it was solely a refusal to accept the changes as being non material when viewed as a whole and hence why this current application that seeks to formally alter the plans list condition as material amendments is now the subject of this Section 73A application.

6.13 Finally the Council then approved under another ‘compliance with condition’ request ref number WD/D/19/002463/CWC details of the render mix for the rendered parts of the development to be a traditional lime render as being acceptable on 30th October 2019.

6.14 The amendments to the development as now submitted - The main changes and reasons for the development are as set out in the applicants Design and Access Statement which are as follows:-

- Alterations to the height of the roofs of the dwelling;
- Revisions to its length and width;
- Change to the angle of its southwest wing
- Re-siting of Duck Street entrance
- Alterations to the landscape proposals to include a pond

6.15 In addition, the proposal also includes details of a chicken coop for approval. The chicken coop was shown on the approved landscaping plan and is therefore agreed in principle. But details of the coop, which were reserved by condition, had not been submitted for approval, unlike the other outbuildings where their details have been approved.

6.16 Reasons put forward by the applicant for the Changes.

The change to the heights of the southeast and southwest wings were made to enable the insertion of sufficient insulation in the roof space above the steels to avoid thermal bridging and thus maximise sustainability.

The building’s dimensions were reduced in order to save costs.

The change to the angle of the southwest wing to make it perpendicular (90 degrees) to its opposing wing was undertaken to improve the floor layout.

The Duck Street entrance was adjusted to avoid having to re-locate the telegraph pole and disrupt the existing utilities.

6.17 Looking at the changes in more detail beginning **with the height of the development**, the changes are listed in the table below:

Building Height	Height as built	Height as approved	Difference
The Old Barn	32.070	32.074	0.004+
The Farmhouse – Clay Roof	32.470	32.472	0.002+
The Farmhouse – Slate roof	32.100	32.081	0.019+
Winter Garden	31.950	31.895	0.055+
Dairy Barn	30.530	30.482	0.048+
Bedroom Cottage	30.530	30.462	0.068+

6.18 The height of the development has been surveyed by the applicant and cross referenced against the approved slab level (23.45 above sea level) issued on the approved drainage drawing to give a true height of the development as built and to provide as accurate a height as possible of the approved development, bearing in mind that:-

- The plans were hand drawn which inevitably produce inaccuracies and variations in the heights of the elevations.
- There were no datum heights given on the approved drawing, nor were these required by condition. The approved height was therefore relative, (the difference between the ground level and ridge height) rather than being absolute.

6.19 That said the degree of accuracy in height between the approved development and as built development is not critical because it is the development as built which is being considered, in the general context of its setting and the approved development.

6.20 The **changes to the length and width of the building** are as follows: -

Building Width	Length	Width
The Old Barn	-83cm	0cm
The Farmhouse – Clay Roof	-170cm	0cm
The Farmhouse – Slate Roof	-220cm	0cm
Winter Garden	-216cm	0cm
Dairy Barn	-148cm	-66cm
Bedroom Cottage	-58cm	0cm

6.21 The southwest wing has been cranked by 2 degrees towards the Road; and the access has been relocated 1.75m southwards.

6.22 The landscaping proposals now include a pond with adjacent bog area in the southeast corner of the lower reaches of the garden. This will be fed by rainwater and if it

exceeds capacity it is designed so that the water will run-off into the adjacent bog area. The pond endorses the design philosophy to increase the biodiversity of the site. The ecological measures, aside from the bat boxes which are awaiting delivery, have been fully implemented and signed off in accordance with the required Biodiversity Mitigation Plan.

6.23 The chicken coop is a mobile structure. It measures 2m wide x 2.5m long by 1.85m high and would be built in timber.

6.24 Finally in terms of external materials these are as flows - all as previously agreed under the compliance with condition applications set out above:

- Natural Finish Larch Cladding T&G
- Purbeck Stone
- Re-Used Dry Stone Wall
- Lime Render 1:3 NHL mix with washed sand
- Slate Tile - Del Carmen Ultra Spanish slates 500x250mm by SSL
- Standing Seam Zinc - ZM Silesia (Pre-Aged Grey)
- Clay Tile - Phalempin Single Camber Clay Plain Roof Tile
- Sinusoidal Corten Steel Roof
- Sedum Roof - Bauder Sedum on Green Felt
- Doors and Windows - Painted timber (RAL 7016)
- Lead
- Black Metal Gutters and RWP's

Glass:

- Low reflectance glass to southern elevations
- Balcony glass - Guardian Glass with 1 coat of Clarity Low reflectance coating to the outside. Light reflectance of 4%-approved by LPA
- Glass to windows and doors SSG Climate Plus 6. Light Reflectance 12% - approved by LPA

7 RELEVANT PLANNING HISTORY: see above in paras 6.2-6.13

8. RELEVANT PLANNING POLICIES:

8.1 National Planning Policy Framework

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

Section 4 - Decision Making

Section 5 - Delivering a sufficient supply of homes

Section 11 - Making effective use of land

Section 12 - Achieving well-designed places

Section 14 - Meeting the challenge of climate change, flooding and coastal change

Section 15 - Conserving and enhancing the natural environment

Section 16 – Conserving and enhancing the historic environment

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

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

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

INT1. Presumption In Favour Of Sustainable Development
ENV2. Landscape, Seascape and Sites of Geological Interest
ENV2. Wildlife and Habitats
ENV4. Heritage Assets
ENV0. The Landscape and Townscape Setting
ENV11. The Pattern of Streets and Spaces
ENV12. The Design and Positioning Of Buildings
ENV13. Achieving High Levels of Environmental Performance
ENV15. Efficient and Appropriate Use of Land
ENV16. Amenity
SUS1. The Level of Economic and Housing Growth
SUS2. Distribution of Development
HOUS1. Affordable Housing
COM1. Making Sure New Development Makes Suitable Provision for Community Infrastructure
COM7. Creating a Safe and Efficient Transport Network
COM9. Parking Standards in New Development
COM10. The Provision of Utilities Service Infrastructure
CPM11. Renewable Energy Development

8.3 Bridport Neighbourhood Plan

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

Climate Change

POLICY CC1 - Publicising Carbon Footprint
POLICY CC2 - Energy and Carbon Emissions
POLICY CC3 - Energy Generation to Offset Predicted Carbon Emissions

Access & Movement

POLICY AM1 - Promotion of Active Travel Modes
POLICY AM2 - Managing Vehicular Traffic

Housing

POLICY H7 - Custom-Build and Self-Build Homes

Heritage

POLICY HT1 - Non Designated Heritage Assets
POLICY HT2 - Public Realm

Landscape

POLICY L2 - Biodiversity
POLICY L5 - Enhancement of the Environment

Design for Living

POLICY D1 - Harmonising with the Site
POLICY D2 - Programme of Consultation
POLICY D5 - Efficient Use of Land
POLICY D6 - Definition of Streets and Spaces
POLICY D7 - Creation of Secure Areas
POLICY D8 - Contributing to the Local Character
POLICY D9 - Environmental Performance (see also Policies CC2, CC3)
POLICY D11 - Building for Life

9 OTHER MATERIAL PLANNING CONSIDERATIONS:

9.1 Design & Sustainable Development Planning Guidelines (2009)

Village Design Statements (VDSs) previously adopted as SPG in West Dorset, which remain relevant and may be material considerations in planning decisions include:

- Bothenhampton: includes parish plan (2003)

WDDC Landscape Character Assessment February 2009 – Urban Area

Bothenhampton Conservation Area Appraisal

Following public consultation, the district council adopted the appraisal in December 2007 as a document that supports conservation area policies in the West Dorset, Weymouth & Portland Local Plan (adopted 22 October 2015). The district council then approved an extension to the Bothenhampton conservation area in November 2008, details of which are included in the appraisal – in that Appraisal it states:

“Homestead Farmhouse (important local building) seems to be in a poor state of repair and its surrounds are untidy”

“The green spaces ...particularly below Homestead Farmhouse.... of great importance to the setting of the village”

“The villages are characterised by a general good condition of the building stock, boundaries and the public realm. The exceptions are the Manor Farm barns group and The Buildings in Symondsbury and Homestead Farm in Bothenhampton”

“Important Local Buildings: The contribution made by important local buildings is important and there are a number of individually attractive and interesting unlisted buildings, most of which contribute to the value of larger groups: Homestead Farm, C19 roadside barn and house at right angles, stepping downhill in two blocks with lean-to, render over rubble, slate and pantile, casements; an interesting group in its own right and of wider group value”

10 HUMAN RIGHTS:

10.1 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 PUBLIC SECTOR EQUALITIES DUTY:

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

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

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

Material benefits of the proposed development	
Affordable Housing	N/A
CIL Contributions	The development is CIL Liable

Non-material benefits of the proposed development	
Council Tax	Not known
New Homes Bonus	Not known

13.0 Climate Implications

13.1 The development is considered to be in a sustainable location, within the defined development boundary for Bothenhampton with the services and facilities of Bridport town within walking distance.

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

13.3 The development is being built to current building regulation standards at the time of construction. The applicant has also submitted a document that explains that the building despite being extremely complex uses simple principles to ensure that it meets and exceeds its Climate Change requirements.

- It uses renewable systems to lower the energy usage from the grid.
- The insulation values are higher than legally required to lower the energy usage.
- The building has a high air tightness level to lower the energy usage.
- It has been designed to minimise penetrations through the external envelope to ensure the integrity of the airtightness.
- The floors have high thermal mass to retain heat.
- The basic design uses established low carbon design principles to mitigate against heat loss from glazing.
- The basic design uses established low carbon design principles to mitigate against heat loss gain from glazing.
- The building has been technically assessed by a third party to ensure that it meets the requirements and has been assessed as passing .
- The specification for the building has been upgraded to ensure that it exceeds the pass when the as built analysis is submitted.
- Reused and recycled materials were used throughout.
- A carefully designed landscape to enhance the ecology of the site.

14 CONSULTATIONS:

14.1 Highways - *NO OBJECTION, subject to the following condition(s):*

Before the development hereby approved is occupied or utilised the turning and parking shown on Drawing Number 1702 L 001 Rev B 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

14.2 Technical Services - *no objection or further comment to make.*

14.3 Bothenhampton Parish Council - *The corporate view of the parish council is that the additional height of the Homestead Farm complex has had a big impact on the conservation area within Bothenhampton. This building now dominates the centre of the village and is over-bearing and out of keeping with its surroundings. Given the variety of materials used in the construction of the various roofs, the additional height has resulted in the most prominent building in the village being out of sympathy with the adjacent cottages and houses, many of which are listed.*

14.4 Conservation Officer - *These are minor alterations to an approved scheme.*

14.5 Historic England - *does not wish to offer any comments.*

14.5 Natural England - *no comment.*

14.6 Environment Health – *Refer to their comments on the original application re Hours of operation are to be limited to:*

Monday – Friday 0800 – 1800

Saturday 0900 – 1300

No activity on Sundays or Bank Holidays

15 REPRESENTATIONS:

15.1 42 representations have been received with the vast majority objecting to the application. Those objecting raise the following issues

- Highways Dept. had no objection providing the turning area and parking area had been constructed. The access to and exit from the property onto Main Street entails a very steep slope down to the garage immediately inside the boundary. It is not possible for delivery vehicles to enter from the street and park in the manner shown without being on this steep gradient. Exiting the property will require a difficult hill start onto a crowded, narrow road which is in effect single lane.
- Access onto Duck St for service vehicles is now much larger than the 5m originally stated and hedges have been removed over an area of 11m.
- The site can easily be seen from the public road
- The roof heights are now significantly higher than the original plan and the whole building is closer to the road than that plan. It is not acceptable at this late stage for the architects to excuse the increase in height by stating that this is to accommodate service piping.
- The Barn which was to have been faced with reused Forest Marble has been faced with incongruous Purbeck Stone. This has completely destroyed the pleasing look of Main Street in this conservation area. It is an eyesore visible from a wide area.
- The Forest Marble boundary wall is now being rebuilt with breezeblocks. There is not enough original FM stone to face this with.
- Views from the High Pavement have been dramatically reduced due to the increased height of the building. The original proposal was that views would be maintained as per Conservation Area Designation.
- This build varies greatly from the original plan. The NMA application to regularise a number of significant issues was rejected by yourselves but the applicant has shown no regard for this ruling and has continued to build apace.
- It would be a dangerous and illegal precedent if this build were accepted within a Conservation Area.

- This application is, in effect, an attempt to reverse a decision already taken by Dorset Council. That decision, taken following an application for the acceptance of a Non Material Amendment (NMA) to an original application WD/D/19/002888, was for REFUSAL. The decision is dated 14th October 2019. The NMA was for alterations to height and width of (the) dwelling. In addition previously granted NMAs were REFUSED being found “material and therefore not acceptable under section 96A of the Town and Country Planning Act 1990 (as Amended)”.
- This current application is, basically, under the same headings. The submitted drawings, as far as it is possible to ascertain, are related to heights and widths of the dwelling. At an early period of construction it was apparent that the original planning permission was being flouted, principally as the structure was being built too high.
- Dorset Council Highways has raised NO OBJECTION to the driveway to the development on the basis of a single drawing 1702 L 001 Rev B which shows the arrangement in plan. This drawing has no levels on it, so it would not be unreasonable to assume that the driveway would be at existing levels. However what Dorset Council Highways has not seen, or upon which no comment is made, is a second drawing, 1702 L 605, submitted as part of this application, showing the driveway leaving Main Street at what appears to be an unacceptably steep slope. Independent advice has been sought from a Highways Engineer to establish whether, in highway terms, the driveway as shown on the Project Architect’s drawings is safe. The report is prepared as an advisory to Dorset Council Highways. It will be seen that the driveway design is “outside the recommended standards.....and should therefore not be constructed”. This is a matter of public safety.
- Within the context of this application there are Objections to the driveway as shown on the submitted drawing 1702 L 605. Furthermore, if these comments are accepted by Dorset Council, please be on notice that the design drawn up by the Project Architect is potentially unsafe, and that Dorset Council Highways (our custodians when it comes to highway safety) have also not approved drawing 1702 L 605. However the driveway appears to have been constructed to the submitted drawings. This being the case it is essential that the recommendation by Dorset Council Highways that “Before the development hereby approved is occupied or utilised the turning and parking shown on Drawing Number 1702 L 001 Rev B must have been constructed.” should be rigorously enforced. This will mean abandoning the garage and infilling the excavated driveway back to the original ground profiles – as assumed by Dorset Council Highways, before the development is occupied or utilised.
- Conservation input appears sadly lacking. This site has an area of 5,000 square metres. Under legislation any site over 1,000 square metres in a Conservation Area has to be referred to Historic England. There is no published comment from Historic England. Objections to the fact that either Historic England has not been consulted, or, in the alternative, they have been consulted and their report has not been made available.

- Technical Services have commented on the current application. Their response is *"With regards to the above application, I have no objection or further comment to make"* The current application is for a higher building than previously approved. As the Wanderwell Valley is a known zone of excessive wind load (an adjacent property lost ridge tiles in a recent moderate gale) the structural design of the development should be reviewed as it is now declared to be significantly higher. Objections are raised to Technical Services' comment, until such time as confirmation is publicly given that the as submitted design is approved. The relevant legislation is contained within the Building Regulations.
- Not in line with approval given by Dorset Council.
- From the east facing kitchen window of a Duck Street resident, hedging along the previous field, was low enough to see sheep peering over and to throw them occasional apples. The view from the east facing bathroom window was outstanding with nothing overlooking and therefore no need for glazed windows or indeed curtains. The former have been lost completely and the latter dramatically reduced in the kitchen/dining room.
- The development has had a negative impact on not only Duck Street but from many surrounding aspects, included the Bothenhampton nature reserve in particular the issue of field height and the more than double size opening into Duck Street.
- The increased size of opening into Duck Street and what appears to be totally inadequate drainage, led to flooding serious enough to require the intervention of Wessex Water and the Environment Agency. This flooding is causing deterioration to the left (field) side of the surface of the lane and if this continues, it will reach a point where normal vehicles will have difficulty in accessing the properties. This ancient lane of historical interest should not be allowed to be misused and abused.
- In terms of the drainage allegedly installed on the Homestead Farm property, this appears to be woefully inadequate.
- Bothenhampton is a unique place, in a conservation area and an AONB. It deserves to be treated with respect and both its inhabitants and Dorset Council had the right to expect that Homestead Farm would be built according to the permission granted in April 2018.
- The barn adjacent to the road is an eyesore. The Conservation Officer's remarks in the original application stated that rebuilding the barn using reclaimed stone would mean that the street frontage would remain the same; and that any wall frontage along Main Street which was removed during the building process must be re-built using reclaimed stone.
- The decrease in length of the main structure means that the wings are closer to the road than they should be and this has a significantly detrimental effect on both the residents and the village.

- As regards the glazed atrium of the 'winter garden' of the new house this feature as originally shown on the plan would have been barely visible from Main Street Bothenhampton, well down the hill and obscured by the wings of the building. The combined effect of the increased height of each of the main run of buildings and the change in length means that the glazed section is now glaringly prominent from any part of high pavement, and totally out of keeping with the protected village conservation scene.
- When the building is occupied and lit it will be as if Bothenhampton has its own lighthouse.
- The land has been significantly raised across the site. The site now sits well above the hedge line. This not only impacts upon the appearance of the conservation area but has already caused severe drainage problems and flooding to the surrounding area.
- The building itself does not conform to the original plans in terms of height. The planning department need to consider the impact for local residents and the conservation area. The result has been negative to the local area and more imposing for residents.
- Contrary to Conservation Area and Design policies of the Local Plan.
- A driveway has now been made onto Duck Street destroying the hedge separating the site from Duck Street. The original hedge has been thinned beyond recognition and the level of the site towers high above the street the other side. The changes have drastically affected the character of this historical street and the privacy for its residents.
- This building's size (footprint) is way over what would be deemed compatible for this conservation area.
- The building is also higher than envisaged in many places, does not follow the contours of the falling site.
- As originally planned, the owners made great play of this being an eco building. The amount of energy-using concrete used for the massive foundations alone plus the general spoiling of the landscape into a mud-heap plus the desecration of trees and a hedge for a huge side entrance plus the lack of even any solar panels which were originally designated makes the use of the word "eco" ridiculous.
- The failure to use local stone in an area of conservation is another reason for refusing permission.
- Shocked and astounded by the difference between what was originally proposed.

- There have been some independent surveys taken place that have shown the building to be over a metre higher than was proposed and that it is situated much closer to the road than was suggested on the plans
- It was proposed that this building would not be any more visible than the original barn and that it would "cascade down the hillside". There is no way of looking at the current build that could support this as anything other than fiction.
- Bothenhampton Village is a conservation area and in an area of Outstanding Natural Beauty and this enormous house has a hugely negative effect on the surroundings, the views and character of the village
- The development has not proceeded in line with the approved plans and therefore does not benefit from the permission therein. The fact is that the developer decided to execute a scheme that is significantly different from that approved. Their ability to lawfully execute the fall-back scheme appears questionable and therefore the weight attributed to the fall back should be reflective of this.
- Whilst the applicant claims that some of the changes are minor in nature the NPPF emphasises the need for early engagement with local communities on design and these evolve to a high standard delivered on the ground rather than a diluted and different scheme leaving local communities frustrated and disappointed with the outcome. The changes, involving re-positioning of buildings and significant increases in heights of buildings, taken together, fail to effectively integrate with their surroundings and that of the conservation area and heritage assets.
- Weight should also be attributed to the fact that the development constitutes intentional unauthorised development.
- The planning committee are respectfully requested to refuse this variation and furthermore respectfully urged to direct officers to proceed with formal enforcement action.

15.2 Support – Those in support include:

A 12 signatory petition in support of the proposal has been received saying that there are no objections to the increase in roof height.

In addition separate representations have replied stating:

- *As residents of Bothenhampton who regularly drive and walk past Homestead Farm we have no concerns about this development as it now stands in any respect. Lowering the roof height would seem to us to make no appreciable difference from street level.*
- *I live on the high pavement opposite Homestead Farm. Fail to see what all the fuss is about. When the building and gardens are completed it will no doubt look fine.*

16 PLANNING ISSUES:

16.1 There are 2 main planning issues arising for this application which are:

- Impact on the character and appearance of the Conservation Area and setting of any Listed Buildings/Impact on AONB
- Impact on amenity of neighbours

17 PLANNING ASSESSMENT:

17.1 An application can be made under section 73 of the Town and Country Planning Act 1990 to vary or remove conditions associated with a planning permission. One of the uses of a section 73 application is to seek a minor material amendment, where there is a relevant condition that can be varied. In this case as the proposal has already commenced the provisions are made under Section 73A.

17.2 Under Section 73A, and prior to any formal enforcement action, a local planning authority (LPA) can invite a retrospective application where the LPA consider that an application is the appropriate way forward to seek to regularise the situation. It is important to note however that:

“although a local planning authority may invite an application, it cannot be assumed that permission will be granted, and the local planning authority should take care not to fetter its discretion prior to the determination of any application for planning permission – such an application must be considered in the normal way”;

17.3 Section 36(6) of the Planning and Compulsory Purchase Act 1990, and Section 70(2) of the Town and Country Planning Act 1990 require applications to be determined in accordance with the development plan unless material considerations indicate otherwise. Local planning authorities should, in making their decisions, focus their attention on national and development plan policies, and other material considerations **which may have changed significantly since the original grant of permission**. The approved development is therefore an important material consideration which carries significant weight essentially as a fall-back position.

17.4 The effect of Section 73 of the Town and Country Planning Act 1990 is to leave intact the original planning permission. It therefore represents the baseline to assess the proposal by, as it is the changes from this baseline on which the current application should be considered.

17.5 The approval of the dwelling under WD/D/17/002888 and the subsequent approval of non-material changes to its design, as outlined in the Planning History section above, confirms that the scheme, as was then amended, was acceptable within its planning context. It therefore sets the baseline by which to assess the new changes to the scheme. In other words, the elements of the development common to both the approved development and the scheme as built are not in dispute. It is the changes between the approved scheme and as built scheme which are to be considered.

17.6 The Development Plan – Since the original permission was granted there is now a Neighbourhood Plan (NP) in force in this area that covers Bothenhampton, and this essentially is the most recent Development Plan document on which to assess the merits of the proposals along with those of the adopted Local Plan (2015). The NP has a number of Policies that are applicable to this determination as are set out below:

17.7 Climate Change

POLICY CC1 - Publicising Carbon Footprint - Applicants should seek to minimise the carbon footprint of development proposals and are encouraged to submit a statement setting out the anticipated carbon emissions of the proposed development.

Policy CC2 - Energy and Carbon emissions - New development should aim to meet a high level of energy efficiency where achievable, by:

a) Exceeding the target emission rate of Building Regulations Part L 2013 for dwellings.

Policy CC3 - Energy generation to Offset Predicted Carbon emissions - New development, both commercial and residential is encouraged, where possible, to secure at least 10% of its total unregulated energy from decentralised and renewable or low carbon sources.

17.8 Officer comment - In answer to the above the applicant has submitted a document that explains the building despite being extremely complex uses simple principles to ensure that it meets and exceeds its Climate Change requirements.

- It uses renewable systems to lower the energy usage from the grid.
- The insulation values are higher than legally required to lower the energy usage.
- The building has a high air tightness level to lower the energy usage.
- It has been designed to minimise penetrations through the external envelope to ensure the integrity of the airtightness.
- The floors have high thermal mass to retain heat.
- The basic design uses established low carbon design principles to mitigate against heat loss from glazing.
- The basic design uses established low carbon design principles to mitigate against heat loss gain from glazing.
- The building has been technically assessed by a third party to ensure that it meets the requirements and has been assessed as passing.
- The specification for the building has been upgraded to ensure that it exceeds the pass when the as built analysis is submitted.
- Reused and recycled materials were used throughout.
- A carefully designed landscape to enhance the ecology of the site.

It is considered that the proposal meets these NP Climate Change policies.

17.9 Access & Movement

POLICY AM1 - Promotion of Active Travel Modes - Proposals for new development which are likely to generate increased pedestrian and/or vehicular traffic movement should:

a) Provide for pedestrian movement as a priority.

- b) Make appropriate connections to existing footpaths, cycle paths, rights of way and bridleways to improve connectivity in and between settlements.*
- c) Enable safe and convenient access to be provided for all people including the disabled.*
- d) Make possible, or not hinder, the provision of improvements to public transport and of facilities for car sharing and electric vehicles.*

POLICY AM2 - Managing Vehicular Traffic - Proposals for new development which are likely to generate increased vehicular movement should:

- a) Provide convenient and safe access onto the adjacent roads and this should not adversely affect existing pedestrian movement.*
- b) Make the best use of existing transport infrastructure through improvement and reshaping of roads and junctions where required to improve pedestrian access and connectivity to surrounding areas.*
- c) Ensure residential and environmental amenity is not adversely affected by traffic.*

Development proposals that cannot meet the above requirements will not be supported.

17.10 Officer comment - In light of the above NP Policies coupled with the response from highways who raise no objection, subject to conditions, the proposal is not considered to be contrary to the Access & Movement Policies of the NP.

17.11 Housing

POLICY H7 - Custom-Build and Self-Build Homes - The provision of Custom Build and Self Build Homes is supported. For major applications the inclusion of 4% of serviced plots is encouraged.

17.12 Officer comment – Clearly this proposal meets this Policy as the proposal is a new self-build custom build on this site.

17.13 Heritage

POLICY HT1 - Non Designated Heritage Assets

The Joint Councils Committee has prepared (and will maintain) a list of buildings, features and structures in the neighbourhood plan area which are considered to be 'non-designated heritage assets' and should be treated as such for the purpose of applying national and Local Plan policies including Policy ENV4 of the Adopted Local Plan (2015).

POLICY HT2 - Public Realm

Proposals that have a negative impact or "harm" the qualities of the public realm as identified in the Neighbourhood Characteristics of this plan will not be supported.

17.14 Officer comment – see comments on Impact on Listed Buildings and Conservation Area/AONB below at para 17.24 onwards.

17.15 Landscape

POLICY L2 – Biodiversity

1. Development proposals will be expected to demonstrate how they will provide a net gain in biodiversity and, where feasible, habitats and species, on the site, over and above the existing biodiversity situation.

2. If significant harm to biodiversity resulting from a development cannot be avoided (For example through locating on an alternative site with less harmful impacts), adequately mitigated, or as a last resort, compensated for, then planning permission will not be supported.

3. Wildlife corridors and important habitats have been identified on Maps 7, 8 and 9 and proposals that would result in their loss or harm to their character, setting, accessibility, appearance, quality, or amenity value should be avoided.

POLICY L5 - Enhancement of the Environment - Appropriate to the scale of development, proposals for new housing development should:

- 1. Include good quality outdoor space, both private and community gardens, and contribute to providing tree cover and improving biodiversity and*
- 2. Make provision for green infrastructure.*

17.16 Officer comment – This proposal is considered to meet Policies L1 and L5 as the originally approved proposal required under condition 8 that the development be carried out in accordance with the submitted biodiversity mitigation report of William Davis, Lindsay Carrington Ecological Consultancy Ltd dated 3rd January 2018 in the interests of nature conservation. The current landscaping proposals include a pond with adjacent bog area in the southeast corner of the lower reaches of the garden which will be fed by rainwater and if it exceeds capacity it is designed so that the water will run-off into the adjacent bog area. The pond endorses the design philosophy to increase the biodiversity of the site. The ecological measures, aside from the bat boxes which at the time of writing this report are waiting delivery, have been fully implemented and signed off in accordance with the required Biodiversity Mitigation Plan.

17.17 In addition the proposals would clearly meet Policy L5 which requires new housing development to include good quality outdoor space, both private and community gardens, and contribute to providing tree cover and improving biodiversity. This is a private dwelling site where good quality private space would be provided.

17.18 Design for Living

POLICY D1 - Harmonising with the Site

- 1. A housing development will be required to respect and work in harmony with:*
 - a. the local landform and microclimate*
 - b. the existing pedestrian, cyclists and motorised network*
 - c. existing features that are locally significant or important for local character, historical, ecological or geological reasons*
 - d. neighbouring land uses.*
- 2. Opportunities to incorporate features that would enhance local character, or the historical, ecological or geological interest of a site, should be taken if practical and appropriate.*

POLICY D2 - Programme of Consultation - Applicants are encouraged to enter into a meaningful programme of community consultation appropriate to the scale of development.

POLICY D5 - Efficient Use of Land

Development should make efficient use of land, and layouts that create wasted or leftover land will not be supported.

a) The design and management of outdoor spaces within and adjoining settlements should fully utilise the opportunities for:

- Recreation and social interaction.*
- Dealing with surface water drainage and alleviating flooding.*
- Providing new or enhancing existing wildlife habitats.*
- Incorporating landscape solutions to soften the urbanising impact of new development.*

b) Development of brownfield sites for housing will be supported provided the land is not of high environmental value.

c) Application for residential development above commercial ground floors will be supported.

POLICY D6 - Definition of Streets and Spaces

Proposals for new residential development in the Plan area should create a sense of place through:

a) A strong sense of enclosure, considering building lines and appropriate building height to street width ratio.

b) The use of street trees or appropriate boundary features (walls or hedges) in areas where a sense of enclosure is needed but cannot be achieved through strong building lines.

c) The provision of parking to the required standard so that it does not dominate the street scene.

POLICY D7 - Creation of Secure Areas

1. New developments should:

a) Have the main access to a building at the front, facing the street or communal entrance courtyard.

b) Make sure doors and windows face onto the street and other places where surveillance is needed.

c) Avoid that blank walls enclose public areas.

d) Provide a basic level of privacy at the rear of homes either through sufficient rear garden depth or orientation and screening to prevent direct overlooking. Private areas should be clearly defined through appropriate boundary treatment, and care taken to limit opportunities for intruders to gain easy access to the rear of buildings and other private spaces.

2. Exceptions to a) and b) may be permitted where the development is a gated community or there are other compensatory measures taken in the design to increase security.

POLICY D8 - Contributing to the Local Character

Proposals for new development (residential and commercial) in the Plan area should demonstrate high quality architecture and seek to maintain and enhance local character as follows:

- a) New development should reflect the local building forms and traditions, materials and architectural detailing that are significant in the local area, and maintain or, where appropriate, enhance local character. Exceptions may be the use of modern design and materials that contrast with yet complement local character.
- b) New developments should enhance the local character, although this does not imply simply duplicating existing developments which, in themselves, may not be of good quality.
- c) Where a development is proposed in or on the edge of an existing settlement, any new routes will respect their place in the hierarchy within the overall network, and the design of the development should be influenced by the need to define or soften the transition between areas of different character.
- d) Where new plots are being formed, these should reflect the existing grain and pattern of development where these form a significant characteristic in the street scene, unless this would conflict with other policies.
- e) New developments should not be disproportionate in scale to adjoining buildings in the locality, unless warranted by its proposed use and position on the street.
- f) Innovation in building design and materials in a way that supports local distinctiveness and the other objectives for good design and sustainable development will be supported.
- g) Buildings should normally be no more than two storeys in height, (with use of the roof space with dormer windows as a useable living space being accepted), unless heights of neighbouring buildings dictate the appropriate height for a new or extended building and the proposed design causes no impairment of light or visual impact.

POLICY D9 - Environmental Performance (see also Policies CC2, CC3)

Applicants are encouraged to design buildings to last, employing modern innovative technologies and methods of construction to, for instance, reduce construction costs, speed up construction, and minimise energy consumption and carbon emissions during the building's lifetime, such as:

- a) *Adopting energy conservation in the construction phase of new buildings (including the use of local materials to avoid transport impacts).*
- b) *Avoid using those materials most harmful to the environment (those given a 'D' or 'E' rating in the Green Guide to Specification).*
- c) *Use southerly facing roof slopes for solar thermal and/or photovoltaic installations, where possible integrated into the roof design, subject to the appropriate level of heritage and conservation assessment.*
- d) *Maximise opportunities for natural lighting and ventilation to buildings.*
- e) *In areas with known flooding issues, or where extensive areas (greater than 5 square metres) of hard surfacing are required, using permeable materials.*
- f) *Including systems to collect rainwater for use, also the use of grey water.*
- g) *Designing homes to Lifetime Homes Standard.*

POLICY D11 - Building for Life

- 1. Applicants for new housing developments are encouraged to assess their proposals against the 12 objectives in the guidance published in the latest edition of "Building for Life" published by the Design Council.*
- 2. Proposals for large scale residential development should obtain the Building for Life quality mark and the achievement of nine "green" levels is encouraged.*

17.19 Officer comment - As the applicants submission explains the overall effects of the changes to the dwelling have to be viewed in the context of the 'as approved' substantial dwelling which is of complicated design set in a large plot. Consequently, the effect of the changes to the design are considered overall, and with the backdrop of the approved scheme, are considered to be minimal within the setting of the street scene and further afield.

17.20 The originally approved design created separate elements of the building stepping down the hillside to reflect the contours of the site, the history of development on the site and to articulate the dwelling to read as a series of buildings. The design facing the road frontage reflected the more traditional buildings on Main Street, while the rear had a more contemporary feel. This approach was previously accepted by the Council as Local Planning Authority as demonstrated by the previous approval. The changes to the design still adhere to this approach.

17.21 The change in ground levels of the site is reflected in the changes in the ridge heights so from the "Farmhouse" to the "Dairy Barn" and to "Bedroom Cottage" the ridges aim to cascade down the slope. The variations in ridge heights, the changes in appearance, the stepping in and angling of parts of the elevations, allows the design to be broken down into discreet modules which complement but are different to each other and therefore appear as a series of buildings. The effect of this is to create a dynamic design so it varies as one moves along Main Street in either direction. No two views are the same.

17.22 With the dwelling's complicated design, as well as extending far back into the plot, with plenty of space either side of it, this allows the changes to be easily absorbed into the overall design without any ill effect.

17.23 Furthermore, the building recedes away from the viewer when seen from public viewpoints, primarily from the high pavement of the Main Street opposite the site. Indeed, the buildings that have the largest increase in ridge height are approximately 30m from the raised pavement. Overall, the change in height does not materially alter the composition of the design. The stepped ridge lines are still maintained, as are the series of buildings. The bulk and mass of the approved development and its articulation, which is a fundamental characteristic of the design, has also not been compromised. Space around the building is also unaffected. Visually the development as constructed and as proposed to be completed makes little difference to its overall composition when compared to the approved plans.

17.24 Detailed examination of the changes to the design – Impact on Listed Buildings and Conservation Area/AONB.

The nearest Listed Buildings are opposite - 33 and Hopewell House Main Street, The George Inn Main Street and 3 & 4 Sunnyside – all are Grade II listed. Nos 2, 5 and 6 Sunnyside are notable Important Local Buildings as are 35 and 37 Main Street and of course the application site and its previous buildings were also identified as an Important Local Building. Clematis Cottage to the west on the corner of Duck Street is also an Important Local Buildings as is Ab Antiquo beyond the Village Hall building to the east. To the south is Spring Farm Cottage another Grade II Listed Building.

17.25 There are statutory duties which apply to this proposal that special regard is given to the desirability of preserving listed buildings and their setting and to preserving or enhancing the character or appearance of the conservation area. These are set out in Sections 66 and 72 respectively of the Planning (Listed Buildings and Conservation Areas) Act 1990

17.26 Changes to Height - The Heritage Statement looks at the effect of the individual changes to the design on the Conservation Area.

17.27 It is considered that the increased height of the Winter Garden makes no discernible difference on views of the valley. The approved development would have obscured sky views.

17.28 Therefore, it is considered there is no greater impact upon the character and appearance of the Conservation Area

17.29 In terms of the effect of the increased height of Dairy Barn and Bedroom Cottage the impact depends very much on the viewing angle. The two angled ranges are not easily seen together from the lower view point of the road and from the higher viewpoint of the raised pavement even if they are seen together the change in height is considered to be a minor variation such that it would not have a material impact on the character and appearance of the conservation area. Originally, views across the valley were partly contained by the former development and vegetation. The approved scheme would also have contained views across the valley. The effect of raising the ridge slightly higher on Dairy Barn and Bedroom Cottage to contain the view between the approved ridgelines and the as built ridgelines do not materially alter the impact of the development on views across the valley.

17.30 In addition, the shortening of Dairy Barn and Bedroom Cottage compensates for the small loss of view above the approved ridge line.

17.31 When viewed from the far side of the valley the changes are imperceptible; the dwelling is seen against other buildings, on the hillside above and below the site.

17.32 Shortening and narrowing of dwelling

In terms of the shortening of the farmhouse, the submitted Heritage Statement states that:

'It has no material effect on the character of the building – it still reads as being domestic in its form and in, the context of the 'barn' to the north and the agricultural shed character of the 'bedroom cottage' and 'dairy barn', it still reads as the 'farmhouse'

17.33 The statement goes on to say that: -

'It is considered that the slight shortening of the length of the building has no material impact on the character and appearance of the conservation area over and above the approved scheme. The reduction has actually reduced the mass of this element of the house. It is considered that the change between approved and as built has not caused harm to the designated heritage asset.'

17.34 As to the changes to the shortening of the other buildings and the width reduction of Dairy Barn these are not really apparent, unless viewed on plan. There is therefore no significant adverse harmful effect on the street scene, Conservation Area or AONB. The changes would therefore accord with policies ENV1, ENV4, ENV10 and ENV12 of the Local Plan and policies HT2, D1 and D8 of the Neighbourhood Plan.

17.35 Re-positioning of southwest wing

The rotation of the south west wing by two degrees is imperceptible in relation to the impact on the street scene. It does allow for an improved internal layout to allow the building to function better. There would be no conflict with policies ENV1, ENV4, ENV10 and ENV12 of the Local Plan or policies D1 and D6 of the Neighbourhood Plan

17.36 The key tests are whether the setting of the Grade II Listed Buildings as set out above are harmed or the character and appearance of the Conservation Areas is preserved or enhanced or so compromised as a result of the development to warrant a refusal of planning permission. In this regard the setting of the listed buildings to the north is not considered to be unduly compromised as there would be little in the way of change arising from the changes to the development which fronting Main Street largely follow the same mass and bulk of the previously existing buildings that have been replaced and their increased height is not considered to be so adverse an impact to warrant a refusal of permission. As a result it is considered that there is no harm to these Heritage Assets.

17.37 Given the above comments it is considered that as a whole the proposals satisfy Section 66 (setting of Listed Buildings) and Section 72 (preserve/enhancement of Conservation Areas) as set out in the Planning (Listed Buildings and Conservation Areas) Act 1990 and Policy ENV4 of the adopted Local Plan and HT2 of the NP. They would when complete bring about a development that would sit comfortably on the plot given the size of the application site and which pays regard to the sites history in terms of external materials as well as providing a more modern approach to the rearward proposals away from Main Street.

17.38 As a result these changes do not materially have an adverse impact on the character or appearance of the Conservation Area.. It could also be argued that the resulting building as per the previously approved building provides an interesting new building that enhances the character and appearance of the Conservation Area and by extension the AONB. The proposal would therefore accord with policies ENV1, ENV4, ENV10 and ENV12 of the Local Plan and the Heritage and the thrust of the Design for Life Policies of the Neighbourhood Plan.

17.39 Amenity Impact on Neighbours

As with the previously approved scheme it is considered that there would be no significant adverse impact on neighbouring occupiers. The scheme has been sensitively designed such that there would be no adverse impact on the amenity of neighbours in terms of overlooking or loss of privacy from the built form of the development now proposed nor from the proposed windows particularly given that the proposed development takes a central position within the large plot and given the distances involved to the elevations of existing buildings that neighbour it.

17.40 Previously there was an issue about the use of reflective glass material in the southern elevations of the wing buildings but these details have now been approved in compliance with a previously imposed condition. In addition the west side and rear (lower) half of the application site will eventually be laid out essentially as a large domestic allotment where the applicant intends to grow and cultivate crops. There is no indication that this would comprise a commercial use, which in any event would need a separate planning permission if a commercial venture were to be established.

17.41 To access the allotment land to the south of the site, an entrance has now been formed half way along Duck Street, a private unadopted street. Duck Street was for many years used as the commercial entrance to Springfield Plant Nursery. The new entrance when complete will be a domestic access only and an ecological mitigation plan has been put in place to compensate for any displaced habitat. The new access is proposed to be wide enough to only allow a single vehicle to access this lower allotment part of the site. The new access proposed has caused much concern to other residents who have access over Duck Street but this is a private unadopted lane. The use of Duck Street is a civil and private matter for the applicants to take up separately with those owners or those who have access rights over it. It is not considered that the Duck Street access is unacceptable in terms of it creating a new gap in the lane to warrant a refusal of planning permission.

17.42 The changes now proposed as a whole would not have a significantly adverse impact on the amenities of the occupiers of the neighbouring properties in terms of light loss and overshadowing given the space between the development and the adjacent properties and given the overall small increase in height. There would therefore be no conflict with policy ENV16 of the adopted Local Plan.

17.43 The changes to the height of Dairy Barn and Bedroom Cottage has enabled the buildings to be insulated to a higher specification than the current building regulations to retain the low carbon credentials of the dwelling which is in line with the ambitions of the NPPF, policy ENV13 of the Local Plan and policies D9, CC1 and CC2 of the Neighbourhood Plan.

17.44 Other matters

Hours of construction

As regards construction activity the previously approved scheme conditioned details of parking for site operatives and hours of construction. The approved hours were:

- 8am - 5pm Mon – Fri
- 8am - 1pm – Sat
- No Sunday working

17.45 However the Council has now had a formal request as part of the current application from the applicants' agent seeking to alter the approved hours of construction given current Government guidance as regards COVID19. That advice via this link explains what is involved:

<https://www.gov.uk/guidance/coronavirus-covid-19-construction-update-qa>

17.46 The advice states:

On 13 May 2020, the government published a written ministerial statement on planning and construction working hours. This statement expects local planning authorities to approve requests to extend construction working hours temporarily to ensure safe working in line with social distancing guidelines until 9pm, Monday to Saturday, unless there are very compelling reasons against this.

Developers should expect their local planning authority to grant temporary changes to construction working hours until 9pm or later, 6 days a week, wherever possible and where construction working hours are controlled by planning condition. This flexibility is in relation to control imposed by the planning system only.

Where there are modest or short-term changes to construction working hours, this may be agreed informally with the local planning authority, and they should use their discretion to not enforce against a breach of working hours.

Where long or more significant changes to working hours are required, a formal application may be requested by the local planning authority. In doing so, it will be important for applicants to consider potential impacts and, where necessary, to put forward plans to manage concerns, drawing on existing good practice.

We expect local planning authorities to be supportive of reasonable requests. Local authorities should accept proposals for extended working hours unless there are very strong reasons against this. They should ensure that decisions are issued within 10 days where possible. We expect this to be a soft and user-friendly process and for guidance to be available on the local authority website.

In making their decision local planning authorities may consider where there are unreasonable impacts but they will be able to reject proposals only where there are very compelling reasons. These reasons could include the significant impact on neighbouring businesses or uses, such as care homes, which are particularly sensitive to noise, dust or vibration, which cannot be overcome through other mitigation, or where impacts on densely populated areas would be unreasonable.

The aim is to allow construction work until 9pm, Monday to Saturday. Longer hours may be justified, especially if there are no residential dwellings nearby. However, local planning authorities will maintain local discretion, and where there are unreasonable impacts, they will be able to reject proposals to extend construction hours into the late night or on a Sunday. In all cases, sympathetic site management should be demonstrated.

17.47 On the one hand extending construction hours until the requested 9pm - 6 days a week - may result in the development being built and completed quicker which would be advantageous to neighbouring occupiers as the resulting impact in terms of construction activity on their day to day amenity which would be less than would otherwise be the case.

17.48 On the other hand the site is located in the heart of the village and surrounded on all sides mainly by residential buildings. In that regard it is considered that the already approved hours of construction should only be extended from 5pm to 6pm to allow additional construction work but that this be permitted for weekdays only with any Saturday working being maintained from 8am to 1pm. This is not a town or City centre site which could more readily absorb such extended hours of construction without detriment to neighbouring occupiers.

17.49 As regards these revised hours of construction this can be dealt with by a planning condition with site operatives parking to be provided as per the approved details on the previous application.

17.50 Re-positioning of Duck Street entrance

The slight re-positioning of the Duck Street entrance means that the existing utilities do not have to be disrupted. The change does not materially affect the approved design. Therefore, it would not be detrimental to the character of the Conservation Area and would still provide a safe access, in accordance with policies COM7 of the Local Plan and AM2 of the Neighbourhood Plan. There are no highway objections to the proposals, subject to a condition that prior to occupation the turning and parking be provided and retained as such thereafter.

17.51 Alterations to landscaping to include Pond

The pond is designed to enhance the ecology of the site. It is fed by rainwater and on reaching capacity any excess water will drain into the adjacent bog area, which will drain away at greenfield rates. It therefore would not increase the risk of flooding. From this perspective it will be compliant with policy ENV5 of the Local Plan and D9 of the Neighbourhood Plan. The pond will contribute significantly to the biodiversity of the site by encouraging insects, reptiles and amphibians, birds and bats, as well as flora. Therefore, the scheme will also accord with policy ENV2 of the Local Plan and policies D1, L2 and L5 of the Neighbourhood Plan.

17.52 Impact of Chicken Coop

The chicken coop will be an attractive traditional feature. It reflects the heritage of the site as a former farmstead. Its small scale means that it will not be noticeable other than from inside the garden. Overall it will have no impact on the Conservation Area

18 CONCLUSION/SUMMARY:

18.1 The changes to the dwelling are in keeping with the original design concept. They also allow the dwelling to maintain its low carbon credentials. The changes have no adverse impact on the street scene and have no adverse impact on the character and appearance of the Conservation Area, or the wider AONB given the fall-back position of the approved scheme.

18.2 The changes do not impact adversely on neighbours' amenity. Alterations to the landscaping benefit biodiversity and provide a sustainable solution to run off. The alterations to the access do not interfere with highway safety or impact any more on the Conservation Area than the approved development. There is therefore no conflict with the

adopted Local Plan or Neighbourhood Plan and its policies sufficient to warrant a refusal of planning permission.

19 RECOMMENDATION: Grant subject to the following conditions (those that were approved originally have been amended accordingly for this current proposal but as the development has already commenced a new commencement condition is not required):

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

Location Plan - Drawing Number L301 received on 27/12/2019

(As built) Lower Ground Floor Plan & Ground Floor Plan - Drawing Number L401 received on 27/12/2019

(As built) First Floor Plan & Roof Plan - Drawing Number L402 received on 27/12/2019

(As built) Elevation 1 of 3 - Drawing Number L601 received on 27/12/2019

(As built) Elevation 2 of 3 - Drawing Number L602 received on 27/12/2019

(As built) Elevation 3 of 3 - Drawing Number L603 received on 27/12/2019

Barbeque Shelter Area - Drawing Number L501 received on 27/12/2019

Open Compost Bins & Wood Shed - Drawing Number L505 received on 27/12/2019

Chicken Coop - Drawing Number L507 received on 27/12/2019

Tool & Lawnmower Shed - Drawing Number L503 received on 27/12/2019

Open Wood Shed & Trailer Store - Drawing Number L504 received on 27/12/2019

Landscaping Plan - Drawing Number 801 LANDP001 REV 009 received on 27/12/2019

Landscaping Plan - Drawing Number L007 Rev B received on 13/07/2020

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

2 The development shall be carried out in accordance with details and samples of all facing and roofing materials including the glazing installed in the rear lower extensions hereby approved as per the details approved under compliance with condition applications WD/D/18/002892; WD/D/19/00782; WD/D/19/001329; WD/D/19/002463 which sets out the following:

- Natural Finish Larch Cladding T&G
- Purbeck Stone
- Re-Used Dry Stone Wall
- Lime Render 1:3 NHL mix with washed sand
- Slate Tile - Del Carmen Ultra Spanish slates 500x250mm by SSL
- Standing Seam Zinc - ZM Silesia (Pre-Aged Grey)
- Clay Tile - Phalempin Single Camber Clay Plain Roof Tile
- Sinusoidal Corten Steel Roof
- Sedum Roof - Bauder Sedum on Green Felt
- Doors and Windows - Painted timber (RAL 7016)
- Lead
- Black Metal Gutters and RWP's

Glass:

- Low reflectance glass to southern elevations
- Balcony glass - Guardian Glass with 1 coat of Clarity Low reflectance coating to the outside. Light reflectance of 4%-approved by LPA
- Glass to windows and doors SSG Climate Plus 6. Light Reflectance 12% - approved by LPA

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

3 The development shall be carried out in accordance with the details hereby approved of the heritage greenhouse; compost bins; trailer store; barbeque shelter area; wood store; chicken coop; outdoor field shelter; and tool/lawnmower shed all as shown on drawing number 801 LANDP001 Rev 009 received on 27/12/2019

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

4 Before the dwelling hereby approved is occupied the turning and parking shown on Drawing Number 1702 L 001 Rev B 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

5 The development hereby approved shall be carried out in accordance with the proposed drainage works (foul and surface water) submitted to and approved by the Local Planning Authority under ref WD/D/18/002892/CWC. That approved drainage scheme shall be completed before occupation of the development.

Reason: To avoid drainage problems as a result of the development with consequent pollution or flood risk.

6 The development hereby approved shall be carried out in accordance with the landscaping details as shown on drawing number Landscape Plan - Drawing Number 1702 L007 Rev B. The scheme shall be carried out in the first available planting season or prior to the occupation of any part of the development. If within a period of 5 years from the date of the planting of any tree/plant, that tree/plant or any tree/plant planted in replacement for it, is removed, uprooted or destroyed or dies (or becomes in the opinion of the Local Planning Authority seriously damaged or defective) another tree/plant of the same species and size as that originally planted shall be replanted in the first available planting season unless the Local Planning Authority agrees in writing to any variation.

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

7 The development hereby approved shall be carried out in accordance with the submitted biodiversity mitigation report of William Davis, Lindsay Carrington Ecological Consultancy Ltd dated 3rd January 2018 unless otherwise agreed in writing with the Local Planning Authority

Reason: In the interests of nature conservation interests

8 The development hereby approved shall be carried out in accordance with the Duck Street access proposals (drawing number L 016 REV H) which shall be completed prior to occupation of the dwelling and retained as such

Reason: To ensure that the external appearance of the completed development is sympathetic to its locality and to ensure satisfactory drainage is provided to prevent problems in Duck Street.

9. Hours of construction associated with the development hereby permitted shall not take place outside the hours of 8am to 6pm on weekdays; 8am to 1pm on Saturdays; with no work on Sundays and Bank Holidays. Parking for site operatives shall be in accordance with the approved details as per application ref WD/D/18/001167/CWC.

REASON: In the interests of residential amenity and highway safety.

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Minute Extract of Meeting held on Wednesday 12 August 2020

149. **WD/D/19/003186 - Homestead Farm, Main Street, Bothenhampton, Bridport, DT6 4BJ**

The Committee considered an application for the demolition of an original farmhouse in the Conservation Area and the erection of a new 4 bed low carbon house (with variation of condition 1 of planning approval WD/D/17/002888 to amend approved plans).

The Enforcement Manager presented the Section 73a application that sought to vary the plans list condition for the previously approved planning permission for the site. A number of Non-Material Amendment applications (NMAs) had subsequently been approved, but the latest received in 2019 was refused. This was due to the cumulative changes sought not being accepted as an NMA which left the only option to regularise the building as now built and to be completed in the form of a Section 73a application.

Members were shown a site location plan, showing a red line dividing the built form and garden/ allotment areas and terraced properties on the north side accessed by a higher footpath level to the road; the site location in relation to the village centre and nearby listed buildings, Conservation Area (CA) and DDB; an aerial photo of the land before development and former farmhouse buildings along Main Street sloping downwards and Village Hall; google views before redevelopment of the farmhouse at right angles to other buildings down the slope of the land and access footway to the properties along Main Street.

Members were also shown various plans of the "Y" shape development and lower level garage accessed via Main Street and the garden area / private allotment with an access off Duck Street.

A number of photos were shown of the development including the structure as built, the garage set at a lower level off Main Street; the Main Street and Duck Street accesses and the general vicinity of the development.

He confirmed that no Highways objection had been made in relation to the slope of the driveway leading to the garage.

Slides were shown of the as built and as approved floor plans which showed a similar building in terms of its footprint and accommodation, however, the building had been "tweaked" on the various levels and was now further towards Main Street showing how it had not been built in accordance with the approved plans. Comparisons were also shown of the as approved and as built elevations showing the differences in height of various elements of the building.

The key planning points were highlighted including:-

- Principle of development
- Design
- CA / AONB

- Neighbouring amenity
- Highways
- Community Infrastructure Levy (CIL)

A number of written representations objecting to the application and one in support by the Agent were received and are attached to these minutes. Some of these were read out at the meeting by the Administration Assistant in accordance with the revised Public Speaking Protocol for Area Planning Committee meetings.

Cllr David Bolwell - Dorset Council - Bridport, addressed the Committee stating that many changes had been made to the original plans approved by West Dorset District Council, which had already been reduced in size further to comments by the Conservation Officer. A survey paid for by residents revealed that the positioning and heights of the development were wrong and the heights contained in paragraph 6.17 of the report were different to those submitted in the NMAs. Approximately 10 metres of hedgerow along Duck Street had also been removed. The fallback position was that this development was not built to the original specification and both residents and the Parish Council had lost faith in the planning system. The development had been littered with non-compliance issues and he asked the Committee to refuse the application based on mass, height, ENV16 and Bridport Neighbourhood Plan D1 and D8.

Cllr Nick Ireland stated that he had visited the site the previous evening and was mostly concerned with the huge discrepancy in the heights and that moving the wings further up the slope had served to increase the impact in terms of height.

The Enforcement Manager advised that the height discrepancy in the report relied on hand drawn plans provided by applicant and the reasons for the discrepancy in heights was set out in paragraph 6.19 of the report.

The Solicitor advised that members should consider the building "as built" and whether its height had a planning impact which was unacceptable, and provide reasons.

Cllr Kelvin Clayton read an extract from the original design and impact statement and queried the absence of green roofing in the development. He said that the plans for the original wings were downslope and barely visible and that he had stood in the same spot where the wings now obliterated the views. He therefore considered that the application went against a number of material considerations. He asked whether there was any independent verification between surveys provided by the applicant and residents and referred to the lack of comment by the Conservation Officer and Historic England in the report.

The Enforcement Manager stated that he could not confirm whether the Conservation Officer had visited the site, however, he had done so as the case officer and it was his responsibility to balance the concerns of all representatives with the planning considerations. He confirmed that there was no independent survey and that he had relied on the applicants to provide details in relation to heights.

He emphasised that members needed to look at the building "as built" and assess the resultant planning harm if members felt that the building was too dominating and overbearing.

Cllr Kate Wheller stated that she was incensed by this application and that it was not appropriate for in the centre of a Conservation Area. She drew attention to comments made by the agent and that there were appreciable differences in height and the development was much nearer to Main Street than what was approved. She questioned the lack of accurate plans and how the building was almost completed when it was known that there were significant differences from the approved plans. She considered that this showed a lack of respect and total disregard for the planning process that had not happened accidentally in her view.

Cllr Jean Dunseith agreed with this view and expressed her concern in relation to roof heights on both wings due to the need to accommodate services, that the wings were closer to Main Street and higher when viewed from the road. She felt that the technical considerations in relation to the roof heights should have been resolved before the original permission had been granted and viewed the way in which this development had taken place as being very sloppy.

The Solicitor stated that he understood why members should feel that the development proceeding in this way showed disrespect to the planning system, however, the legislation allowed retrospective permission in respect of such scenarios which legislators envisaged might happen. Any decision to refuse the application on the basis of roof heights would require valid planning reasons.

Other members agreed with the views already expressed and that the height of the building affected the Conservation Area and neighbour amenity, the repositioning of the wing causing a considerable difference to the closeness to homes on Main Street. The Chairman further commented that the building contrasted with the great character and charm of the village and the street scene in the Conservation Area and village hall.

Cllr Kelvin Clayton referred to the 2 main planning issues highlighted in paragraph 16.1 of the report and proposed refusal of the application on the basis of the Neighbourhood Plan HT2; Local Plan ENV10.1 and NPPF 127c. This was seconded by Cllr Kate Wheller.

The meeting was adjourned from 15.42am to 15.45am in order that officers could draft the wording of the reasons for refusal based on the concerns of the Committee.

The following reasons for refusal were shared by way of a presentation slide for the benefit of members of the Committee and the public.

1 The proposal is a visually dominating and prominent built form of development, out of character to the area. The site is located within the Conservation Area and where the wider setting of that area is affected such that the proposal does not 'preserve' or 'enhance' that area as is required and set out given the statutory Section 72 test of the Planning (Listed Buildings and Conservation Areas) Act 1990. On that basis it has an adverse impact on the existing Conservation Area character and harms the

Conservation Area character and appearance. That harm would be less than substantial but there are no wider public benefits arising from the proposal that would outweigh that harm in the planning balance. As such the proposal would not be in accordance with Policies ENV4, ENV10 or ENV12 of the West Dorset, Weymouth & Portland Local Plan (2015) ; Policies HT2, D1 & D8 of the Bridport Neighbourhood Plan; nor paragraph 127 and section 16 of the National Planning Policy Framework (2019) and in particular para 192 which states:

In determining applications, local planning authorities should take account of: c) the desirability of new development making a positive contribution to local character and distinctiveness.

2 The proposed development by reason of its mass, scale and bulk has an unduly dominating and overbearing impact when viewed from existing neighbouring properties in Main Street and Duck Street. As a result it sits uncomfortably in relation to those neighbouring occupiers and is detrimental to their amenity (outlook). Its mass, scale and bulk is also detrimental to the character and appearance of the area. As such the proposed development would be contrary to Policies ENV10; ENV12 & ENV16 of the West Dorset, Weymouth & Portland Local Plan (2015); Policies D1 & D8 of the Bridport Neighbourhood Plan; and Section 12 of the National Planning Policy Framework (2019) and in particular paragraph 127 which states amongst other things that decisions should ensure that developments provide a high standard of amenity for existing and future users.

The proposer and seconder of the motion to refuse the application confirmed that they were content with the wording of the reasons.

Decision: That the application be refused for the reasons outlined in the appendix to these minutes.

(See decision extract below)

APPLICATION NUMBER: WD/D/19/003186

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

PROPOSAL: Demolition of original farmhouse in Conservation Area. Erection of 1.no.new 4 bed low carbon house (with variation of condition1 of planning approval WD/D/17/002888 to amend approved plans).

DECISION: Refuse for the following reasons:

1 The proposal is a visually dominating and prominent built form of development, out of character to the area. The site is located within the Conservation Area and where the wider setting of that area is affected such that the proposal does not 'preserve' or 'enhance' that area as is required and set out given the statutory Section 72 test of the Planning (Listed Buildings and Conservation Areas) Act 1990. On that basis it has an adverse impact on the existing Conservation Area character and harms the Conservation Area character and appearance. That harm would be less than substantial but there are no wider public benefits arising from the proposal that would outweigh that harm in the planning balance. As such the proposal would not be in accordance with Policies ENV4, ENV10 or ENV12 of the West Dorset, Weymouth & Portland Local Plan (2015) ; Policies HT2, D1 & D8 of the Bridport Neighbourhood Plan; nor paragraph 127 and section 16 of the National Planning Policy Framework (2019) and in particular para 192 which states:

In determining applications, local planning authorities should take account of:
c) the desirability of new development making a positive contribution to local character and distinctiveness.

2 The proposed development by reason of its mass, scale and bulk has an unduly dominating and overbearing impact when viewed from existing neighbouring properties in Main Street and Duck Street. As a result it sits uncomfortably in relation to those neighbouring occupiers and is detrimental to their amenity (outlook). Its mass, scale and bulk is also detrimental to the character and appearance of the area. As such the proposed development would be contrary to Policies ENV10; ENV12 & ENV16 of the West Dorset, Weymouth & Portland Local Plan (2015); Policies D1 & D8 of the Bridport Neighbourhood Plan; and Section 12 of the National Planning Policy Framework (2019) and in particular paragraph 127 which states amongst other things that decisions should ensure that developments provide a high standard of amenity for existing and future users.

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UPDATE REPORT - POTENTIAL ENFORCEMENT ACTION
HOMESTEAD FARM, MAIN STREET, BOTHENHAMPTON,
BRIDPORT, DT6 4BJ

Planning Committee date: 8th October 2020

Case Ref: WD/D/19/003186

Breach of planning: Demolition of original farmhouse and Erection of a dwelling not in accordance with planning approval WD/D/17/002888 as amended via the approved non material amendment approvals WD/D/19/000355/NMA & WD/D/19/000624/NMA

Location: **HOMESTEAD FARM, MAIN STREET, BOTHENHAMPTON, BRIDPORT, DT6 4BJ**

Case Officer: **Darren Rogers**

1 Full details of the breach of planning control

1.1 The carrying out of operational development comprising the “Demolition of original farmhouse and Erection of a dwelling” not in accordance with planning approval WD/D/17/002888 **Approved April 2018** as amended via the approved non material amendment approvals set out under:

- WD/D/19/000355/NMA - Non-material amendment to Planning Permission No. WD/D/17/002888 for changes to external materials and the omission of rooflights, photovoltaic panels and external staircase. **Approved March 2019**
- WD/D/19/000624/NMA - Amendment to planning permission reference WD/D/17/002888 - Change to dormer windows on west and east elevation. **Approved March 2019**

2 The site and surrounding areas

2.1 This is as described in paras 5.1 - 5.3 of the attached report to Planning Committee held on 12th August 2020 as regards application number WD/D/19/003186. That application sought retrospective planning permission for the variation of Condition 1 (the plans list) on application approval ref WD/D/17/002888/FUL – described as “Demolition of original farmhouse in Conservation Area. Erection of 1.no. new 4 bed low carbon house”.

3 Relevant planning and enforcement history

3.1 The following applications set out the planning history of this site in chronological order.

WD/D/17/002888/FUL - Demolition of original farmhouse in Conservation Area. Erection of 1.no. new 4 bed low carbon house. **Approved April 2018**

WD/D/18/001167/CWC - Request for confirmation of compliance of conditions 9 (proposed access onto Duck Street is commenced full construction details) & 10 (details of the days and hours that operations shall take place on site during the demolition and construction phases of the development and details of site operative parking arrangements) of planning approval WD/D/17/0028. **Approved Dec 2018**

WD/D/18/002892/CWC - Request for confirmation of compliance with conditions 3 (details and samples of all facing and roofing materials including details of the proposed glass (to be of a non-reflective type) to be installed in the rear lower extensions , 4 (proposed heritage greenhouse; compost bins; wooden shed; mobile chicken caravan; outdoor shelter; and tool shed) & 6 (proposed drainage works (foul and surface water) of planning approval WD/D/17/002888 - **Approved Dec 2018**

Jan 2019 Enf Investigation opened - Alleged construction of building higher than approved.

WD/D/19/000355/NMA - Non-material amendment to Planning Permission No. WD/D/17/002888 for changes to external materials and the omission of rooflights, photovoltaic panels and external staircase. **Approved March 2019**

WD/D/19/000624/NMA - Amendment to planning permission reference WD/D/17/002888 - Change to dormer windows on west and east elevation. **Approved March 2019**

WD/D/19/000782/CWC - Request for confirmation of compliance with condition 3 (Further to previous submissions of tile samples; the Phalempin Single Camber Clay Plain Roof Tile - Val De Siene (104) size 170mm x 270mm; is considered to be acceptable) of planning approval WD/D/17/002888 **Approved May 2019**

WD/D/19/001329/CWC - Request for confirmation of compliance with condition 3 (Proposed materials have been agreed previously except for the non-reflective glass to be installed in the rear lower extensions. The Guardian clear float glass with a Guardian Clarity low reflectance coating as submitted is considered to be acceptable) of planning approval WD/D/17/002888 - **Approved Oct 2019**

WD/D/19/002277/NMA - Amendment to planning permission WD/D/17/002888 - alterations to height and width of dwelling (as part of Enf Investigation) **Refused Oct 2019**

WD/D/19/002463/CWC - Request for confirmation of compliance with condition 3 (The render mix to be a traditional lime render with a mix of 1:3 Non-Hydrated Lime with washed sand is acceptable of planning approval WD/D/17/002888. **Approved 30th October 2019**

WD/D/19/003186 - Demolition of original farmhouse in Conservation Area. Erection of 1.no. new 4 bed low carbon house (with variation of condition 1 of planning approval WD/D/17/002888 to amend approved plans) **Refused 13th August 2020**

4 Officer's investigation and evidence

4.1 As Members will be aware at their Committee meeting on 12th August 2020, retrospective planning permission ref WD/D/19/003186 was refused for the "Demolition of original farmhouse in Conservation Area. Erection of 1.no. new 4 bed low carbon house (with variation of condition 1 of planning approval WD/D/17/002888 to amend approved plans)".

4.2 Permission was refused for the following 2 reasons:

1 *The proposal is a visually dominating and prominent built form of development, out of character to the area. The site is located within the Conservation Area and where the wider*

setting of that area is affected such that the proposal does not 'preserve' or 'enhance' that area as is required and set out given the statutory Section 72 test of the Planning (Listed Buildings and Conservation Areas) Act 1990. On that basis it has an adverse impact on the existing Conservation Area character and harms the Conservation Area character and appearance. That harm would be less than substantial but there are no wider public benefits arising from the proposal that would outweigh that harm in the planning balance. As such the proposal would not be in accordance with Policies ENV4, ENV10 or ENV12 of the West Dorset, Weymouth & Portland Local Plan (2015) ; Policies HT2, D1 & D8 of the Bridport Neighbourhood Plan; nor paragraph 127 and section 16 of the National Planning Policy Framework (2019) and in particular para 192 which states:

In determining applications, local planning authorities should take account of:

c) the desirability of new development making a positive contribution to local character and distinctiveness.

2 *The proposed development by reason of its mass, scale and bulk has an unduly dominating and overbearing impact when viewed from existing neighbouring properties in Main Street and Duck Street. As a result it sits uncomfortably in relation to those neighbouring occupiers and is detrimental to their amenity (outlook). Its mass, scale and bulk is also detrimental to the character and appearance of the area. As such the proposed development would be contrary to Policies ENV10; ENV12 & ENV16 of the West Dorset, Weymouth & Portland Local Plan (2015); Policies D1 & D8 of the Bridport Neighbourhood Plan; and Section 12 of the National Planning Policy Framework (2019) and in particular paragraph 127 which states amongst other things that decisions should ensure that developments provide a high standard of amenity for existing and future users.*

5 Relevant planning policy

This was as set out in the 12th August 2020 Planning Committee report under application number WD/D/19/003186 and is set out here again in full with the policies that were referred to in the reasons for refusal in bold:

5.1 National Planning Policy Framework

Section 4 - Decision Making

Section 5 - Delivering a sufficient supply of homes

Section 11 - Making effective use of land

Section 12 - Achieving well-designed places

Section 14 - Meeting the challenge of climate change, flooding and coastal change

Section 15 - Conserving and enhancing the natural environment

Section 16 – Conserving and enhancing the historic environment

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

INT1. Presumption In Favour Of Sustainable Development

ENV2. Landscape, Seascape and Sites of Geological Interest

ENV2. Wildlife and Habitats

ENV4. Heritage Assets

ENV10. The Landscape and Townscape Setting

ENV11. The Pattern of Streets and Spaces

ENV12. The Design and Positioning Of Buildings

ENV13. Achieving High Levels of Environmental Performance

ENV15. Efficient and Appropriate Use of Land

ENV16. Amenity

SUS1. The Level of Economic and Housing Growth
SUS2. Distribution of Development
HOUS1. Affordable Housing
COM1. Making Sure New Development Makes Suitable Provision for Community Infrastructure
COM7. Creating a Safe and Efficient Transport Network
COM9. Parking Standards in New Development
COM10. The Provision of Utilities Service Infrastructure
CPM11. Renewable Energy Development

5.3 Bridport Neighbourhood Plan

Climate Change

POLICY CC1 - Publicising Carbon Footprint

POLICY CC2 - Energy and Carbon Emissions

POLICY CC3 - Energy Generation to Offset Predicted Carbon Emissions

Access & Movement

POLICY AM1 - Promotion of Active Travel Modes

POLICY AM2 - Managing Vehicular Traffic

Housing

POLICY H7 - Custom-Build and Self-Build Homes

Heritage

POLICY HT1 - Non Designated Heritage Assets

POLICY HT2 - Public Realm

Landscape

POLICY L2 - Biodiversity

POLICY L5 - Enhancement of the Environment

Design for Living

POLICY D1 - Harmonising with the Site

POLICY D2 - Programme of Consultation

POLICY D5 - Efficient Use of Land

POLICY D6 - Definition of Streets and Spaces

POLICY D7 - Creation of Secure Areas

POLICY D8 - Contributing to the Local Character

POLICY D9 - Environmental Performance (see also Policies CC2, CC3)

POLICY D11 - Building for Life

5.4 OTHER MATERIAL PLANNING CONSIDERATIONS:

Design & Sustainable Development Planning Guidelines (2009)

Village Design Statements (VDSs) previously adopted as SPG in West Dorset, which remain relevant and may be material considerations in planning decisions include:

- Bothenhampton: includes parish plan (2003)

WDDC Landscape Character Assessment February 2009 – Urban Area

Bothenhampton Conservation Area Appraisal

6 Enforcement action available and reasons for the taking of formal action.

6.1 As the previous application has been refused and was retrospective in nature consideration now needs to be considered as to whether it is expedient to take enforcement action; and if so what action is required to remedy any planning harm.

6.2 Officers have already informed the applicants that following the Committee's decision on 12th August, that further construction work at the site should cease until any planning appeal against the refused application has been determined and that any further work that is carried out is done entirely at their own risk pending the outcome of any such appeal.

6.3 The applicants' agent has replied (August 2020) stating that he is instructed to make a Section 78 planning appeal and that the applicants acknowledge the degree of local concern about the scheme. Therefore, they are looking at ceasing work, while the appeal runs its course but they do not wish to see the building, or the plants deteriorate. They have set out a schedule of works (attached to this report) to be carried out to make the building properly secure and weathertight and to put it into a state so that it does not deteriorate, while the appeal is determined. Once these are completed (due at the end of September 2020), the applicants have agreed that no further work to complete the building would be undertaken until the appeal has been determined. Your officers have already agreed to these works as this is considered to be a pragmatic approach to enable the building to be made watertight and safe, prior to all further works ceasing, pending the appeal outcome. Officers have also stressed to the applicants agent the fact that these remain to be carried out entirely at the applicants own risk pending any appeal outcome. They have also agreed to let us know if (and hopefully there will not be) there is any slippage in the September timetable.

6.4 Given the above, and setting aside the appeal, the Council need to consider at this stage whether to commence formal enforcement action which could run alongside the Section 78 appeal.

6.5 It must be remembered that planning permission has already been granted for a replacement dwelling at this site which does offer a significant material planning consideration fall-back position. That approval was for a development permitted under ref number WD/D/17/002888 (Approved April 2018) as amended via the approved non material amendment approvals set out under:

- WD/D/19/000355/NMA - Non-material amendment to Planning Permission No. WD/D/17/002888 for changes to external materials and the omission of rooflights, photovoltaic panels and external staircase. Approved March 2019
- WD/D/19/000624/NMA - Amendment to planning permission reference WD/D/17/002888 - Change to dormer windows on west and east elevation. Approved March 2019

6.6 On 12 August, the Committee concluded that the changes requested under the most recent application WD/D/19/003186 which sought to deal in part retrospectively) with changes from the originally approved application (as amended) by the 2 NMA approvals listed above) are unacceptable for the reasons set out at paragraph 4.2 above.

6.7 Both of the above reasons are supported by relevant development plan and national policy references as are set out in this report.

6.8 It is therefore falls to Committee to consider the need for, and scope of, any enforcement action and the need to consider the issue of expediency having regard to the development plan and any other material planning considerations. A number of options are available.

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

6.9 This would be pending the outcome of the Section 78 appeal. Members need to take account of the planning permission that has already been granted and the applicant's agent has indicated that there will be an appeal. Of course there would be delays that could occur if enforcement action is taken only after the planning appeal is determined in favour of the Council but if the outcome of any such appeal is that it is allowed then no formal enforcement action would then be necessary. However an 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 we then decide to take. The matter would be brought back to Committee as soon as possible if permission is refused on the appeal.

Option 2 - That enforcement action be taken requiring demolition of the whole building

6.10 This would require demolition of the whole of the building as is now built and that it be replaced with the dwelling as was approved under ref WD/D/17/002888 (Approved April 2018) as amended via the approved non material amendment approvals. Officers' advice is that it would not be expedient to require demolition of the whole building as it is capable of being altered to address the reasons for refusal of the latest application and more closely match the approved building.

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

6.11– Officers consider that the Committee's reasons for refusal could be properly addressed by requiring that only certain elements of the building are changed such as the roof heights of the building as was approved compared to the height of the building as built; and/or that the footprint of the building as built is altered to that of the footprint of the building as approved.

6.12 It is not considered that for example the vehicular accesses onto Main Street and Duck Street are unacceptable in planning terms notwithstanding the fact that they are technically not in accordance with the approved scheme – these are considered to be minor transgressions that result in no significant planning harm to the character of the area; neighbour amenity; or to highway safety given that there were no highway objections to the proposals and this did not form a reason for refusal.

6.13 Nor is it considered that the alterations to the landscape proposals main to the south of the main building that includes a domestic pond and ancillary buildings namely the Heritage greenhouse; barbeque shelter; field shelter; tool and lawnmower store; open wood & trailer store; compost bins and wood shed; and chicken coop all as part of the wider rear garden area raise any significant planning harm to the character of the area and in fact were approved under

compliance with condition application WD/D/18/002892/CWC - Request for confirmation of compliance with condition 4 (proposed heritage greenhouse; compost bins; wooden shed; mobile chicken caravan; outdoor shelter; and tool shed) of planning approval WD/D/17/002888 - Approved Dec 2018.

7 Human rights and Equality considerations

7.1 The provisions of the European Convention on Human rights including the following articles;

Article 1 of the First Protocol (Right to peaceful enjoyment of possessions and protection of property)

Article 8 – Right to respect for private and family life, home and correspondence

Article 14 – Prohibition of discrimination

are relevant when considering enforcement action. These rights are not absolute and need to be balanced against the wider public interest. Local planning authorities have a duty to enforce planning legislation in a proportionate way. Enforcement action should be necessary in the public interest of upholding the integrity of the planning system to address the planning harm caused by the unauthorised development, and proportionate to the harm which it is identified that the breach is causing.

7.2 The recipient of any such notice will have the opportunity to submit an appeal against an Enforcement Notice.

7.3 Consideration has also been given to the Council's duties under the Equalities Act 2010, to have regard to the need to eliminate discrimination, harassment, victimisation, or other conduct prohibited by this Act, to advance equality of opportunities and fostering good relations between those who share characteristics protected by the Act and those who do not share them. Taking enforcement action would not conflict with the Council's duties under this Act.

8 Statutory authority.

Section 172 of the Town and Country Planning Act 1990 (as amended)

9 Financial implications

The financial implications include staff resources, the costs of any subsequent appeal/prosecution and any legal representation required. These costs will be met by the existing budget.

A Costs award to the applicant could be an issue if an application for Costs is made by the applicant for any unreasonable behaviour of the Council in seeking to defend the appeal and/or issue formal enforcement action but this is unknown at this stage.

10 Recommendation

Committee are requested to consider the options available and to determine what action they consider is necessary to remedy the breach of planning control. However **Officers recommend to Members that Option 1 is approved** and we hold any formal enforcement action in abeyance, until such time as any Section 78 planning appeal is determined.

The reason for this is that 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 we then decide to take.

Darren Rogers
Planning Enforcement Manager

Minute Extract of meeting held on Thursday 8 October 2020

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.