



## Eastern Area Planning Committee

**Date:** Wednesday, 26 August 2020

**Time:** 10.00 am

**Venue:** Team Live Event/Virtual

**Membership: (Quorum 6)**

Toni Coombs (Chairman), Shane Bartlett (Vice-Chairman), Alex Brenton, Cherry Brooks, Robin Cook, Mike Dyer, Beryl Ezzard, Barry Goringe, David Morgan, David Tooke, Bill Trite and John Worth

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

**For more information about this agenda please telephone Democratic Services on 01305 251010 or David Northover on 01305 224175 - david.northover@dorsetcouncil.gov.uk**

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Members of the public are welcome to attend this meeting with the exception of any items listed in the exempt part of this agenda. MS Team Live Event/Virtual (please see link below)

**Link for the meeting:-**

[Click here for the live stream of the meeting](#)

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 Monday 24 August 2020**. This must include your name, together with a summary of your comments and contain no more than 450 words. If a Councillor who is not on the Planning Committee wishes to address the Committee, they will be allowed 3 minutes to do so and will be

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invited to speak before the applicant or their representative provided that they have notified the Democratic Services Officer by **8.30am on Monday 24 August 2020**.

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

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

### **Using social media at virtual meetings**

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

# AGENDA

Page No.

**1 APOLOGIES**

To receive any apologies for absence

**2 DECLARATIONS OF INTEREST**

To receive any declarations of interest

**3 MINUTES**

5 - 20

To confirm the minutes of the meeting held on 29 July 2020.

**4 PUBLIC PARTICIPATION**

21 - 22

Members of the public wishing to speak to the Committee on a planning application should notify the Democratic Services Officer listed on the front of this agenda. This must be done no later than two clear working days before the meeting. Please refer to the [Guide to Public Speaking at Planning Committee](#).

**5 3/20/0657/CONDR - LAND NORTH OF CASA VELHA, RINGWOOD ROAD, THREE LEGGED CROSS,**

23 - 44

To consider a report by the Head of Planning.

**6 STATEMENT OF DECISION APPEALS**

45 - 50

To consider a report by the Head of Planning.

**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 - EASTERN AREA PLANNING COMMITTEE**

### **MINUTES OF MEETING HELD ON WEDNESDAY 29 JULY 2020**

**Present:** Cllrs Toni Coombs (Chairman), Shane Bartlett (Vice-Chairman), Alex Brenton, Cherry Brooks, Robin Cook, Mike Dyer, Beryl Ezzard, Barry Goringe, David Morgan, David Tooke, Bill Trite and John Worth

**Officers present (for all or part of the meeting): Officers present:** Kim Cowell (Team Leader –Development Management), Liz Adams (Principal Planning Officer), Chelsey Golledge (Technical Support Officer), (Phil Crowther (Senior Solicitor), Lindsey Watson (Senior Democratic Services Officer) and David Northover (Democratic Services Officer).

#### **Representations/Statements**

##### Minute 119

Nick Wood, Michael Campbell, Stuart and Susan MacMillan Pratt  
Malcolm Brown – on behalf of Justin Streams

#### **114. Introduction by the Chairman**

Given that the meeting was being held as a MS Team Live Event virtual meeting owing to the need to do so during the coronavirus/Covid -19 pandemic, the Chairman took the opportunity to explain how the meeting would take place, the way this would be done and the reason for this. She explained the protocols and processes to be followed and that doing so gave the Council the ability to continue to fulfil its obligation of delivering the planning function and determining applications.

#### **115. Apologies**

No apologies for absence were received at the meeting.

#### **116. Declarations of Interest**

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

Councillor Bill Trite had previously indicated his views on this development so considered he was unable to participate in the discussion and decision as part of the Committee. However, he wished to retain his right to impart his views as one of the two Ward members for Swanage.

117. **Minutes**

The minutes of the meeting held on 1 July 2020 were confirmed and would be signed at the earliest opportunity.

118. **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.

119. **6/2020/0161 - Replacement of existing dwelling with a detached dwelling and to erect an additional detached dwelling adjacent at 1A Battlemead, Swanage**

The Committee considered application 6/2020/0161 for the replacement of the existing dwelling - a bungalow - with a detached, two storey dwelling and to erect an additional detached two storey dwelling adjacent to it along with the formation of an access and parking at 1A Battlemead, Swanage.

With the aid of a visual presentation, officers explained what the proposals, principles and planning issues of the development were; how these were to be progressed; how the development would contribute to meeting housing needs; and what this entailed. The presentation focused on not only what the development entailed and its detailed design, but what effect it would have on residential amenity and the character of that area of Swanage, being in the Dorset AONB.

The application site consisted of the dormer bungalow -1a Battlemead - and its plot. The original plot of 1a Battlemead had recently been acquired by the applicant and had already been subdivided, to provide for an additional, second, dwelling to the east, which is close to completion. The current application proposed to demolish the dormer bungalow and its attached garages to create a new plot on which two detached houses would be constructed.

Plans and photographs provided an illustration of the location, dimensions – form, bulk, size and mass - and appearance of the development and of the two individual properties, along with their ground floor plans, layout and elevations; how they would look; comparisons between the existing dwelling and those proposed; proposed street scenes; the materials to be used; the topography of the site and what landscaping there would be; its relationship with the highway network; the characteristics of the site; its relationship with other adjacent residential development; the impact on amenity, environmental and planning designations relating to its setting within Swanage - it being identified as area of distinctive local character, as designated in the Swanage Local Plan Policy STCD: Swanage Townscape Character and Development. Views into the site and from it were shown, which provided a satisfactory understanding of what the application entailed.

As to the relevant planning history of the site, comparisons were made with a previous refusal - 6/2019/0702 - which proposed to retain 1A Battlemead and add a two storey dwelling, would have appeared cramped and of high density on a small and constrained infill plot. Pre-application considerations for the current proposal had assessed two options: one being for one large building to be subdivided into five flats. However, this was considered to be unacceptable on scale, height, design and layout and in terms of impact on local character and neighbouring properties. Another option - the one the Committee was now being asked to consider – was for two detached houses, which officers considered to be more readily acceptable and the basis on which this application was now being made. A third application - 6/2019/0492 - had been previously granted: in severing the whole plot, and erecting a two storey dwelling, immediately to the east of this proposal, and which was currently under construction.

The officer's recommendation was for permission to be granted on the basis that:-

- the principle of development was acceptable
- Emerging Local Plan Policy H14: Second Homes – there was insufficient weight to be applied to decisions relating to replacement dwellings.
- layout, scale, design, impact on character and appearance of area and Dorset AONB – there was no harm to the Dorset AONB. Layout, scale, design and impact on townscape character acceptable subject, to a materials condition.
- impact on neighbouring amenity was acceptable subject to conditions
- biodiversity impacts was acceptable.
- flood risk and drainage was acceptable subject to SuDs condition.
- highway impacts and car parking was acceptable subject to conditions and informative note.
- the proposal will contribute to local housing supply.
- there are no other material considerations which would warrant refusal of this application.

Officers considered that whilst the layout of the development could be seen as slightly contrived in design, it made the best use of the available land, with the orientation of the houses not compromising privacy of neighbouring residents, with obscured glazing of bedroom windows, as necessary, to achieve this and with there being considered to be adequate distance maintained between them. The proposed development offered an attractive design of some merit, which would complement those property already there.

Following formal consultation, Swanage Town Council had objected to the application on the grounds of overdevelopment and being detrimental to the important street scene and character of the area: being contrary to Policy STCD and the Swanage Townscape Character Appraisal. It considered it would have a potential adverse impact on neighbouring amenity - with overlooking and loss of privacy - and on environmental considerations, with the loss of a sizeable area of existing greenspace.

Representations received from neighbours and residents, also objecting, raised concerns about the design and dimensions of the development, with its height giving rise to overlooking, overshadowing and overbearance; outside space and gardens would be very limited in size; was not in keeping with neighbouring spacious plots; as restricted covenants and conditions were emplaced on the estate, this development did not necessarily accord with those; parking and road safety would be compromised; and that the character of the de Moulham Estate would be compromised by such cramped and intensive development.

The Committee heard directly from one of the two Ward members for Swanage, Councillor Bill Trite – on this occasion solely as a Ward member in his own right – who in reiterating his previously submitted written representation - once again in his own right and on behalf of his constituents - expressing concern that the site was being overdeveloped and would have an adverse effect on the open character of the area and compromise what this estate was intended to embody. He felt that at such density, overdevelopment was demonstrated by the need for glazing to be obscured in the bedroom. Moreover, he considered that the parking proposed would be inadequate and would lead to pressure on-street. In there being no significant revisions made to what had been refused previously, he could see no reason why this application was being recommended for approval. In asking the Committee to refuse the application, he also asked that there be a site visit, so his concerns might be readily seen.

The Council's Solicitor outlined the guidance from the Planning Advisory Service and the LGA that, in the current circumstances, site visits were not appropriate at this time and could not necessarily accord with social distancing measures. As an alternative, a video could capture what was necessary if required. The Committee, in accepting this advice, felt that it was unnecessary to visit the site as they had all the information they needed before them.

The Committee were then notified of those written submissions received and officers read these direct to the Committee - being appended to these minutes. Having heard what was said, officers responded to some of the pertinent issues raised, being confident that each one could be addressed by the provisions of the application and the assessments made.

The opportunity was given for members, to ask questions of the presentation and what they had heard, in seeking clarification of:

- the status of the Swanage Local Plan and how its provisions played a part in this application,
- the covenants and conditions that governed the de Moulhem estate,
- how the application sat with the spacious characteristics traditionally afforded to the estate;
- what parking and road safety issues had been considered;
- what input Dorset AONB had made;
- how the design, dimensions and elevations of the development would look;



- what significance overlooking and overbearing had on amenity, given the need for obscured glazing;
- and that Dorset Council's housing policy should have a bearing on any development proposal. Members asked what consideration had been given to factoring in the provision of affordable housing in this development.

In particular Members referred to this area as being of distinctive local character - as defined in Policy STCD: Swanage Townscape Character and Development of the Swanage Local Plan – “with any new development in that area should protect and enhance the distinctive local characteristics of these areas in being characterised by predominantly detached properties, of modest size, individual design and usually set within reasonably generous plots. It is important that new development does not reduce the spacious character of this area and the informal qualities of the backland areas”.

Officers addressed the questions raised, providing what they considered to be satisfactory answers based on the assessments made, the material planning considerations applicable and for the reasons set out in their report and presentation.

Whilst most points had been covered in the report and officer presentation, officers took the opportunity to confirm that whilst it was recognised that there was a perception of harm in the effect the development could have on the open space character, it was not the case that this would be compromised and did not have the negative impact that the previous application had. The design, layout and dimensions of the dwellings were acceptable, with distances between the dwellings and neighbouring properties being satisfactory. Moreover, there was an obligation to achieve an effective use of land for homes and good housing, as provided for in Policy 117 of the in National Planning Policy Framework (NPPF). Whilst accepting that some windows were designed to be obscure glazed to mitigate any overlooking issue and ameliorate any neighbouring concerns, they still offered adequate illumination within those rooms, with the bedroom being served by clear glazing too.

Whilst some loss of green space was an understandable concern, there was the opportunity for new, alternative landscaping to be achieved.

Parking was satisfied by the two parking spaces, in line with Dorset guidance for a dwelling of these proportions, and the highway officer was satisfied that highway safety would not be compromised by manoeuvring movements or extraneous parking, even give the popularity of the area during summer.

Whilst there was some non-conformity in size of plots, there was a mix of housing styles and types along Battlemead, all with varying plot proportions and, on balance, this was not so very much removed from that, certainly not to be able to justify refusal.

On this occasion it was unnecessary for there to be any input from the Dorset AONB as a major assessment was not required for this particular, minor

development, on already developed land and which was, essentially, similar to other neighbouring property.

Officers clarified that the policy referencing the subdivision of plots in the Purbeck Local Plan was focused on affordable housing provision, so did not apply in this case. Officers confirmed that all the relevant policies and plans had been taken into consideration in assessing this application and the weight given to them by officers, again, assessed accordingly.

In respect of any second homes policy within the previous Purbeck District area - to regulate the ability for ownership of such – officers confirmed that such a condition could not be applied to any grant of permission as the policy was currently still being assessed within the Emerging Purbeck Local Plan process and therefore the weight that could be given to it was limited.

In making their planning assessment, officers had considered the proposed development to be acceptable in principle, of an acceptable scale and design and, on balance, it was considered to be acceptable in terms of the impact on the character and appearance of the area and the amenity of the occupiers of neighbouring properties. Impacts such as flood risk, highways and biodiversity were all considered to be acceptable subject to conditions.

However, whilst accepting the clarifications made, some Members remained concerned – and somewhat unconvinced - that what was being proposed would compromise the amenity of that part of the de Moulham estate and that the capacity of the site was too constrained to accommodate the development being proposed.

They agreed with Councillor Trite that this was evident by the need to have obscured glazing in the first floor bedroom windows. The siting of two properties on the plot would result in overdevelopment and an inappropriate density on the site; spaciousness, particularly garden and outdoor space, would be significantly compromised and out of keeping with neighbouring properties – in being contrary to the provisions for this estate set out in the Adopted Swanage Local Plan - Policy STCD: Swanage Townscape Character and Development or to the Council's own policy to provide for quality homes. Indeed, the original plot had now been subdivided into three, where only one house had previously been. This in itself indicated that the site would be overdeveloped. Given Policy STCD, there was an obligation for the quality of the area to be upheld and the Local Plan had been developed to ensure the best interests of local residents were served. It was considered that the Purbeck District Local Plan and Swanage Local Plan still had relevance, should be adhered to and had a bearing on this application and should be afforded sufficient weight.

Concern at what effect parallel parking would have on manoeuvring so close to a junction was also raised. Whilst understanding the planning considerations being given to second homes policy in Purbeck, reservations were nevertheless still maintained in that, to some extent, weight should be given in preventing the occupation of dwellings as second homes. They referred to the Committee's stance on this in refusing a previous application in

Purbeck in the recent past, West Lulworth - 6/2019/0553, and considered this should be similarly applied in this case.

As the Planning Authority, members said that the Council had an obligation to ensure development achieved good planning standards and design and met what was necessary and expected, in being wholly satisfied that those standards had been met. They considered that this was not the case for this development.

Other members agreed with the officer's assessment of the development in that whilst not all aspects of the layout of the development could be considered ideal, on balance, it made the best use of the available land. The mitigating measures were designed to not compromise the privacy of neighbouring residents. They considered the proposed development to be an enhancement to the street scene than was currently the case, the design being of some considerable merit which would go a long way to complementing other properties in Battlemead. Given the limited supply of development land available in Swanage, the opportunity should be taken to develop the land as proposed. Moreover, the obscured glazing was a means to mitigate any overlooking concerns; the current street line was far from regularised; and rooms sizes adhered to the necessary building standards. They impressed that Swanage needed housing to attract and retain families – and young families at that – for economic and employment opportunities and social need. On the basis of this, they saw no material planning consideration to warrant refusal or reason that there would be any demonstrable harm arising from what was being proposed. Given this, they considered the officer's recommendation should be supported.

Having had the opportunity to discuss the merits of the application, having understood what was being proposed and the reasoning for this; having taken into account the officer's report and presentation; the written representations; and what they had heard at the meeting; and the views of Councillor Bill Trite, the Committee were satisfied in their understanding of what the proposal entailed and the reasoning for this. The Committee considered that, notwithstanding the assessments made by officers that the proposal should be granted permission, they could not agree to what was being recommended on the basis that the site was too constrained for the development proposed, the building lines, internal layout and obscured glazing were contrived and did not meet the Local Plan policies.

Before being put to the vote, the officer provided the proposer and seconder with an opportunity for them to accept a form of wording for refusal she had drafted. On that basis – and being proposed by Councillor Cherry Brooks and seconded by Councillor Alex Brenton - on being put to the vote, the Committee agreed 6:5 – the Chairman having voted - that the application should be refused.

### **Resolved**

That planning application 6/2020/0161 be refused.

### **Reason for Decision**

The proposed increase in development density would result in a cramped scheme which fails to sensitively integrate with the low density of the existing estate and prevailing setting provided by established building lines. The bulk of the two dwellings would negatively impact on the spacious suburban distinctive character area. The internal layout and obscured glazing is contrived and the proposal does not achieve affordable, suitable and decent housing, contrary to the Purbeck Local Plan Part 1 Policy D: Design, Swanage Local Plan, Policy STCD: Swanage Townscape Character and Development, National Planning Policy Framework Sections, 11: Making Effective Use of Land (para 117 and 122) and Section 12: Achieving Well Designed places (para 127) of the National Planning Policy Framework, the Purbeck District Design Guide Supplementary Planning Document adopted January 2014 and Swanage Townscape Character Appraisal Supplementary Planning Document adopted August 2012.

120. **Urgent items**

There were no urgent items of business for consideration at the meeting.

121. **Statements / Representations**

Nick Wood

This proposed development has caused significant stress and mental turmoil to many of my retired neighbours some of which could be regarded as vulnerable. It has also caused significant negative comment amongst many in the local De Moulham Trust area where the characteristics of reasonably sized front and back gardens prevail, allowing people views from their gardens and houses of the Area of Outstanding Natural Beauty that we live in. It is why it is an Area of Distinctive Local Character in the Swanage Town Plan.

I strongly feel that with the Restrictive Covenants governing the development of the area (now managed by Swanage Town Council through the De Moulham Trust) plus the characteristics of the area should prevent this development.

The developer first severed the site. We felt this was a good development though were concerned not enough garden had been allowed for a house of this size and therefore out of keeping with the characteristics of the area. Neighbours were assured by the developer that the original chalet bungalow (sited well away from surrounding boundaries) would be just refurbished. Over Christmas 2019 application 6/2019/0702 was submitted for the original bungalow to be demolished on this now halved plot and two detached two storey tall houses with very limited outside space to be built in its place. This development was rejected. And many in the area breathed a sigh of relief and stress levels reduced. However, at about lockdown, we were then hit by this new proposal. Again, wonderful timing! It is NOT significantly different but very surprisingly the Officers are now recommending acceptance. The proposed over development of this site is still there.....The massing of these two detached houses is visible from our garden and is extremely large

compared to the current low level chalet bungalow; and the effect on the neighbouring properties will be negative in terms of their enjoyment of their own properties (massing, noise levels from intensity of use, parking, amenity, street scene) and their views of either the sea or Ballard Down will disappear. We urge the committee to reject this development.

In a country that has just been through a lock down, with many people valuing their private outside space, properties should be built with a decent amount of garden. Only 6% of the UK is developed; why shove everyone into a smaller and smaller space...it is the perhaps the thing that most highlights inequality between people. People move to this part of Swanage for the garden and more open spaces between properties; please do not allow this development to go ahead and set a dangerous precedent for other sites in the area.

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Michael and Penny Campbell

Application 6/2019/0702 was refused and the reasons given remain valid for this current application. We are perplexed why it has become "in the balance" given little has changed.

Reasons for objection are:

1 Over development

The builder wants to replace one building with four with insufficient amenity space and overcrowding. The 2 floored, 3 bedroom house (built) has already been extended to 3 floors and 4 bedrooms. This proposal is totally out of character with the street scene in Battlemead. Battlemead is a mixed development of detached properties, with garages, driveways and substantial rear and front gardens. This proposal does not adhere to any of these characteristics and will set a dangerous precedent within this area of distinctive local character.

We quote from the case officer's reasons for refusal on the previous application "... cramped and high density in appearance on a small and constrained infill plot to the detriment of the distinctive regular and low density pattern of townscape character in the area..." We urge you to refer to the officer's previous refusal. Her reasons remain equally valid for this application.

2 Overlooking

The proposed houses will overlook their neighbours at 35 and 39 De Moulham Road and 1 Battlemead. Opaque, non-opening windows in principal bedrooms indicates the builder is aware of the intrusive design and seeks to remedy this with an unsatisfactory solution. Future occupiers will seek to replace them to provide light and ventilation, causing stress and discord with neighbours.

This proposal for 2 tall houses so close to the boundaries goes against European Law entitling neighbours to privacy.

3 The De Moulham Estate

This is a special, carefully preserved part of Swanage with a unique character to which many restrictive covenants and conditions were attached to protect

the area. Again we quote “The proposal does not maintain the prevailing character and setting of the area and is therefore contrary to the National Planning Policy Framework”.

#### 4 Dorset Parking Standards

The original property is a 2 bedroom chalet bungalow and had 2 single garages and 2 parking spaces, a ratio of 2 bedrooms to provision for 4 vehicles. Now this proposal is for 3 houses with 10 bedrooms with 1 single garage, 2 parking spaces for the existing house and 4 extremely cramped parking spaces for the development, a ratio of 10 bedrooms and dubious in dimensions provision for 7 vehicles. This is not in line with Dorset Parking Standard as there is no provision for visitor parking.

We can see no improvement to the previous application 6/2019/0702 or in the amendments to this application and therefore object to this application and request it be declined.

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#### Stuart and Susan MacMillan Pratt

We have seen the submissions of various neighbours to the Committee regarding this Application ( and those previously associated with it). We fully endorse the points they make and so do not propose yet further repetition.

Instead, we wish to draw your attention to the background of the De Moulham Estate (DME), of which Battlemead is a part, and to highlight to you why it is so important that you do not allow a development which could open the flood-gates for the eventual destruction of this Area of Distinctive Local Character.

The DME is a 90 year old concept and was designed to ensure that the expansion to the north of the town was accomplished in a controlled manner under the guidance of Trustees, currently Swanage Town Council. Aerial photos dated 1935 and 1937 (which were attached as part of our earlier submissions opposing this development) clearly show that the estate was to be laid out in an orderly and formal manner. The houses, albeit of varied design, were to be detached, have good separation, be of modest size and surrounded by good sized gardens.

The building line was clearly defined; the houses were to be set back from the pavement such that they would be fronted by relatively large gardens and thus create the spacious, uncluttered feel of the estate as a whole.

Virtually without exception the 100 or so buildings on the estate conform to these requirements and there is evidence that caveats specifying these requirements are contained in the Land Registry documents of some houses, including ours.

A review via Google Earth will confirm the current spaciousness of the estate.

The proposed development puts three houses and a detached garage on to a plot designed for one decent sized house and good sized garden. The building lines are being completely ignored.

The proposed back gardens have been described by local estate agents as 'compact patio gardens' or 'totally out of keeping with the area'. The car parking arrangements will only work if the vehicles are small, the passenger has already got out and the driver is fairly agile ...and then there's the real issue of road and pedestrian safety when sight lines are poor (we question whether the Highways engineer has actually seen the site, especially when the on-road parking is jammed with holiday-makers ( not the visitors to the new houses who will be lucky to find anywhere to park at peak times).

Para 195 of The Swanage Local Plan states that: "The Areas of Distinctive Local Character include a variety of townscape character types and new development should protect and enhance the distinctive local character of the area". The SLP goes on to say that "It is important that new development does not reduce the spacious character of the area". Elsewhere we find that "Officers should not rely on 'windfall' developments to meet overall new-build objectives of the PLP1- SE Dorset."

We urge you to reject this Application.

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Malcolm Brown - on behalf of the applicant, Justin Streams

I commend to you your officer's report.

This proposal is entirely different to the previous application 6/2019/0702.

Further pre-application advice was sought from the planning officer. The advice states:-

The two detached dwellings are modest in size (3 bed) and of an acceptable height, scale and mass in relation to surrounding properties and the street scene. The traditional but varied design is considered to be acceptable. The dwellings sit comfortably within the plot...

There is therefore no conflict with the local character and the pattern of development.

The advice continues:-

Subject to suitable modification, this option could be supported in terms of impacts on neighbouring properties and future occupiers of the proposed dwellings.

The applicant took that advice on board and the application incorporates those modifications.

Your officers accept that there is not unacceptable overlooking and loss of privacy to neighbours.

The car parking provision is in accordance with your standards. There is no loss of greenspace. In addition to the existing dwelling house there are two existing garages, an outbuilding and a conservatory and hardstanding.

The Existing Site coverage is 141 sq. metres

Proposed Site Coverage is 135 sq.metres

There is therefore a small reduction in site cover and no loss of greenspace.

The officer's report refers you to a recent appeal decision in relation to subdivision of a lengthy rear garden at 61 Rabling Road Swanage which was allowed.

I need to draw your attention also to an approval by this authority as recently as May this year at 3 De Moulham Road. Planning was granted to build 4no. 3 storey houses. The houses are detached of contemporary design to appear as two blocks. They replace a single storey dwelling in a verdant setting. The approval will see the 4 houses built with no back gardens whatsoever and a three storey elevation about 5metres from the side boundary of no.1a Rabling Road and its back garden. The benefit of the provision of homes to be used as a person's sole or principal residence was considered to outweigh the loss to the non-designated heritage asset.

Contrast the proposal before you today with that approval. This proposal fits comfortably within the street scene, retains a reasonable amount of greenspace, and is sustainable in terms of the National Planning Policy Framework.

There is no suggestion in the pre-application advice that a decision would be finely balanced. It is in accordance with the Local Plan.







**Duration of meeting:** 10.00 - 11.30 am

**Chairman**

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## Dorset Council

### **Covid-10 Pandemic – Addendum to the Guide to Public Speaking Protocol for Planning Committee meetings – effective from 29 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:-

<https://moderngov.dorsetcouncil.gov.uk/mgListCommittees.aspx?bcr=1>

3. During this period the council can only accept written statements via email and you should continue to bear in mind the guidance in the public speaking guide when preparing your representation.

4. The 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. **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, in its own right.**

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 – by the 8.30 am deadline above - so those arrangements can be put in place.

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26 August 2020

**REPORT SUMMARY**

<b>REFERENCE NO.</b>	3/20/0657/CONDR		
<b>APPLICATION PROPOSAL</b>	Vary Condition 18 (hours of operation) of PA 3/19/1365/FUL (Erection of 14 commercial units for B1(b), B1(c) and B8 use together with access and associated parking) to vary hours of operation		
<b>ADDRESS</b>	Land North of Casa Velha, Ringwood Road, Three Legged Cross, Wimborne, Dorset, BH21 6RB		
<b>RECOMMENDATION</b>	Grant, subject to conditions: (see Section 12 of the report for the full recommendation)		
<b>REASON FOR REFERRAL TO COMMITTEE</b>	The hours of operation set out in Condition 18 of PA 3/19/1365/FUL accord with the Committee resolution of 11 March 2020		
<b>SUMMARY OF REASONS FOR RECOMMENDATION</b>	<ul style="list-style-type: none"> <li>There are not considered to be any matters which would warrant a refusal of planning permission in this case.</li> </ul>		
<b>INFORMATION ABOUT FINANCIAL BENEFITS OF PROPOSAL</b>			
Not applicable			
<b>APPLICANT</b>	Westcroft Construction Ltd	<b>AGENT</b>	Chapman Lily Planning Ltd
<b>WARD</b>	Verwood	<b>PARISH/TOWN COUNCIL</b>	Verwood Town Council
<b>PUBLICITY EXPIRY DATE</b>	17 July 2020	<b>OFFICER SITE VISIT DATE</b>	10 October 2019
<b>DECISION DUE DATE</b>	27 May 2020	<b>EXT. OF TIME</b>	2 September 2020
<b>RELEVANT PLANNING HISTORY – Application Site</b>			
App No	Proposal	Decision	Date
3/18/0921/PAM	9 no. detached dwellings on Land to the North of Casa Velha with new access onto West Moors Road. 3 no. commercial units with parking and new day nursery.	N/A	Written response 02/05/2018
3/19/1365/FUL	Erection of 14 commercial units for B1(b), B1(c) and B8 use together with access and associated parking (description amended 30.01.2020)	Granted	11 March 2020
3/20/1151/CON	Variation of condition 2 (approved	under	N/A

DR	plans) of PA 3/19/1365/FUL to change the roof line of units number 5-10 from a double ridge to single ridge	consideration	
3/20/0983/FUL	Erection of 5 commercial units for B1(b), B1(c) and B8 use, together with access and associated parking.	under consideration	N/A
<b>RELEVANT PLANNING HISTORY – Adjacent Land</b>			
3/18/3235/OUT	Outline application with access for consideration for the erection of 9, two storey, properties. (Outline: Approval sought for Access only)	Granted	12/04/2019
3/19/1699/RM	Erection of 9, two storey, properties. (Reserved Matters following PA 3/18/3235/OUT Appearance, Landscaping, Layout and Scale.)	Granted	13/03/2020

## MAIN REPORT

### 1.0 DESCRIPTION OF SITE AND SURROUNDINGS

- 1.01 The application site is open land situated to the south of Ringwood Road. It is located within the main urban area of Three Legged Cross and within 400m of Holt and West Moors Site of Specific Interest (SSSI). The site measures approximately 0.58ha.
- 1.02 The application site is bordered by Ringwood Road to the north; an access road to the east that services the Oakdene Nursing Home located to the east; the residential dwellings of Oakdene Orchard and Casa Vehla to the south (also serviced by the access road); and currently open land to the west that has an extant planning permission, PA 3/18/3235/OUT, for 9 dwellings.
- 1.03 The current access is from Ringwood Road which services Oakdene Nursing Home, Oakdene Orchard and Casa Vehla. It is proposed to use the same access and a Certificate B has been provided where notice has been served on Oakdene Orchard, Casa Vehla and Dorset Council.
- 1.04 The site has a well vegetated boundary to the north with closed board fencing adjacent to the public highway, which provides screening and adds to the semi-rural character to this part of Ringwood Road. There is also some vegetation to the southern boundary. The western boundary is currently open and the eastern boundary has approx. 2m high closed board fencing.
- 1.05 As noted previously there is an extant planning permission (PA 3/18/3235/OUT - *Outline application with access for consideration for the*



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*erection of 9, two storey, properties. (Outline: Approval sought for Access only)) for 9 dwellings to the west by the same applicant and the reserved matter application (3/19/1699/RM - Erection of 9, two storey, properties. (Reserved Matters following PA 3/18/3235/OUT Appearance, Landscaping, Layout and Scale) was granted in March 2020.*

- 1.06 A pre-application meeting and response was given, 3/18/0921/PAM, for the site for 9 dwellings, 3 commercial units and a day nursery. It is not Council practice to consult on pre-application submissions of this nature, nor are responses publicised.
- 1.07 Members resolved to grant planning permission for the 'Erection of 14 commercial units for B1(b), B1(c) and B8 use together with access and associated parking' at Committee in March 2020 (PA 3/19/1365/FUL). The resolution to grant consent was made subject to Condition 18 of the officer recommendation being amended to prevent operations, including deliveries, on Sundays and bank holidays. This application seeks to vary Condition 18 of the Decision Notice dated 16.03.2020 to allow the premises to operate on Sundays and public holidays.
- 1.08 Further planning applications have been submitted in respect of this application site and are currently under consideration as follows:
- 3/20/1151/CONDR - Variation of condition 2 (approved plans) of PA 3/19/1365/FUL to change the roof line of unit's number 5-10 from a double ridge to single ridge.
  - 3/20/0983/FUL - Erection of 5 commercial units for B1(b), B1(c) and B8 use, together with access and associated parking.

## **2.0 PROPOSAL**

2.01 This is a full planning application which proposes to:

*'Vary Condition 18 (hours of operation) of PA 3/19/1365/FUL (Erection of 14 commercial units for B1(b), B1(c) and B8 use together with access and associated parking) to vary hours of operation'.*

2.02 The Committee resolution to grant consent for 14 units on this site under PA ref 3/19/1365 was subject to Condition 18 of the officer recommendation being amended to prevent operations, including deliveries, on Sundays and bank holidays.

The original submission proposed the following hours of operation:

**19. Hours of Opening**

Are Hours of Opening relevant to this proposal?

Yes  No

If known, please state the hours of opening (e.g. 15:30) for each non-residential use proposed:

Use	Monday to Friday	Saturday	Sunday and Bank Holidays	Unknown
B1 (b) - Research and development	Start Time: 00:00 End Time: 23:59	Start Time: 00:00 End Time: 23:59	Start Time: 00:00 End Time: 23:59	
B1 (c) - Light industrial	Start Time: 00:00 End Time: 23:59	Start Time: 00:00 End Time: 23:59	Start Time: 00:00 End Time: 23:59	
B8 - Storage or distribution	Start Time: 00:00 End Time: 23:59	Start Time: 00:00 End Time: 23:59	Start Time: 00:00 End Time: 23:59	

The officer report to Committee on 11 March 2020 recommended the following condition (18):

*18. 'The development hereby approved shall only be in operation during the hours 07:00 to 21:00 Mondays to Saturdays, and 09:00 to 18:00 Sundays including deliveries to site.*

*Reason: to protect the amenities of nearby residential properties.*

In accordance with the Planning Committee resolution of 11 March 2020, Condition 18 of the Decision Notice for application 3/19/1365 reads:

*18. 'The development hereby approved shall only be in operation during the hours 07:00 to 21:00 Mondays to Saturdays, with no operations on Sundays or public holidays, including deliveries to site.*

*Reason: to protect the amenities of nearby residential properties.*

Minutes of the Eastern Area Planning Committee from 11 March 2020 can be accessed via the following link - <https://moderngov.dorsetcouncil.gov.uk/ieListDocuments.aspx?CIId=429&MIId=4271>)

2.03 Application 3/20/0657/CONDR seeks to vary condition 18 of approved PA 3/19/1365/FUL to read:

*The development hereby approved shall only be in operation during the hours 07:00 to 21:00 Mondays to Saturdays and during the hours of 10:00 to 16:00 on Sundays or public holidays, including deliveries to site.*

*Reason: to protect the amenities of nearby residential properties.*

### 3.0 SUMMARY OF INFORMATION

<b>Hours of operation as per officer recommendation PA 3/19/1365/FUL</b>	<b>Hours of operation as per member's request PA 3/19/1365/FUL</b>	<b>Proposed hours of operation</b>
(including deliveries to site)	(including deliveries to site)	(including deliveries to site)
Mondays to Saturdays - 07:00 to 21:00	Mondays to Saturdays - 07:00 to 21:00	Mondays to Saturdays - 07:00 to 21:00
Sundays - <u>09:00 to 18:00</u>	Sundays and public holidays – <u>no operations</u>	Sundays and public holidays – <u>10:00 to 16:00</u>

### 4.0 RELEVANT PLANNING CONSTRAINTS

Main Urban Area  
 Heathland 400m and Heathland 400m-5k zone

### 5.0 POLICY AND OTHER CONSIDERATIONS

Section 38(6) of the Planning and Compulsory Purchase Act 2004 states that planning applications must be determined in accordance with the development plan for an area, except where material considerations indicate otherwise. The development plan in this case comprises the Christchurch and East Dorset Local Plan and saved policies of the East Dorset Local Plan (2002).

The following policies and guidance are of relevance in this case:

#### 5.01 Development Plan:

##### **Christchurch and East Dorset Core Strategy (Part 1) 2014 (Core Strategy)**

KS1 Presumption in favour of sustainable development  
 HE2 Design of new development

##### **East Dorset Local Plan 2002 (EDLP) (saved policies)**

DES2 Criteria for development to avoid unacceptable impacts from types of pollution  
 DES11 Criteria for ensuring developments respect or enhance their surroundings.

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## 5.02 Government Guidance

The National Planning Policy Framework (NPPF)  
National Planning Policy Guidance (NPPG)

## 6.0 LOCAL REPRESENTATIONS

- 6.01 In addition to letters to neighbouring properties, a site notice was posted outside the site on the 23 June 2020. Neighbours were also consulted by letter dated 16 June 2020.
- 6.02 Due to the Covid -19 pandemic restrictions, the site notice was posted by the agent and photographic evidence of the notice in position was provided by email on the 23<sup>rd</sup> June.
- 6.03 In total 8 letters of objection from 6 addresses were received raising the following issues:
- Increased traffic on Ringwood Road which will impact negatively on neighbouring amenity
  - Increased noise impacting negatively on neighbouring amenity
  - Varying hours of operation will remove respite for neighbours
  - The proposed change to hours of operation will result in additional noise and pollution
  - Noise impact assessment submitted is as per PA 3/19/1365/FUL and has already been considered by the planning committee
  - The submitted noise assessment is inaccurate and misleading
- 6.04 It was also noted that some neighbours were not aware of the approved PA 3/19/1365/FUL. The consultation for PA 3/19/1365/FUL was carried out as prescribed in article 15 of the Development Management Procedure Order (as amended) paragraph 5 (a) and (b) (<http://www.legislation.gov.uk/uksi/2015/595/article/15/made>). As per paragraph 5 (a), the site notice was posted on Ringwood Road adjacent to the application site (on a telegraph pole adjacent to the footpath). In accordance with paragraph 5 (b), notice was served on adjoining neighbours.
- 6.05 Due to Covid-19 it was considered necessary to extend the consultation for this planning application where a letter dated the 16<sup>th</sup> June 2020 was sent to additional neighbours surrounding the application site. During the current COVID-19 pandemic Dorset Council are aware that some neighbours of planning application sites may be vulnerable and possibly shielding at this time. While it is not a requirement of planning legislation to consult the additional neighbours, the Case Officer felt it prudent to consult additional neighbours during these difficult times when some neighbours may be shielding and unable to leave their homes.

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## 7.0 CONSULTATIONS

7.01- The proposed is to vary condition 18 (hours of operation) only. Therefore, only Verwood Town Council and Dorset Council Environmental Health were consulted in relation to this application

### 7.02 - Verwood Town Council – OBJECTION

Against Policy HE2 – relationship to nearby properties including minimising general disturbance to amenity.

### 7.03 - DC Environmental Health – COMMENTS

Concerns that although the applicant has demonstrated through noise modelling that there is unlikely to be a statutory nuisance there will be some noise created by the new development, which borders residential properties. Extending operating hours and deliveries to include Sundays and bank holidays when residents are likely to be using their gardens could give rise to complaints of disturbance in the future.

[Officer note: DC Environmental Health comments were discussed with the EH Officer and the Planning Officer noted that an informative as per the previous application could be applied if permission were granted as follows, to which the EH Officer raised no objection:

*‘The applicant is advised if substantiated noise complaints from nearby residents in the future are received the Council has a duty to investigate and take action to abate any statutory nuisance identified within the remit of part III of the Environmental Protection Act 1990.’]*

## 8.0 APPRAISAL

8.01 As this application is to vary the hours of operation only the main planning issue for consideration is the impact on neighbouring amenity, which is considered below. If the application is refused, the original planning permission will stand unaffected.

### Principle of development

8.02 The guidance contained in the National Planning Policy Framework (NPPF) and the National Planning Policy Guidance is material considerations in the determination of this application.

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- 8.03 Section 38(6) of the Planning and Compulsory Purchase Act 2004 states that planning applications must be determined in accordance with the development plan for an area; except, where material considerations indicate otherwise.
- 8.04 The principle of development has been established under PA 3/19/1365/FUL, where the proposed was in accordance with Core Strategy Policies:
- KS1 Presumption in favour of sustainable development
  - KS5 Provision of Employment Land
  - KS11 Transport and Development
  - KS12 Parking Provision
  - HE2 Design of new development
  - HE3 Landscape Quality
  - ME1 Safeguarding biodiversity and geodiversity
  - ME3 Sustainable development standards for new development
  - ME4 Renewable energy provision for residential and non-residential developments
  - ME6 Flood Management, Mitigation and Defence
  - ME2 Protection of the Dorset Heathlands
  - PC1 Christchurch and East Dorset Employment Land Hierarchy
  - DES2 Criteria for development to avoid unacceptable impacts from types of pollution
  - DES6 Landscaping schemes in rural areas and on the edge of settlements should be of indigenous species
  - DES7 Criteria controlling the loss of trees
  - DES11 Criteria for ensuring developments respect or enhance their surroundings.

Impacts on Neighbouring Amenity

- 8.05 Adjacent and opposite the application site there a number of residential dwellings in the surrounding area. In particular Oakdene Nursing Home to the east on the other side of the access road and Casa Vehla and Oakdene Orchard to the south. There are also residential dwellings on the opposite side of Ringwood Road to the north and future occupants of the extant permission to the west need to be considered.
- 8.06 A number of objections were received in response to PA 3/19/1365/FUL in relation to impact on neighbouring amenity including noise, disturbance, smells, vibration from traffic, loss of light, overshadowing and loss of views.

The approved scheme was judged to be acceptable in relation to noise, disturbance, overlooking and loss of light and granted subject to conditions. The scheme was considered to be in accordance CS Policy HE2.

- 8.07 As per PA 3/19/1365/FUL, the proposed use for B1, is defined as '*uses which can be carried out in a residential area without detriment to its amenity*'. These

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include the proposed uses of B1 (b) (research and development), B1 (c) (light industrial). It is acknowledged B8 (storage and distribution) is also proposed but this is only for one third of the proposed units and has been conditioned as such. The closest dwellings are 13-14m from the proposed units and this is Casa Vehla to the south and Oakdene Nursing Home to the east. The rest of the units are 14-25m from surrounding residential dwellings. Also, units are generally bordered by roads (on and off site) to the east, west and Ringwood Road to the north. The only exception to this is unit 11 to the south west, where it is adjacent to neighbouring amenity space and the garage of the extant planning permission to the west.

8.08 Concerns raised in relation to the change of hours of operation include:

- Additional traffic on Ringwood Road which will impact negatively on neighbouring amenity
- Additional noise impacting negatively neighbouring amenity
- Varying hours of operation will remove respite for neighbours
- Noise impact assessment submitted is as per PA 3/19/1365/FUL and has already been considered by the planning committee
- The submitted noise assessment is inaccurate and misleading

8.09 By way of comparison, table below compares the hours of operation originally proposed, with the hours recommended in the officer report to committee in March, the approved scheme (for PA 3/19/1365/FUL) and the variation of condition application PA 3/20/0657/CONDR.

Application 3/19/1365 as originally submitted proposed a start time of 00:00 with an end time of 23:59 operating every day of the week.

The officer report to Committee recommended a condition (condition 18) to allow operation on Sundays between 09:00 and 18:00. That recommended condition was amended by members to prevent operations on Sundays and Public Holidays. The proposed variation to the officer recommended condition would change operation hours from 10:00 to 16:00 on Sunday's and Public Holidays to reduce the effect of the development on the neighbouring nursing home.

<b>Original submitted hours of operation for PA 3/19/1365/FUL</b>	<b>Hours of operation as per officer recommendation for PA 3/19/1365/FUL</b>	<b>Hours of operation as per Committee resolution/decision for PA 3/19/1365/FUL</b>	<b>Proposed hours of operation for PA 3/20/0657/CONDR</b>
(including deliveries to site)	(including deliveries to site)	(including deliveries to site)	(including deliveries to site)
Mondays to	Mondays to	Mondays to	Mondays to

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Saturdays - 0:00 to 23:59	Saturdays - 07:00 to 21:00	Saturdays - 07:00 to 21:00	Saturdays - 07:00 to 21:00
Sundays and public holidays – <u>0:00 to 23:59</u>	Sundays - <u>09:00 to 18:00</u>	Sundays and public holidays – <u>no operations</u>	Sundays and public holidays – <u>10:00 to 16:00</u>

8.10 Paragraph 180 of the NPPF 2019 states:

*“180. Planning policies and decisions should also ensure that new development is appropriate for its location taking into account the likely effects (including cumulative effects) of pollution on health, living conditions and the natural environment, as well as the potential sensitivity of the site or the wider area to impacts that could arise from the development. In doing so they should:*

- a) mitigate and reduce to a minimum potential adverse impacts resulting from noise from new development – and avoid noise giving rise to significant adverse impacts on health and the quality of life<sup>1</sup>*
- b) identify and protect tranquil areas which have remained relatively undisturbed by noise and are prized for their recreational and amenity value for this reason; and*
- c) limit the impact of light pollution from artificial*

8.11 The NPPF refers to the Noise Policy Statement for England (NPSE). This provides clarity regarding current policies and practices for all forms of noise including environmental noise, and neighbour noise. The NPSE defines the concept of “Significant adverse” and “Adverse” impacts of noise which relate to the noise policy aims. These are applied as follows:

NOEL – No Observed Effect Level

This is the level below which no effect can be detected. In simple terms, below this level, there is no detectable effect on health and quality of life due to the noise.

LOAEL – Lowest Observed Adverse Effect Level

This is the level above which adverse effects on health and quality of life can be detected.

SOAEL – Significant Observed Adverse Effect Level

This is the level above which significant adverse effects on health and quality of life occur.

8.12 The NPPG provides generic guidance on how to determine the noise impact and what factors could be a concern. It includes the option types to mitigate any adverse effects of noise stating that there are four broad types of mitigation. These are: engineering, layout, using planning conditions or obligations, and noise insulation.



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- 8.13 Saved Policy DES2 sets out the criteria for development to avoid unacceptable impacts from different types of pollution, including noise, smell, safety, health, lighting, disturbance and traffic.
- 8.14 A noise assessment has been provided with this application, which concludes the noise level will be below the lowest observed adverse effect level (LOAEL) and therefore achieves the aim of the NPPF. DC Environmental Health has been consulted and acknowledges the applicant has demonstrated through noise modelling that there is unlikely to be a statutory nuisance but there will be some noise created by the new development.
- 8.15 The Council's Environmental Health Officer (EHO) notes that extending operating hours and deliveries to include Sundays and bank holidays when neighbouring residents are likely to be using their gardens could give rise to complaints of disturbance in the future. This concern was discussed with the EHO, and while the possibility of future complaints is acknowledged the requirements of related planning policies had been met through the submitted noise assessment and noise modelling. As per the previous application, an informative is recommended - should substantiated noise complaints be received from nearby residents in the future, the Council has a duty to investigate and take action to abate any statutory nuisance identified (informative 4).
- 8.16 The submitted noise impact assessment demonstrates that the impact of site operations for the B1 and B8 during the daytime period, including on Sundays, will have no adverse impact on the dwellings in the vicinity of the site and is considered acceptable in terms of planning and noise. The EH officer offers no objection to this assessment. The EH officer concluded PA 3/19/1365/FUL was acceptable subject to conditions in relation to noise, and lighting in order to protect neighbouring amenity, which have been copied across (conditions 14,15 & 17).
- 8.17 Concerns have been raised that the proposed will disturb neighbouring dwellings with increased traffic. As per the previously approved application, Class B1 uses are uses that can be carried out in a residential area without detriment to its amenity and only up to 388m<sup>2</sup> will be used for B8. As such it is not considered the proposed will have an impact that would warrant refusal. Noise, external plant, hours of operation and lighting matters have been restricted by condition to protect neighbouring amenity (conditions 14,15, 17 & 18).

### Highways

- 8.18 Concerns were raised increased hours of operation would result in an unacceptable increase in traffic. PA 3/19/1365/FUL was assessed by Dorset Council Highways where hours of operation stated in the application form

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started at 0:00 and ended at 23:59. DC Highways was satisfied that the likely impact is not significant and advised there is no objection subject to conditions in relation to parking, access, visibility splays, road construction and gates, which have been copied across (conditions 8, 9, 10, 11, 12, 13). Therefore, the proposed hours of operation would not conflict with Policy KS11 of the CS above the approved application 3/19/1365/FUL.

## **9.0 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

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

## **10.0 PUBLIC SECTOR EQUALITIES DUTY**

- 10.1 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.

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

## **11.0 CLIMATE IMPLICATIONS**

- 11.1 It is acknowledged the proposed, by its nature will increase traffic movements to the site which will result in vehicle emissions and increased hours of operation will add to this. However, this was considered acceptable under the officer’s original recommendation for PA 3/19/1365/FUL for hours of operation which included Sundays 09:00 to 18:00 as there is a bus stop outside the site and cycle parking has been provided, which provides alternative modes of transport for employees.

## **12.0 CONDITIONS**

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- 12.1 The previously approved application 3/19/1365/FUL has not commenced on site nor have any conditions been discharged. Therefore, all conditions of PA 3/19/1365/FUL are outstanding and have been carried across with condition 18 varied as requested.

### **13.0 CONCLUSION**

- 13.1 The noise impact assessment demonstrates that the impact of site operations for the B1 and B8 during the daytime period, including on Sundays, will have the Lowest Observed Adverse Effect Level (LOAEL) adverse impact on the dwellings in the vicinity of the site and is considered acceptable in terms of planning and noise.
- 13.2 Having assessed the material considerations as outlined within the report above, with the conditions set out in this report there are not considered to be any matters which would warrant a refusal of planning permission in this case. Approval subject to the following conditions is therefore recommended.

**Recommendation:** Grant, subject to the following conditions:

#### **Conditions**

[Officer note: All pre-commencement conditions agreed with the agent by email dated 03/02/2020 under PA 3/19/1365/FUL]

1. (Standard Commencement)  
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.
2. (Approved Plans)  
The development hereby permitted shall be carried out in accordance with the following approved plans:
  - 19112.11 Rev H Proposed Site plan
  - 19112.12 Rev B Proposed Elevations
  - 19112.13 Rev B Proposed Elevations
  - 19112.14 Rev B Proposed Elevations
  - 19112.15 Rev C Proposed Elevations
  - 19112.16 Rev D Proposed Street Elevations
  - 19289-901 P3 Road Layout
  - 19289-990 P3 Vehicle Tracking

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

3. (Materials)

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No development above DPC (damp proof course) shall take place until details and samples of all external facing and roofing materials have been provided on site, and approved in writing by the Local Planning Authority (LPA). All works shall be undertaken strictly in accordance with the details as approved, unless otherwise agreed in writing with the LPA.

Reason: This information is required prior to above ground work commencing to ensure satisfactory visual relationship of the new development to the existing.

4. (Use)

The premises hereby approved shall be used only for B1 (b) – research and development B1 (c) – light industrial (up to 1163.02m<sup>2</sup>); and B8 – storage or distribution (up to 388m<sup>2</sup> only); and for no other purpose whatsoever, (including any other purpose in Parts A and B) of the schedule to the Town and Country Planning (Use Classes) Order 1987 or any subsequent re-enactment).

Reason: To ensure that (i) adequate vehicle parking can be accommodated on site (ii) and to protect neighbouring amenity.

5. (Landscape Design)

No development above DCP (damp proof course) shall take place until full details of both hard and soft landscape works and boundary treatments have been submitted to and approved in writing by the local planning authority and these works shall be carried out as approved. These details shall include hard surfacing materials; means of enclosure; details of boundary planting, schedules of plants (noting species, plant sizes and proposed numbers/densities where appropriate).

Reason: This information is required prior to above ground work commencing as the long term establishment, maintenance and landscaping of the site is necessary to preserve the amenity of the locality. This decision has also had regard to Policies HE2 and HE3 of the Local Plan and Government Guidance contained in the National Planning Policy Framework.

6. (Landscaping - Implementation)

All hard and soft landscape works shall be carried out in accordance with the approved details. The works shall be carried out prior to the occupation of any part of the development and the planting carried out in the first planting season following completion of the development. Any planting found damaged, dead or dying in the first five years following their planting are to be duly replaced with appropriate species.

Reason: This information is required prior to occupation of development in order to ensure the implementation of the scheme is carried out in accordance with the approved plans and to accord with Policies HE2 and HE3 of the Local

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Plan and Government Guidance contained in the National Planning Policy Framework.

7. (Tree Protection Plan)

Prior to any equipment, materials or machinery being brought onto the site for the purposes of development, an updated tree protection plan annotated with the updated site layout and location of soakaways and service routes shall be submitted to the LPA and approved in writing. Where and if these are located within the root protection areas of trees shown on the submitted Tree Protection Plan, a method statement shall be submitted to the Local Planning Authority for written approval prior to any development commencing on site. Their installation will then be in strict accordance with the approved plans and method statement.

Reason: To safeguard trees and natural features which are important to the visual amenities of the area.

8. (Estate Road Construction (adopted or private))

Before the development is occupied or utilised the access, geometric highway layout, turning and parking areas shown on Drawing Number 19289-901 Rev P3 must be constructed, unless otherwise agreed in writing by the Planning Authority. Thereafter, these must be maintained, kept free from obstruction and available for the purposes specified.

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

9. (Vehicle access construction)

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

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

10. (Cycle parking)

Before the development is occupied or utilised the cycle parking facilities shown on Drawing Number 19289-901 Rev P3 must have been constructed. Thereafter, these must be maintained, kept free from obstruction and available for the purposes specified.

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

11. (Gates)

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

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

12. (Visibility Splays)

Before the development hereby approved is occupied or utilised the visibility splay areas as shown on Drawing Number 19289-901 Rev P3 must be cleared/excavated to a level not exceeding 0.60 metres above the relative level of the adjacent carriageway. The splay areas must thereafter be maintained and kept free from all obstructions.

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

13. (Open Storage)

No goods, plant or material shall be deposited or stored in the open or displayed for sale in the open on the site without the prior consent in writing of the Local Planning Authority.

Reason: In order to protect the amenities of the area, and to maintain adequate parking areas.

14. (Noise)

The noise levels from the use and premises hereby permitted shall not exceed the predicted noise levels set out in the submitted Noise Impact Assessment by Acoustic Consultant Ltd ref: 7800/PR/BL Rev B, July 2019.

Reason: To protect the amenities of nearby residents.

15. (External Plant)

Details of any external plant to be installed shall be submitted to and approved in writing by the Local Planning Authority before any such installation is carried out. The installation shall then be implemented precisely in accordance with these agreed details which shall then not be varied without express written permission. Furthermore, no additional external plant shall be installed without the express written permission of the Local Planning Authority.

Reason: This information is required prior to occupation of the development hereby approved to safeguard the amenities of the area and to minimise the

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possibility of inconvenience to nearby residents and to accord with Policies HE2 of the Local Plan.

16. (CMS)

No development shall take place, including any works of demolition, until a Construction Method Statement has been submitted to, and approved in writing by, the local planning authority. The approved Statement shall be adhered to throughout the construction period. The Statement shall provide for:

- i) the parking of vehicles of site operatives and visitors
- ii) loading and unloading of plant and materials
- iii) storage of plant and materials used in constructing the development
- iv) wheel washing facilities
- v) measures to control the emission of dust and dirt during construction
- vi) a scheme for recycling/disposing of waste resulting from demolition and construction works

Reason: In the interest of the living conditions of nearby residents and sustainable development.

17. (Lighting)

Details of any floodlighting to be installed shall be submitted to and approved in writing by the Local Planning Authority before any such installation is carried out. The installation shall then be implemented precisely in accordance with these agreed details which shall then not be varied without express written permission. Furthermore, no additional external lighting shall be installed without the express written permission of the Local Planning Authority.

Reason: This information is required prior to occupation of the development hereby approved to safeguard the amenities of the area and to minimise the possibility of inconvenience to nearby residents and to accord with Policies HE2 of the Local Plan.

18. The development hereby approved shall only be in operation during the hours 07:00 to 21:00 Mondays to Saturdays and during the hours of 10:00 to 16:00 on Sundays or public holidays, including deliveries to site.

Reason: to protect the amenities of nearby residential properties.

19. (Biodiversity)

The development hereby approved shall not be first brought into use unless and until the mitigation measures as detailed in the approved mitigation plan ABR Ecology Ltd dated 08/09/2019 have been completed in full, unless any modifications to the agreed mitigation plan as a result of the requirements of a

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European Protected Species Licence, or the results of subsequent bat surveys have first been submitted to and agreed in writing by the local planning authority. Thereafter approved mitigations measures shall be permanently maintained and retained in accordance with the approved details, unless otherwise first agreed in writing by the local planning authority.

Reason: In the interests of nature conservation.

20. (Adverts)

There shall be no advertisements or other signage displayed on the north walls of units 1-4 that face onto Ringwood Road.

Reason: In order to protect the visual amenity.

21. (Surface water management)

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

Reason: To prevent the increased risk of flooding, to improve and protect water quality, and to improve habitat and amenity.

22. (Surface water management)

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

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

**Informatives:**



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1. 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 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](mailto:dorsetdirect@dorsetcc.gov.uk), or in writing at Dorset Highways, Dorset Council, County Hall, Dorchester, DT1 1XJ, before the commencement of any works on or adjacent to the public highway.
2. As the new road layout does not meet with the Highway Authority's road adoption standards or is not offered for public adoption under Section 38 of the Highways Act 1980, it will remain private and its maintenance will remain the responsibility of the developer, residents or housing company.
3. If the applicant wishes to offer for adoption any highways drainage to DC, they should contact DC Highway's Development team at [DLI@dorsetcouncil.gov.uk](mailto:DLI@dorsetcouncil.gov.uk) as soon as possible to ensure that any highways drainage proposals meet DCC's design requirements.
4. The applicant is advised if substantiated noise complaints from nearby residents in the future are received the Council has a duty to investigate and take action to abate any statutory nuisance identified within the remit of part III of the Environmental Protection Act 1990.

**Background Documents:**

Case Officer: Naomi Shinkins

NB For full details of all papers submitted with this application please refer to the relevant Public Access pages on the council's website.

The conditions set out in the report may be subject to such reasonable change as is necessary to ensure accuracy and enforceability

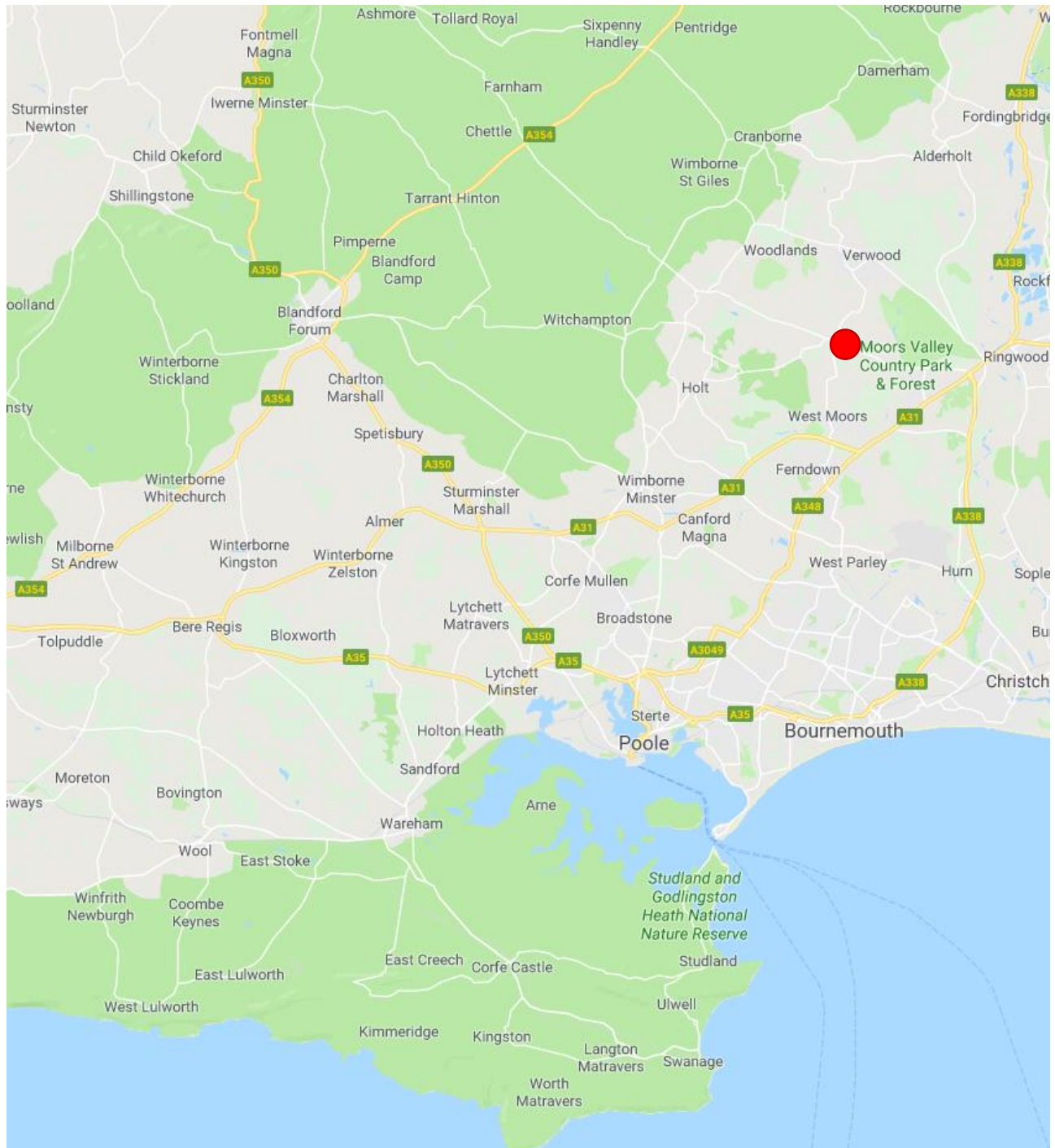
Planning Committee

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Approximate Site Location 

3/20/0657/CONDR – Land North of Casa Velha, Ringwood Road, Three Legged Cross, Wimborne, Dorset, BH21 6RB

Proposal: Vary Condition 18 (hours of operation) of PA 3/19/1365/FUL (Erection of 14 commercial units for B1(b), B1(c) and B8 use together with access and associated parking) to vary hours of operation



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## EASTERN PLANNING COMMITTEE

### Appeal Decisions

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#### 1. PURPOSE AND RECOMMENDATIONS

<b>Purpose of Report:</b>	To inform Members of notified appeals and appeal decisions and to take them into account as a material consideration in the Planning Committee's future decisions.
<b>Recommendations:</b>	<b>It is RECOMMENDED that:</b>  <b>(This report is for Information)</b>
<b>Wards:</b>	Council-wide

#### 2.0 APPEAL DECISIONS

##### 2.1 Appeal Reference: APP/U1240/C/19/3226644

**Planning Reference: Enforcement**

**Address: 223 Ringwood Road, St Leonards, Ringwood, BH24 2SD**

**Decision: Appeal dismissed, Enforcement notice upheld with corrections and variations**

223 Ringwood Road lies in the Green Belt south of the A31 within 5km of protected Dorset Heathland. The site comprises a dwellinghouse, a residential caravan benefiting from a Certificate of Lawfulness and there was a historic Certificate of Established Use for a Kennels. The Council's attention was drawn to the site when two businesses started to operate there.

Following an enforcement investigation, a Planning Enforcement Notice was issued on 15 March 2019 in respect of:

- Unauthorised change of use of land for the stationing of caravans for residential purposes
- Unauthorised use of land to business use
- Hard surfacing

The appeal was lodged on grounds (b) that the breach of control alleged had not occurred, (c) that there was no breach of planning control, (d) that it was too late to take enforcement action and (f) that the steps required by the notice were excessive.

Following a two-day planning inquiry during which aerial photographs provided critical evidence, the Inspector determined that:

- The lawful caravan did not confer 'caravan site' status in respect of the whole Appeal site on which a number of uses were taking place.
- The caravans represented a wholly new use. The appellants evidence was 'confusing, ambiguous and contradictory' he could not prove on the balance of probability that either caravan had been in continuous residential use for 10 years.
- The area to the rear of the site represented a separate planning unit on which the site services business was operating. This intensive use was materially different to the previous low-key business use and there was no case to show that the use was immune by reason of time.
- A massive change in the character and appearance of the southern part of the site led the Inspector to conclude that the caravan storage and sales use represented a change of use of the site which was not immune by reason of time.
- No significant new areas of hardsurfacing had been laid on the southern part of the site but there was evidence that scalplings representing development had been laid behind the dwelling.

The Inspector amended the Enforcement Notice to require the cessation of the use of the site for caravans for residential use and the use for a site services and container/modular buildings installation business and a mobile homes, containers, temporary buildings and portacabins storage and sales business.

The original time frame of 6 months has been amended by the Nominated Officer to 9 months in the light of Covid19. This requires compliance by 20 January 2021.

## **2.2 Appeal Reference: APP/D1265/W/20/3245921**

**Planning Reference: 3/19/1015/FUL**

**Address: Misty Meadows, 147 Ringwood Road, Ferndown, Dorset, BH22 9AB**

**Decision: Appeal dismissed**

The site, which has been the subject of numerous planning applications, lies within the Green Belt to the west of the Longham village infill area. The proposal involved demolishing the existing, unauthorised building on the site – which has the appearance of, and is fitted out as, an independent unit of residential accommodation - and re-constructing what was previously constructed on the site – an open fronted shed for the storage of logs.

The Inspector noted that the building had solid and enclosed walls to all elevations, timber clad, domestic like windows and doors, and was internally subdivided into rooms including an area for a kitchen and a separate bathroom.

The Inspector considered that the main issues were:

- whether or not the proposal would be inappropriate development in the Green Belt

- the effect of the proposal on the openness of the Green Belt, and
- if the appeal development is inappropriate development, whether the harm by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations, so as to amount to the very special circumstances necessary to justify the proposal.

The Inspector concluded that the proposal would constitute inappropriate development within the Green Belt.

With regard to openness, the Inspector came to the view that the proposal would introduce a building where no lawful building was present and therefore there would be both a spatial and a visual reduction to the openness of the site. He concluded that the proposal would therefore harm the openness of the Green Belt. He also found that the proposal would not assist in safeguarding the countryside from encroachment and would therefore not accord with one of the purposes of the Green Belt.

Inspector found that the other considerations put forward in support of the proposed development did not clearly outweigh the harm to the Green Belt and consequently, the very special circumstances necessary to justify the development did not exist.

The Inspector concluded that the proposal would constitute inappropriate development in the Green Belt and no very special circumstances had been demonstrated.

The appeal was therefore dismissed on this basis.

**2.3 Appeal Reference: APP/U1240/C/19/3222991**  
**Planning Reference: Enforcement**  
**Address: Land adjacent to premises at 6 Uppington Close, Hinton Martell, Wimborne, BH21 7HS**  
**Decision: Appeal dismissed. Enforcement Notice upheld with variations**

The site lies within the Green Belt and an Area of Great Landscape Value within open countryside. The owners of no. 6 Uppington Close had purchased adjoining farmland and had undertaken works to create a playing pitch for residential enjoyment.

Following an enforcement investigation an Enforcement notice was served. The alleged breach of planning control was the change of use of land from grazing paddock to land used for residential purposes incidental to 6 Uppington Close and the construction of an astro-turf sports area, together with associated goal posts/net, netball posts/net, sleeper walls and access steps.

The appeal was lodged on grounds (a) permission should be granted, (c) that there was no breach of planning control, (d) that it was too late to take enforcement action and (f) that the steps required by the notice were excessive.

The Inspector noted that the land had been purchased in 2008 and had thereafter formed part of the planning unit but was not convinced by the appellant's evidence that the land benefited from a lawful residential (garden) use.

When considering the works undertaken to form a pitch the Inspector judged that the works represented an engineering operation which had taken place outside of the residential curtilage and required planning permission.

The Inspector declined to grant permission for the development. He judged that the introduction of the sizeable games pitch set into the slope of the land and incorporating retaining walls and access steps, which facilitated a material change of use of the land to residential purposes incidental to the dwelling, failed to preserve the openness of the Green Belt and represented encroachment into the countryside in conflict with the purposes of Green Belt. He also gave some weight to the inevitable pressure to add further structures if the change of use was granted permission. Although the development to date had little impact on the appearance of the land, the Inspector anticipated that the appearance of the site would be likely to become a manicured garden and/or home to residential paraphernalia which would conflict with policy HE3. No very special circumstances were identified to outweigh harm.

The appeal was dismissed.

**2.4 Appeal Reference: APP/D1265/W/20/3245075**  
**Planning Reference: 6/2019/0269**  
**Address: Hill House, Jennys Lane, Lytchett Matravers, BH16 6BP**  
**Decision: Appeal dismissed.**

Outline permission was refused under delegated powers, to demolish existing workshop and stables, remove other fixed infrastructure and build a dwelling. The site lies within open countryside designated as Green Belt, outside the Lytchett Matravers settlement boundary.

The Planning Inspector agreed with the Council that the proposal represented inappropriate development in the Green Belt. The appellant's contention that the development represented village infilling was dismissed; the Inspector found that the site lay beyond the village as the loose ribbon development along Jennys Lane had a different character and the site was bordered to the west by undeveloped fields rather than between existing buildings. Although the site was previously developed land, the proposed two storey dwelling would have a greater impact on openness than the buildings to be demolished as a result of its physical impact and visual prominence.



The Inspector also agreed that the proposal would cause harm to the semi-rural character of the area and represent an unsustainable form of development contrary to policies CO, LD and SD of the Local Plan and national policy.

No very special circumstances were identified to outweigh the harm and the appeal was dismissed.

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