



Western and Southern Area Planning Committee

Date: Thursday, 19 January 2023
Time: 10.00 am
Venue: Council Chamber, County Hall, Dorchester, DT1 1XJ

Members (Quorum 6)

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

Chief Executive: Matt Prosser, County Hall, Dorchester, Dorset DT1 1XJ

For more information about this agenda please contact Democratic Services Meeting Contact 01305 224202 Elaine.tibble@dorsetcouncil.gov.uk

Members of the public are welcome to attend this meeting, apart from any items listed in the exempt part of this agenda.

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Agenda

Item	Pages
1. APOLOGIES	
To receive any apologies for absence	
2. DECLARATIONS OF INTEREST	
To disclose any pecuniary, other registerable or non-registerable interest as set out in the adopted Code of Conduct. In making their disclosure councillors are asked to state the agenda item, the nature of the interest and any action they propose to take as part of their declaration.	
If required, further advice should be sought from the Monitoring Officer in advance of the meeting.	

3. MINUTES

5 - 10

To confirm the minutes of the meeting held on 13 December 2022.

4. PUBLIC PARTICIPATION

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.

[GuidanceforspeakingatPlanningCommittee.doc.pdf](https://www.dorsetcouncil.gov.uk/GuidanceforspeakingatPlanningCommittee.doc.pdf)
([dorsetcouncil.gov.uk](https://www.dorsetcouncil.gov.uk)).

The deadline for notifying a request to speak is 8.30am on Tuesday 17th January 2023.

5. PLANNING APPLICATIONS

To consider the applications listed below for planning permission

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|----|---|---------|
| a) | Application No: P/FUL/2022/00228 - Old Dairy Site Rope Walks Bridport DT6 3RH
Erect building to be used for storage, offices and associated ancillary uses. | 11 - 24 |
| b) | Application No: P/FUL/2022/02129 - Le Petit Canard
Dorchester Road Maiden Newton Dorset DT2 0BE
Change of use from restaurant (Class E) to a single dwelling (Class C3). | 25 - 34 |
| c) | Application No: P/CLP/2022/06165 - Atlantic Academy
Portland, Lerret Road, Portland, Dorset, DT5 1FN
Erection of additional 2no. classrooms within courtyard of existing school; Erection of storage building; Replacement of external windows and doors. | 35 - 42 |

6. URGENT ITEMS

To consider any items of business which the Chairman has had prior notification and considers to be urgent pursuant to section 100B (4) b) of the Local Government Act 1972

The reason for the urgency shall be recorded in the minutes.

7. EXEMPT BUSINESS

To move the exclusion of the press and the public for the following item in view of the likely disclosure of exempt information within the meaning of paragraph 3 of schedule 12 A to the Local Government Act

1972 (as amended).

The public and the press will be asked to leave the meeting whilst the item of business is considered.

8. APPEALS DECISIONS FOR INFO ONLY

43 - 44

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.

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WESTERN AND SOUTHERN AREA PLANNING COMMITTEE

MINUTES OF MEETING HELD ON TUESDAY 13 DECEMBER 2022

Present: Cllrs Dave Bolwell, Kelvin Clayton, Susan Cocking, Jean Dunseith, Nick Ireland, David Shortell (Chairman) and Kate Wheller

Apologies: Cllrs Louie O'Leary, Paul Kimber, Bill Pipe, Sarah Williams and John Worth

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

Ann Collins (Area Manager – Western and Southern Team), Charlotte Loveridge (Planning Officer), Thomas Whild (Senior Planning Officer), Elaine Tibble (Senior Democratic Services Officer), Joshua Kennedy (Apprentice Democratic Services Officer) and Hannah Massey (Lawyer - Regulatory)

50. Declarations of Interest

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

51. Election of Vice-Chair for the Duration of the Meeting

Proposed by Cllr Bolwell, seconded by Cllr Dunseith.

Decision: That Cllr Cocking be elected Vice-Chair for the duration of the meeting.

52. Minutes

The minutes of the meeting held on 17 November 2022 were confirmed and signed.

53. 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.

54. Planning Applications

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

P/FUL/2022/002660 Fishing Lake, Charity Farm, Litton Cheney, DT2 9AP

- a) The Senior Planning Officer presented the report for continued use of agricultural land as a camping site, retention of static caravan, log cabin for use as farm/site shop and café, WC shed, storage building, laying of hard standing and tracks for internal access and parking and the erection of a shower/toilet block.

The Committee were shown a plan of the site, as well as the profile view and elevation of the existing static caravan and the proposed shower block and WC. Photos of the existing café/shop and static caravan were also shown to the Committee, alongside a photo of the unauthorised car parking area with the supporting buildings adjacent to it and the camping field with hard standing tracks.

The Senior Planning Officer detailed the planning history of the site, noting a retrospective application in 2021 regarding a change in usage of the land from agricultural use to a camping site, which was refused.

The main issues of the proposal were summarised, including the local plan, which would only support the application in so far as it didn't cause any harm to the surrounding landscape. Dorset's AONB Team and Landscape Officer had advised the site would be harmful to the landscape. The Committee were also shown a photograph of the current site from the elevated position of the nearby A35 road, to show that the site was visible in the landscape.

The Senior Planning Officer noted that a flood risk assessment had been provided by the applicant and the risk of flooding could be appropriately managed, but the sequential test had not been passed. The economic benefits were considered to be modest and would not outweigh the landscape impact.

The application was recommended for refusal.

Oral representation in support of the application was received from Mr Edward Dyke (Agent of the Applicant), Cllr Bill Orchard on behalf of Litton Cheney Parish Council and Cllr Mark Roberts (Ward Member).

In supporting the application they highlighted the benefits of the proposal to the local area and residents, an issue in the area with wild camping and other more significant developments in the landscape, including vineyards and a cheese factory.

In response to questions from members, the Senior Planning Officer provided more images of the view of the site from the A35 road, in order to provide a clearer picture of the visual impact that the site would have on the surrounding landscape.

Members felt that the visual impact that the development would have on the

AONB would be minimal and they recognised the benefits that it would have for the local community, in providing amenities and jobs. They also felt that the risk of flooding to be low and in any case the risk of damage to people or property to be limited.

11:09 – 11:20 Adjournment for Planning Officers to discuss conditions for the application.

Proposed by Cllr Ireland and seconded by Cllr Wheller.

Decision: To reject the Senior Planning Officers recommendation and delegate authority to the Head of Planning and Service Manager for Development Management and Enforcement to grant planning permission subject to conditions outlined in the appendix to these minutes and completion of a S106 Agreement to tie the ownership of the campsite to Charity Farm.

P/FUL/2022/00228 Old Dairy Site, Rope Walks, Bridport, DT6 3RH

- b) The application was postponed until the next meeting, because three Ward Members were pre-determined and would not be able to take part, therefore the Committee was not quorate.

P/FUL/2022/05509 Scoutland, Land opposite Holy Trinity Burial Ground, Beaminster, DT8 3FF

- c) The application had come to committee for determination as the land was owned by Dorset Council.

The Planning Officer presented the report for the application to erect an open sided shelter next to an existing scout hut.

The Planning Officer informed the Committee of the location of the site and identified notable locations in the surrounding area, including listed buildings, a housing development and burial ground. Members were also shown a site plan and an ariel view of the location and surrounding buildings.

The Planning Officer detailed the planning history of the site, noting most recently that an application had been granted to remove an existing garage and erect a new scout hut. The floor plan and elevation of the proposed shelter was shown together with photos of the site, showing where the shelter would be built.

The Planning Officer informed the Committee that the impact of this development would be minimal and that in the summer tree coverage would help to screen the structure.

Proposed by Cllr Clayton and seconded by Cllr Ireland.

Decision: That the application is granted subject to the conditions outlined in the appendix of these minutes.

55. **Urgent items**

There were no urgent items.

56. **Exempt Business**

There was no exempt business.

57. **Appeals Report For Information Only**

Decision List 13 December 2022

Duration of meeting: 10.01 - 11.43 am

Chairman

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Western & Southern Area Planning Committee 13 December 2022 Decision List

Application Reference: P/FUL/2022/02660

Application Site: Fishing Lake Charity Farm Litton Cheney DT2 9AP

Proposal: Continued use of agricultural land as a camping site, Retention of static caravan, log cabin for use as farm/site shop and café, WC shed, storage building, laying of hard standing and tracks for internal access and parking - Erect shower/toilet block

Recommendation: Refuse planning permission

Decision: To delegate authority to the Head of Planning and Service Manager for Development Management and Enforcement to grant planning permission subject to conditions and completion of a S106 Agreement to tie the ownership of the campsite to Charity Farm.

Conditions

1. 3 year time limit
2. Approved plans list
3. Landscape implementation and maintenance
4. Seasonal restriction, 1st April to 30th September with no overwinter storage of caravans.
5. Seasonal occupancy of manager's accommodation
6. Manager's accommodation only to be occupied by persons employed at the campsite.
7. Materials
8. Maximum of 29 pitches
9. Submission of a flood warning and evacuation plan

S106 agreement to tie the campsite to Charity Farm

Application Reference: P/FUL/2022/05509

Application Site: Scoutland, Land opposite Holy Trinity Burial Ground, Beaminster, DT8 3FF

Proposal: Re-erection of open sided shelter sited adjacent to existing scout hut

Recommendation: GRANT planning permission subject to conditions.

Decision: To Grant subject to the following conditions:

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

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

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

Location & Block Plan
Proposed Floor Plan & Elevation – A 01

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

3. The reused metal sheeting roofing material to be used for the roof of the shelter is to remain the existing olive green colour; and the timber posts shall only be treated with clear, protective wood preservatives in order to retain the natural timber colour. Thereafter, the shelter shall be retained as such.

Reason: In the interests of visual amenity within the Dorset AONB .

Informative: National Planning Policy Framework Statement

In accordance with paragraph 38 of the NPPF the council, as local planning authority, takes a positive approach to development proposals and is focused on providing sustainable development.

The council works with applicants/agents in a positive and proactive manner by:

- offering a pre-application advice service, and
- as appropriate updating applications/agents of any issues that may arise in the processing of their application and where possible suggesting solutions.

In this case:

- The applicant/agent was updated of any issues and provided with the opportunity to address issues identified by the case officer.

Application Number:	P/FUL/2022/00228
Webpage:	https://planning.dorsetcouncil.gov.uk/
Site address:	Old Dairy Site Rope Walks Bridport DT6 3RH
Proposal:	Erect building to be used for storage, offices and associated ancillary uses
Applicant name:	Mr D Chambers
Case Officer:	Thomas Whild
Ward Member(s):	Cllr Bolwell; Cllr Clayton; Cllr Williams

1.0 The application is being considered by planning committee as it relates to land owned by Dorset Council.

2.0 Summary of recommendation: GRANT, subject to conditions.

3.0 Reason for the recommendation:

- The site is sustainably located within the town centre and would provide for a use which is considered appropriate in the town centre location.
- The amended design of the scheme is considered appropriate to the conservation area setting of the site, would reflect and enhance local distinctiveness and avoid harm to the character of the conservation area and the setting of neighbouring heritage assets.
- The proposal would avoid harm to amenity of neighbours
- There would not be an unacceptable impact upon highways, and car and cycle parking would be provided.

4.0 Key planning issues

Issue	Conclusion
Principle of development	The site is sustainably located within the town centre and would provide an acceptable use within this location.
Scale, design, impact on character and appearance and heritage assets	Following the receipt of amended drawings to address concerns with the design of the scheme the proposal would achieve a form of development that respects local distinctiveness and avoids harm to the character of the Bridport Conservation Area and the setting of neighbouring listed buildings.

Archaeology	An archaeological investigation has confirmed that there is no remaining archaeological interest at the site and no further investigation is required.
Impact on amenity	The proposals would avoid harmful overlooking, overbearing or loss of light and would not therefore have an adverse impact upon amenity of neighbours.
Access and Parking	The proposals are not considered to present a hazard in highways terms and will provide a car parking space (with electric vehicle charging) and cycle spaces. The level of parking is considered appropriate for the sustainable location and proximity to Rope Walks car park.

5.0 Description of Site

- 5.1 The application site comprises a small rectangular parcel of land within the town centre of Bridport. The site is previously developed land but is currently vacant save for a small kiosk structure operated by Jurassic Fibre, which is in the south eastern corner of the site.
- 5.2 The site is located within the Bridport Conservation Area. The Bridport Decorator Centre is located immediately to the south. That is an attractive and historic commercial building identified in the Bridport Conservation Area Appraisal as forming an attractive focal point.
- 5.3 The Rope Walks Car Park is located to the south east and plots to the west comprise the rear of commercial properties which front on to West Street, including several modern commercial structures. Immediately to the west of the site, 31 Ropewalks is identified as a grade II listed building. However, the building is not currently present on the site, with only a single wall which forms the western site boundary remaining.

6.0 Description of Development

- 6.1 The proposals comprise the construction of a new building which is to be used for storage, office and workshop space for use for cultural and community organisations within Bridport. The ground floor of the building is divided into five separate storage areas. The first floor comprises five rooms which will provide workshops, a photography studio, meeting room and kitchenette.
- 6.2 There will be a single car parking space and a separate loading bay in front of the building, and cycle parking is proposed in front of the building.
- 6.3 As originally proposed, the building had a utilitarian appearance with brick walls to the ground floor, with a first floor proposed to be composite cladding with a trapezoidal profile coloured grey. The building has a shallow pitch roof, proposed to be of composite cladding with a trapezoidal construction and gables to the southern and northern elevations. The roof would be grey in colour with photovoltaic panels proposed to both the east and west roof slopes. The design features limited windows

at the ground floor level, with only a single window serving the WC. At first floor level there is a row of windows in the southern elevation with a single window in the north elevation and two windows in the west elevation.

- 6.4 Following the receipt of comments from the council’s senior conservation officer which raised a number of concerns in respect of the building’s utilitarian appearance, a number of changes have been made to the design of the building. While retaining the overall internal layout, the northern and southern elevations now have three linked gables with vertical columns of rusticated brick between them, and a corresponding triple pitch roof, allowing the roof pitch to have been increased without significantly increasing the overall ridge height.
- 6.5 The walls are to be formed in brickwork above a 500mm stone plinth with soldier courses of rusticated brick between the ground and first floor and the first floor and roofscape. The principal (southern) elevation features shuttered doors within the gables intended to contribute to the appearance as a series of traditional linked warehouse buildings.
- 6.6 The fenestration of the current design is largely similar to the original, featuring limited windows at the ground floor level, reflecting the intended use of the space for storage. The upper floor has the principal windows in the southern elevation, with these being reduced from five in the original scheme, to three at present. There is a window to the office space and a small window to the WC in the western elevation and a window in the northern elevation to the kitchenette. The eastern elevation does not feature any windows. However, in order to provide some relief to the elevation, six blank ‘tax’ windows have been incorporated. Similarly, two blank ‘tax’ windows are incorporated into the southern elevation, where the building would have its main relationship with the street.
- 6.7 Externally the site will be predominantly hard surfaced with a strip along the western boundary allowing for some landscape planting. The frontage of the site will comprise a single off road car parking space with electric vehicle charging, a loading bay and covered space for parking 4 cycles. It is proposed that the boundary of the site is to be defined by a 1.2m brick wall in place of the existing post and rail fence.

7.0 Relevant Planning History

Application Number	Location	Proposal	Decision	Decision Date
P/FUL/2021/02268	Land south of Rope Cottage Rope Walks Bridport DT6 3RH	Construction of a temporary compound comprising of a kiosk unit to house data exchange for telecommunications (Jurassic Fibre) including concrete slab for placement, and 1.8 metre high steel palisade perimeter fencing	Granted	17/12/2021

1/W/91/000435	BUILDING AT REAR 24 WEST STREET, BRIDPORT, DORSET	Demolish building	Granted	31/03/1992
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8.0 List of Constraints

- Town Centre Areas
- Defined Development Boundary
- Dorset Council Land (Freehold)
- Special Area of Conservation (SAC) (5km buffer): Chesil & The Fleet (UK0017076);
- Grade II listed building – 31 Ropewalks, list entry 1216447.0 (statutory duty to preserve or enhance the significance of heritage assets under the Planning (Listed Buildings & Conservation Areas) Act 1990)
- Within the Bridport Conservation Area (statutory duty to preserve or enhance the significance of heritage assets under section 72 of the Planning (Listed Buildings & Conservation Areas) Act 1990)
- Area of Outstanding Natural Beauty: (statutory protection in order to conserve and enhance the natural beauty of their landscapes - National Parks and Access to the Countryside Act of 1949 & Countryside and Rights of Way Act, 2000)

9.0 Consultations

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

Consultees

1. **Highways** – No objection subject to recommended condition in respect of vehicle access construction.
2. **Conservation Officers** – *Initial response*: Unable to support due to less than substantial harm without public benefit to outweigh the harm.

The principle of a building is supported and a sustainable approach to design is also considered responsible in the face of climate change. The site offers great opportunity for enhancement, but the utilitarian design and massing of the proposed building is not considered to be in keeping with the Conservation Area and setting of a Listed Building and causes less than substantial harm which is not considered to be outweighed by the public benefits of the

scheme. It is recommended that the application be refused or withdrawn to allow for pre-application discussions to overcome the design concerns.

Comments following amendments

The scheme is an improvement and the proposals are moving towards full officer support – some amendments suggested to improve the scheme and to allow full officer support to be forthcoming (amended drawings to address these points submitted and agreed at conservation Surgery).

- 3. **Bridport TC** – No comment as the Town Council is the applicant.
- 4. **Bridport Ward Councillors** – Cllr Bolwell: As a Bridport and Dorset Councillor I have no comment to make.
- 5. **Building Control West Team** – No comments to make.
- 6. **DC - Dorset Waste Partnership** – No comments received.
- 7. **Natural England** – No comments to make on this application, reference made to standing advice.
- 8. **DC Senior Archaeologist** – The site lies within the historic core of Bridport, probably close to or on the boundary between the original Saxon town in South Street and the Medieval expansion along West and East Streets. It appears likely that the proposed development would affect archaeological remains, particularly of the Saxon, Medieval and post-Medieval periods.

Advise that the applicant provide the results of an archaeological evaluation of the site of the proposed development to support this application.

On receipt of the archaeological evaluation the County Archaeologist has confirmed that no further investigation of condition is necessary.

Representations received

Total - Objections	Total - No Objections	Total - Comments
0	1	2

Petitions Objecting	Petitions Supporting
0	0
0 Signatures	0 Signatures

9.2 In addition to the comments listed above, one comment has been received from a member of the public in support of the proposal, noting the redevelopment of a brownfield site and benefits to existing groups.

10.0 Relevant Policies

West Dorset, Weymouth and Portland Local Plan 2015

So far as this application is concerned, the following policies are considered relevant:

- INT1 – Presumption in favour of sustainable development
- ENV4 – Heritage assets
- ENV10 – The landscape and townscape setting
- ENV12 – The design and positioning of buildings
- ENV16 – Amenity
- SUS2 – Distribution of development
- ECON4 – Retail and town centre development
- COM2 – New or improved local community buildings and structures
- COM7 – Creating a safe and efficient transport network
- COM9 – Parking standards in new development
- BRID4 – Future Town Centre Expansion

Bridport Area Neighbourhood Plan

So far as this application the following sections and policies are considered to be relevant:

- AM2 – Managing Vehicular Traffic
- CF2 – New Community Services & Facilities
- HT2 – Public Realm
- COB1 – Development in the Centre of Bridport
- D8 – Contributing to the local character

Material Considerations:

National Planning Policy Framework

The following sections of the framework are considered to be of relevance to the proposals:

- 7. Ensuring the Vitality of Town Centres
- 8. Promoting healthy and safe communities
- 11. Making effective use of land
- 12. Achieving well-designed places
- 16. Conserving and enhancing the historic environment

Other material considerations:

- West Dorset Design and Sustainable Development Planning Guidelines (2009)
- Bridport Conservation Area Appraisal

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.

11.1 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.

12.0 Public Sector Equalities Duty

12.1 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.

12.2 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 Public Sector Equalities Duty.

12.3 The proposals incorporate measures to ensure access for people with disabilities or mobility issues, incorporating level access and a lift between the ground and first floor levels.

13.0 Financial benefits

13.1 It is not considered that there would be any direct financial benefits as a result of this proposal.

14.0 Climate Implications

14.1 The proposal would give rise to increased CO₂ emissions through construction, operation and as a result of visitor trips to the site. This is however balanced against the sustainable location of the site, which is accessible by public transport, and the fact that the scheme would be built to modern building regulations for energy efficiency and would include renewable energy generation.

15.0 Planning Assessment

Principle of development

15.1 The site is located within the centre of Bridport and is therefore in a sustainable location which is identified as a focus for future development in the local plan. The site is also within the defined town centre of Bridport where policy ECON4 is supportive of the small-scale development of shops, financial and professional

services, food and drink, office, leisure and community uses. The proposed building, being a storage, office and workshop space to support community groups is therefore considered to be an appropriate use for this town centre location.

15.2 In addition the Neighbourhood plan contains a list of community buildings, which policy CF1 of the neighbourhood plan seeks to protect and enhance. That includes several cultural and arts facilities, including the Literary and Scientific Institute, Bridport Arts Centre, the Lyric Theatre and Electric Palace. The proposed building is intended to provide support to the towns cultural and community organisations and although not being open to the general public may be considered to provide new community infrastructure through the provision of facilities of local cultural and arts groups. In this regard the proposal is also supported by policy COM2 of the local plan and policy CF2 of the neighbourhood plan.

Scale, design, impact on character and appearance and heritage assets

15.3 The site is located within the Bridport Conservation area and is also located within the setting of a number of listed buildings to the north and east of the site.

15.4 The conservation officer's comments on the initial submission confirmed that while the provision of a new building in this location was considered acceptable in principle, concern was raised in respect of the design of the proposal which, as originally submitted was considered to be overly modern and utilitarian both in its building form and use of materials. It was therefore considered that the scheme in its original form would lead to less than substantial harm to the character of the Bridport Conservation Area and the setting of neighbouring listed buildings and that the public benefits of the scheme comprised in the provision of facilities to support community and arts groups would not have been sufficient to overcome that harm.

15.5 In response to these comments, the applicant has engaged with officers to respond to the specific concerns held. While the floorspace and internal layout of the building remains unchanged, due to the operational requirements of the building, alterations to the external appearance of the building have been secured. The roof form has been changed from a single gable with a shallow pitch to three linked gables with steeper pitch, offering the appearance of a more traditional linked warehouse.

15.6 The fenestration has been changed from a series of relatively large and modern windows to fewer, traditional casement windows with arched brick headers, with the modern entrance doors being replaced with a more traditional pair of warehouse doors. In addition to the fenestration, blank 'tax' windows have been added to the southern and western elevations, helping to break up what would otherwise be a mass of unrelieved brickwork on these elevations.

15.7 The palette of materials has also been changed in response to officer comments. As originally proposed the materials were utilitarian and typical of a commercial building, comprising grey trapezoidal cladding to the roof and upper floor with red brick to the ground floor. The materials now comprise higher quality bricks to the walls with rusticated brick banding providing vertical emphasis and a stone plinth. Windows and joinery are to be bottle green.

- 15.8 It is considered that the changes have achieved a significant enhancement to the scheme. The appearance and architectural detailing is now considered to be appropriate to the conservation area context of the site, reflecting the surrounding commercial buildings and historic uses of this part of Bridport while also allowing for the productive re-use of a vacant and unattractive site. It is considered that with the changes the proposals will no longer result in harm to the character of the conservation area or the setting of nearby heritage assets, while also delivering public benefits in terms of providing facilities and supports to community and creative groups within the town.
- 15.9 It is therefore concluded that the proposals will contribute positively to the maintenance and enhancement of local distinctiveness, and following the amendments to the scheme, is informed by the character of the site and surroundings. The proposals will have an appropriate quality of architecture and will utilise sympathetic materials. It is therefore considered that the proposals comply with the requirements of policies ENV4 ENV10 and ENV12 of the local plan.
- 15.10 Although the site does not provide extensive space for landscaping, given the site's town centre location this is considered to be appropriate. The proposed landscape treatment of the site would allow for some appropriate buffer planting while the proposed brick boundary wall is considered to be an appropriate form of enclosure. A condition is proposed to require full details of the boundary wall to be submitted and approved.

Archaeology

- 15.11 The county archaeologist has identified that the site's location within the historic core of Bridport means that it is likely close to or on the boundary between the original Saxon town in South Street and the Medieval expansion along West and East Streets. With the potential for ground disturbance from construction a likelihood of affecting archaeological remains of the Saxon, Medieval and post Medieval periods was identified and an archaeological investigation was therefore requested.
- 15.12 An archaeological investigation of the site was carried out which involved the digging of two trial trenches on the site. The investigation did not identify any evidence of remains associated with the development of medieval Bridport, nor structural evidence of the post medieval or modern buildings which are known to have existed on the site, other than concrete surfaces and hardstanding.
- 15.13 The evaluation identified that below modern concrete surfaces and associated sub-bases, the ground comprises mixed garden soils and natural sandy clay deposits. The archaeological evaluation therefore concluded that any remains dating to the medieval period have been destroyed by later building activity and the creation of hardstanding.
- 15.14 The report has been considered by the County Archaeologist who has confirmed that on the basis of the evaluation no further investigation or archaeological condition is required.

Amenity

- 15.15 The immediate surroundings of the building predominantly comprise service and parking areas to the north and east, which serve commercial units on West Street and South Street, respectively, where there are limited opportunities for harm to amenity. There is a dwelling located to the east of the site, 16d West Street which has windows to habitable rooms facing the site. That dwelling is located 17m from the site boundary. As there are no windows within the eastern elevation of the building, there would be no potential for overlooking to the neighbouring property.
- 15.16 16d West Street is located 17m from the site boundary and will be 18.2 m from the eastern elevation of the building. Due to the separation distance the building would not cross the 25° line from the windows of that dwelling and it is not therefore considered that the building would result in a loss of daylight to the dwelling. In view of the separation distance proposed and the two-storey height of the proposed building it is not considered that there would be an overbearing impact upon this property.
- 15.17 To the south there would be a closer relationship with the neighbouring decorator centre. However there are not any windows in the side elevation of that building and there would not therefore be any potential for conflict with that building as a result. The remainder of the land to the south and southeast of the site is the open land of the rope walks car park where there would not be any potential for harmful impacts in that regard.
- 15.18 It is considered that the proposed use of the building, to provide storage, office and studio space would not be likely to give rise to harmful impacts in respect of noise or disturbance resulting from the proposal.

Highways

- 15.19 The development will utilise an existing access from Rope Walks, with provision made for a single parking space and a loading bay. The Highways Authority does not have any objection to the application, subject to the imposition of appropriate planning conditions relating to the provision of the access. The level of parking provision is considered appropriate for the development, taking into consideration the sustainable location of the site and the close proximity of the site to the Rope Walks car park.

16.0 Conclusion

- 16.1 The proposal is considered to be acceptable in principle as it would provide an appropriate use for this sustainable town centre location while also providing support for cultural and community organisations within Bridport. The proposal therefore complies with policy SUS2, ECON4 and COM2 of the Local Plan and policy CF2 of the Bridport Neighbourhood Plan.
- 16.2 Following the receipt of amended plans it is considered that the development would be appropriate in terms of its character, would reflect and enhance local distinctiveness and would avoid harm to the character of the Bridport Conservation Area and the setting of neighbouring listed buildings, while also providing public benefits. The proposal is therefore considered to comply with policies ENV4, ENV10 and ENV12 of the local plan. The proposal will also avoid harm to neighbouring amenity and there will therefore be no conflict with policy ENV16 of the local plan.

- 16.3 An archaeological investigation of the site has confirmed that there is no remaining archaeological interest to the site and there is no requirement for further investigation.
- 16.4 The proposal would not result in harm to highways and would provide parking with an electric vehicle charging facility.

17.0 Recommendation: Grant subject to the following conditions:

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

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

2. The development hereby permitted shall be carried out in accordance with the following approved plans:
C2114.03 A Proposed Ground Floor Plan
C2114.04 A Proposed First Floor Plan
C2114.05 C Proposed Elevations
C2114.06 A Proposed Site Plan
C2114.01 Location & Block Plan
C2114.07 Proposed Roof Plan

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

3. Prior to development above damp-proof course level, details (including colour photographs) of all external facing materials for the wall(s) and roof(s) shall have been submitted to, and approved in writing by the Local Planning Authority. Thereafter, the development shall proceed in accordance with such materials as have been agreed.

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

4. Prior to the installation of any windows or external doors, a schedule and detailed drawings and sections (at a scale of 1:5, 1:10 or 1:20 as appropriate) of all new windows/doors in the development; including additional information relating to (i) the method of opening, (ii) the depth of the reveal from the face of the wall and (iii) the product number where the window is supplied from a manufacturers standard range (copy of catalogue to be included) shall be submitted to and approved in writing by the Local Planning Authority. Thereafter, the development shall proceed in accordance with such details as have been agreed.

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

5. Prior to the commencement of any development hereby approved, above damp course level, full details of hard landscape proposals shall be submitted to and approved in writing by the Local Planning Authority. These details shall include

proposed finished levels or contours, means of enclosure including elevations and materials of the proposed boundary wall and hard surfacing materials. The development shall be carried out in accordance with the approved details prior to the first occupation of the development.

Reason: To ensure the provision of amenity afforded by appropriate landscape design and maintenance of existing and/or new landscape features.

6. Before the development hereby approved is first occupied the first 5.0m of the vehicular access, measured from the nearside edge of the highway (excluding the vehicle crossing - see the informative note below), must be laid out, constructed, and surfaced, to a specification which shall have been submitted to, and agreed in writing by, the Local Planning Authority.

Reason: In the interest of highway safety.

7. Before the development hereby approved is first occupied or utilised the turning and parking shall be constructed in accordance with the approved plans. 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 in the interest of highway safety.

8. The development hereby approved shall not be first occupied or brought into use until facilities to enable the charging of plug-in and other ultra-low emission vehicles in safe within the parking area within the development shall first have been provided.

Reason: To promote the use of more sustainable transport modes

Informative Notes:

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 01305 221020, by email at dorsethighways@dorsetcouncil.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. Informative: National Planning Policy Framework Statement

In accordance with paragraph 38 of the NPPF the council, as local planning authority, takes a positive approach to development proposals and is focused on providing sustainable development.

The council works with applicants/agents in a positive and proactive manner by:

- offering a pre-application advice service, and

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

In this case:

- The applicant/agent was updated of any issues and provided with the opportunity to address issues identified by the case officer.

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Application Number:	P/FUL/2022/02129
Webpage:	https://planning.dorsetcouncil.gov.uk/
Site address:	Le Petit Canard Dorchester Road Maiden Newton Dorset DT2 0BE
Proposal:	Change of use from restaurant (Class E) to a single dwelling (Class C3).
Applicant name:	Mr and Mrs Craig
Case Officer:	Jo Langrish-Merritt
Ward Member(s):	Cllr Alford

1.0 This application has been brought to committee at the request of the Service Manager for Development Management and Enforcement following a member request via the scheme of delegation consultation.

2.0 Summary of recommendation:

Refuse

3.0 Reason for the recommendation:

In the absence of any definitive or conclusive information that a restaurant business could not continue as a viable concern or been demonstrated that there is no alternative community use for the premises. the proposed development is contrary to Local Plan Policy COM3 which seeks to retain village facilities. It would place greater reliance on travel to alternative locations for facilities and would devoid the village of an important community facility.

4.0 Key planning issues

Issue	Conclusion
Principle of development	Principle of change of use to a residential property acceptable as the site is within the DDB.
Loss of community facility	Loss of a restaurant facility within a sustainable village location.
Impact on Conservation area	Acceptable due to minimal changes although some concern due to loss of vitality.
Impact on amenity	No adverse impact.
Access and parking	No adverse impact.

5.0 Description of Site

The application site is located on the north-east side of Dorchester Road. The existing building has a restaurant at ground floor level with a self-contained residential flat (two bedrooms) on the first floor with a separate pedestrian access from Dorchester Road. Le Petit Canard is an attractive predominantly two-storey double fronted building. The building itself is located within the defined settlement of Maiden Newton. The area surrounding the site is predominantly residential in character and appearance. To the south east of the site are two retail units and the Chalk and Cheese public house.

6.0 Description of Development

Change of use of the restaurant area to form a single residential dwelling, incorporating the existing accommodation at first floor level. The proposed works would include the removal of a single storey attached store building at the rear of the property to provide additional external curtilage. All remaining works would be internal to change the property into a 4 bedroomed property. The alterations consist of the managers accommodation at first floor being reconfigured to create 4 bedrooms and a bathroom and the kitchen and restaurant at ground floor would be reconfigured to create kitchen, study, WC, dining and living accommodation. External changes would be kept to a minimum with just the removal of the attached store and a window blocked up in the rear elevation.

7.0 Relevant Planning History

None

8.0 List of Constraints

Grade: II* Listed Building: VILLAGE CROSS List Entry: 1216391.0;

Important Local Buildings

Maiden Newton Conservation Area

Landscape Character area; Chalk Valley and Downland; Upper Frome Valley

Area of Outstanding Natural Beauty; Dorset

Defined Development Boundary; Maiden Newton

EA - Areas Susceptible to Groundwater Flooding;

SSSI (5km buffer): Langford Meadow

SSSI (5km buffer): Hog Cliff ;

SSSI (5km buffer): Court Farm, Sydling

SSSI (5km buffer): Toller Porcorum

SSSI (5km buffer): Sydling Valley Downs

SSSI (5km buffer): Powerstock Common and Wytherston Farm

SSSI (5km buffer): Woolcombe ;

Flood Zone 3 (100m buffer)

Flood Zone 2 (100m buffer)

Poole Harbour Catchment Area

9.0 Consultations

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

Consultees

1. **Highways** – No objection
3. **Conservation Officers**- No objection
4. **Eggardon Ward**- No comments
5. **Building Control West Team**- No comments
6. **Maiden Newton PC**- The PC supports the change of use to a single dwelling for the Petit Canard and its owners, given that there are adequate and similar eating establishments within the local area as well as in the village that customers may wish to use and supports the owners wishes to continue to live in the village as they have done for the last 23 years. We hope this is sufficient to enable the planning department to support this request without the need for additional marketing data to be sought.
7. **Historic England**- No objection

Representations received

13 letters of support from local residents and buildings

- There are existing facilities within the village.
- Help other facilities to be more profitable.
- Improve amenity to neighbours due to the absence of ventilation and visitors.
- Concerns raised over the future use and the impact on neighbours if it is a noisy use.

These issues are explored further below.

10.0 Relevant Policies

Adopted West Dorset and Weymouth & Portland Local Plan:

The following policies are considered to be relevant to this proposal:

- INT1 - Presumption in favour of Sustainable Development
- ENV1 - Landscape, seascape & sites of other geological interest

- ENV2 - Wildlife and habitats
- ENV4 - Heritage assets
- ENV5 - Flood risk
- ENV10 - The landscape and townscape setting
- ENV12 - The design and positioning of buildings
- ENV16 - Amenity
- SUS2 - Distribution of development
- ECON3- Loss of community facilities

Neighbourhood Plans

Maiden Newton & Frome Vauchurch - In preparation – limited weight applied to decision making.

Other Material Considerations

National Planning Policy Framework:

Paragraph 11 sets out the presumption in favour of sustainable development. Development plan proposals that accord with the development plan should be approved without delay. Where the development plan is absent, silent or relevant policies are out-of-date then permission should be granted unless any adverse impacts of approval would significantly and demonstrably outweigh the benefits when assessed against the NPPF or specific policies in the NPPF indicate development should be restricted.

Relevant NPPF sections include:

- Section 5 'Delivering a sufficient supply of homes' outlines the government's objective in respect of land supply with subsection 'Rural housing' at paragraphs 79-80 reflecting the requirement for development in rural areas.
- Section 6 'Building a strong, competitive economy', paragraphs 84 and 85 'Supporting a prosperous rural economy' promotes the sustainable growth and expansion of all types of business and enterprise in rural areas, through conversion of existing buildings, the erection of well-designed new buildings, and supports sustainable tourism and leisure developments where identified needs are not met by existing rural service centres.
- Section 11 'Making effective use of land'
- Section 14 'Meeting the challenges of climate change, flooding and coastal change'
- Section 15 'Conserving and Enhancing the Natural Environment'- In Areas of Outstanding Natural Beauty great weight should be given to conserving and enhancing the landscape and scenic beauty (para 176). Decisions in Heritage Coast areas should be consistent with the special character of the area and the importance of its conservation (para 178). Paragraphs 179-182 set out how biodiversity is to be protected and encourage net gains for biodiversity.

Section 16 'Conserving and Enhancing the Historic Environment'- When considering designated heritage assets, great weight should be given to the asset's conservation, irrespective of whether any potential harm amounts to substantial harm, total loss or less than substantial harm to its significance (para 199). The effect of an application on the significance of non-designated heritage assets should also be taken into account (para 203).

Supplementary Planning Documents/Guidance

Dorset AONB Landscape Character Assessment

Dorset AONB Management Plan 2019-2024

Southern and western area

Landscape Character Assessment February 2009 (West Dorset)

Conservation Area Appraisals:

Maiden Newton adopted January 2007

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 Public Sector Equalities Duty. With regard to the proposed alterations to the buildings in creating a larger dwelling that includes both floors disadvantages have been minimised in that there would now be the possibility of

sleeping accommodation at ground floor, providing easier access, than is the case currently with first floor accommodation only.

13.0 Financial benefits

Non material considerations

The proposal would result in the loss of business rates from the ceasing of the business and the conversion of the premise to a dwelling. Furthermore, there will be a loss to the general economy with the removal of this employment unit and any potential employment associated with it.

The development will be CIL Liable.

There will be some short-term employment benefits created from the conversion works to the building, but this would be minimal.

14.0 Climate Implications

The premises is situated in a sustainable location, as the village benefits from a bus stop and a train station. As such it could potentially serve a wider area than just the village. As such its loss is considered to place greater reliance on travel to alternative locations for similar facilities and this in itself would have an adverse impact on sustainability.

15.0 Planning Assessment

Principle

The site is located within the defined development boundary for Maiden Newton and is therefore in an area where, in accordance with policy SUS2, additional residential development is considered to be acceptable in principle, subject to compliance with other local plan policies

Loss of existing business / community facility

The loss of valued local community facilities and services can significantly reduce a community's ability to meet its day to day needs and will also have an adverse impact on the social interaction and wellbeing of that community. Proposals which would result in the loss of a community facility must demonstrate that efforts have been made to retain the facility and that opportunities for conversion to alternative community uses have been explored.

Policy COM3 of the Local Plan seeks to protect community uses and typically requires evidence to be submitted which demonstrates:

- Details of how the property has been marketed, the length of time that the marketing was active and any changes during this period, and the asking price;
- Details of the level of interest generated and any offers received;
- What consultation there has been with local community groups / service providers on possible alternative community uses.

In considering proposals that would result in the loss of local community facilities, consideration will be given to what other facilities and services are available locally, and whether there are proposals to consolidate that service into a community facility hub. Where proposals relate to the conversion of shops or other bespoke premises, the retention of elements which would allow a range of future uses, such as shop front features and separate upper floor access, should be considered where practicable.

Viability of the business

No details have been provided of when the restaurant use formally ceased but information from Le Petit Canard website suggest that the restaurant did not formally reopen after the last lockdown and has only been available for food collection since that time on two days per week. This would suggest that the restaurant closed in April 2021 more than 12months ago.

Whilst the agent has spoken broadly of the impacts of Covid on the economy there is no evidence to suggest that the restaurant business was not viable and was not or could not be profitable. The applicant's main case is that they wish to close the business but retain their family home. As such this suggests it is more of a personal choice than due to the viability of the business.

Marketing

The premises has not been formally marketed but an opinion gained from a local estate agent suggests that due to the constrained location of the site and as there are other restaurants in the area the premises is unlikely to gain any reasonable offers or interest. However, this has not been sufficiently tested with a formal marketing campaign. Whilst a list of other uses in the area have been provided alternative uses for the premises have not been explored or community groups consulted.

Local need

The agent has argued that there is no local need for the use and that the area is well provided for in terms of restaurants and cafes. A list of local restaurants and cafes has been provided as evidence. These include 'The Chalk and Cheese pub, 'Newsagent 64 and café, 'Riverside take-away' Spar shop' and 'The Village Stores'. The other two business listed are mobile catering trucks which visit the village periodically. Although this list provides evidence of other similar uses in the area these are all long established businesses within the village that have traded alongside one another and survived. As such this does not suggest that a small restaurant is no longer required or viable.

Alternative community uses

The preamble to policy COM3 also states that "opportunities for conversion to alternative community uses have been explored." Again, the agent has provided details of other community uses in the area such as the Village hall, Youth and Community Centre and the Cheese and Chalk function room. Whilst this indicates there are other facilities in the area it does not necessarily follow that other spaces are not required. The agent has cited that due to the domestic size of the space it would not be lend itself to meetings or activities, however, as no consultation with local community groups has been carried out this cannot be proven. It may be that a

smaller more intimate space might be suitable for some types of groups or meetings. Furthermore, due to the sustainable location of the premises, as the village benefits from a bus stop and a train station, potentially a wider area than just the village could be served. It is therefore considered that it would be unsustainable and place greater reliance on travel to alternative locations for facilities if this use was lost.

As such from the evidence submitted it cannot be concluded that a viable business could not continue at this premises.

Character and appearance of the Conservation Area

The proposed alterations to the building would be minimal. Notwithstanding that, whilst the façade of the building would be retained there would be some impact on the Conservation Area, with the visual interest and vitality of the restaurant and its presence lost. Although this is unfortunate and reinforces the importance of the business in the village the proposed development would not result in any physical or visible alterations from the street scene and the proposal is therefore not considered to cause harm to the Conservation area.

Amenity

With consideration of residential amenity, there is an existing residential property at first floor and the proposal is to extend this residential use over the two floors. The existing property has a small rear garden. Although the residential area would be increasing, the proposed removal of the existing store would also result in a larger rear garden benefitting the amenity of any future occupiers. As the residential use already exists and there are no significant external alterations to the building there is not considered to be any additional overlooking or overbearing impact and as such no additional impact on residential amenity.

Access and Parking

The proposal would not lead to additional parking needs or endanger road users.

Nutrient Neutrality

The site falls within the Poole Harbour catchment area. Currently there is an existing flat on the first floor and the proposal would be to extend this residential use over both floors resulting in the loss of the ground floor restaurant. As no additional residential units are being created it is not necessary for the applicant to demonstrate nutrient neutrality.

Comments from Third Parties

The building falls within Class E which includes retail, sale of food and drink for consumption (mostly) on the premises, financial services, medical services, sports facilities etc. As such the premises could have changed to a number of different uses without the need for planning permission. The closest neighbours live next to a café/restaurant and must be aware that the premises could have changed hands any number of times during the 20 years Le Petit Canard has been there. If the premises was taken over by another café restaurant and new equipment installed or further equipment required this may require planning permission and as such the planning department would maintain some control. If however planning permission was not

required Environmental Health would be able to monitor the impact and take action if needs be.

16.0 Conclusion

In the absence of any definitive or conclusive information that a restaurant business could not continue as a viable business or that a suitable alternative community facility is not required/viable the proposed development is contrary to Local Plan Policy COM3 which seeks to retain village community facilities. The change of use of the restaurant would place greater reliance on travel to alternative locations for facilities and would devoid the village of an important community facility.

17.0 Recommendation

Refuse for the following reason:

The proposal would lead to loss of a community facility (a restaurant) in a sustainable location. The Local Planning Authority is not satisfied from the information provided that this village facility could not continue as a viable concern furthermore it has not been demonstrated that there is no alternative community use for the premises. The loss of the facility would place greater reliance on travel to alternative locations for facilities. The proposed change of use is therefore contrary to Policy COM3 of the West Dorset, Weymouth and Portland Local Plan 2015 which seeks to retain village community facilities.

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Application Number:	P/CLP/2022/06165
Webpage:	Planning application: P/CLP/2022/06165 - dorsetforyou.com (dorsetcouncil.gov.uk)
Site address:	Atlantic Academy Portland, Lerret Road, Portland, Dorset, DT5 1FN
Proposal:	Erection of additional 2no. classrooms within courtyard of existing school; Erection of storage building; Replacement of external windows and doors
Applicant name:	The Department for Education
Case Officer:	Robert Parr
Ward Member(s):	Cllr Cocking, Cllr Hughes and Cllr Kimber

1.0 In accordance with the Council’s scheme of delegation this application is brought to committee for determination as Dorset Council is the landowner.

2.0 Summary of recommendation: Grant Certificate of Lawfulness

3.0 Reason for the recommendation:

The proposed development is considered ‘permitted development’ as the proposal meets the criteria and conditions as set out in Schedule 2, Part 7 Class M of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended). Therefore, based on the information provided and officers assessment it is considered that the use or operations described in the application would be lawful.

4.0 Key planning issues

Issue	Conclusion
Consideration as to whether or not the development is Permitted Development and as such Lawful, when assessed against the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended).	The proposals have been assessed and it has been concluded that they would be Permitted Development and as such lawful.

5.0 Description of Site

The site is within the grounds of Osprey Quay Campus, Atlantic Academy, located at the northwest end of Portland. The existing building on site, which is currently vacant, was last in use as a mainstream school. The site is within the Defined Development Boundary, is not a Listed Building, is not in a Conservation Area, is not within the Dorset Area of Outstanding Natural Beauty and the development would be in an area recorded as having a low risk of flooding.

6.0 Description of Development

Erection of additional 2no. classrooms within courtyard of existing school, erection of storage building and replacement of external windows and doors.

7.0 Relevant Planning History

Application No.	Proposal	Decision	Decision Date
10/00429/DCC3	New 315 place primary school and 26 place nursery for Chesil Cove Federation, including supporting landscape masterplan and external curriculum areas	No Objection	08/09/2010
10/00429/DCC3_1	New 315 place primary school and 26 place nursery for Chesil Cove Federation, including supporting landscape Masterplan and external curriculum areas.	Granted	16/09/2010
11/00099/DCC3	External alterations and associated works	Objection	04/03/2011
WP/18/00347/CLP	Change of use from a state school to a language school.	Granted	27/07/2018

8.0 List of Constraints

Dorset Council Land

Special Area of Conservation (SAC) (5km buffer): Chesil & The Fleet (UK0017076)
Distance: 1003

Natural England Designation - RAMSAR: Chesil Beach & the Fleet (UK11012)
Distance: 1806m

9.0 Consultations/Notifications

Portland Town Council and Dorset Council Ward Members were notified about the application.

10.0 Relevant Legislation

The Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended).

Section 192 (Certificate of lawfulness of proposed use or development) of The Town and Country Planning Act 1990 (as amended).

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 Public Sector Equalities Duty. It is considered that given the type and nature of the development proposed it would have no adverse impact on people with protected characteristics.

13.0 Financial benefits

13.1 No direct financial benefits have been identified or detailed in the application.

14.0 Environmental Implications

14.1 As the application site is within 5km of the Chesil Beach & the Fleet European protected site, the potential impacts on the protected site have been considered. Having considered the proposals it has been concluded that there will be no adverse effect on the integrity of the designated site.

15.0 Planning Assessment

15.1 Section 192 of The Town and Country Planning Act 1990 (as amended) sets out:

“If, on an application under this section, the local planning authority are provided with information satisfying them that the use or operations described in the application would be lawful if instituted or begun at the time of the application, they shall issue a certificate to that effect”.

15.2 Having researched the planning history of the site no evidence of any conditions can be found which remove permitted development rights and there are no Article 4 Directions on the site.

15.3 The proposal represents development as defined by s55 of the Town and Country Planning Act 1990.

15.4 The development has been assessed against the limitations imposed by, Schedule 2, Part 7, Class M of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) and is considered to be 'permitted development'. A summary of the assessment is set out below:

Permitted development

M. The erection, extension or alteration of a school, college, university, prison or hospital building.

Development not permitted

<i>Limitations set out in GPDO</i>	<i>Summary of Officer Assessment</i>
M.1 Development is not permitted by Class M— (a) if the cumulative footprint of any erection, extension or alteration under Class M on or after 21 st April 2021 would exceed the greater of— (i) 25% of the cumulative footprint of the school, college, university, prison or hospital buildings as it was on 21st April 2021; or (ii) 250 square metres;	Proposal would not be greater than 25% of school and would be less than 250m ²
(b) in the case of a college, university, prison or hospital building, if any part of the development would be within 5 metres of a boundary of the curtilage of the premises;	Not applicable as proposal is for a school
(ba) in the case of a school, where any land adjacent to the site is used for a purpose within Part C of the Schedule to the Use Classes Order (residential purposes), if any part of the proposed development is within 5 metres of the boundary of the curtilage of that residential land;	Site is surrounded by highway and no development proposed within 5metres of residential land.
(c) if, as a result of the development, any land used as a playing field at any time in the 5 years before the development commenced and remaining in this use could no longer be so used;	Would not affect land used as a playing field
(d) if the height of any new building erected would exceed— (i) if within 10 metres of a boundary of the curtilage of the premises, 5 metres; or (ii) in all other cases, 6 metres;	Proposed development less than 5m in height
(da) if the height of any rooftop structure would exceed 1.5 metres;	No roof top structure would exceed 1.5metres

<p>(e) if the height of the building as extended or altered would exceed—</p> <p>(i) if within 10 metres of a boundary of the curtilage of the premises, the lesser of the height of the building being extended or altered or 5 metres; or</p> <p>(ii) in all other cases, the height of the building being extended or altered;</p>	<p>Proposed development less than 5m in height</p>
<p>(f) if the development would be within the curtilage of a listed building; or</p>	<p>The site is not a Listed Building</p>
<p>(g) unless—</p> <p>(i) in the case of school, college or university buildings, the predominant use of the existing buildings on the premises is for the provision of education;</p> <p>(ii) in the case of hospital buildings, the predominant use of the existing buildings on the premises is for the provision of any medical or health services;</p> <p>(iii) in the case of prison buildings—</p> <p>(aa) the predominant use of the existing buildings on the premises is for the confinement of prisoners in closed conditions;</p> <p>(bb) the buildings are located on a site with a closed perimeter; and</p> <p>(cc) the development does not involve the erection, extension or alteration of any building beyond the perimeter as it stood on 21st April 2021.</p>	<p>(g) (i) The proposal would continue to be for education.</p> <p>All other points are not applicable to this application.</p>
<p>Conditions</p>	
<p>M.2 Development is permitted by Class M subject to the following conditions—</p>	
<p>(a) the development is within the curtilage of an existing school, college, university, prison or hospital;</p>	<p>Yes it would be a SEN School</p>
<p>(b) the development is only used as part of, or for a purpose incidental to, the use of that school, college, university, prison or hospital;</p>	<p>The development would only be used as part of the school.</p>
<p>(c) any new building erected is, in the case of article 2(3) land, constructed using materials which have a similar external appearance to those used for the original school, college, university, prison or hospital buildings;</p>	<p>Site is not article 2(3) land</p>

(d) any extension or alteration is, in the case of article 2(3) land, constructed using materials which have a similar external appearance to those used for the building being extended or altered;	Site is not article 2(3) land
(e) where proposed development under Class M relates to the erection, extension or alteration of a school building that results in an increase in the school's published admission number, the developer must, within a period of six months starting with the date the development is completed, submit to the local planning authority a travel plan for the site;	The development would not increase admission number
(f) where proposed development under Class M relates to the erection, extension or alteration of a university building, development is permitted subject to the condition that before beginning the development the developer applies to the local planning authority for a determination as to whether the prior approval of the authority will be required as to— (i) transport and highways impacts of the proposed development; (ii) the design and external appearance of the erection, extension or alteration; or (iii) the impact of the development on heritage and archaeology;	Not applicable as not a university
(g) an application required under paragraph (f) is to be made and determined in accordance with paragraph M.2A (procedure for applications for prior approval under Class M);	Not applicable as not a university
(h) development approved pursuant to an application under paragraph (f) is permitted subject to the condition that it is completed within a period of three years starting with the prior approval date.	Not applicable as not a university

16.0 Conclusion

16.1 Based on the proposals as shown on the plans submitted with this application and officer assessment the development is considered to be 'permitted development' as the proposals meet the criteria Schedule 2, Part 7, Class M of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) and as such can be considered lawful.

17.0 Recommendation

GRANT Certificate of Lawfulness

Dorset Council HEREBY certifies that on 6 October 2022 the proposed development described in the First Schedule hereto in respect of the land specified in the Second Schedule hereto and edged with a red line on the plan attached to this Certificate, would have been lawful within the meaning of Section 192 of the Town and Country Planning Act 1990 (as amended) for the following reason(s):

The proposed development as set out on the following plans:

Location Plan

Proposed Ground Floor Plan – Dwg No. FSS0888-STL-00-00-DR-A-0100 Rev: S1_P14

Proposed Roof Plan – Dwg No. FSS0888-STL-00-R1-DR-A-01002 Rev: S1_P14

Proposed Elevations – Main Building 1 – Dwg No. FSS0888-STL-00-22-DR-A-02002 Rev: S1_P14

Proposed Elevations – Main Building 2 – Dwg No. FSS0888-STL-00-22-DR-A-02003 Rev: S1_P14

Proposed Elevations – Main Building 3 – Dwg No. FSS0888-STL-00-22-DA-A-02004 Rev: S1_P14

Proposed Elevations – Courtyard Building – Dwg No. FSS0888-STL-25-22-DR-A-02001 Rev: S1_P14

Is 'permitted development' as the proposal meets the criteria and conditions as set out in Schedule 2, Part 7 Class M of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended).

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Western and Southern area Planning Committee

19th January 2023

Appeal Decisions

1. PURPOSE AND RECOMMENDATIONS

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

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

Wards: Those covered by the area planning committee

2.0 APPEAL DECISIONS

**Appeal Reference: APP/PCU/MOD/D1265/327867 and
APP/PCU/MOD/D1265/327868**

Planning Reference: P/SEC/2021/05346

**Proposal: Modify a planning permission under Section 97 of the Town
and Country Planning Act 1990 for the planning consent
WP/14/00330/OUT and WP/16/00388/VOC**

Address: Land at Bumpers Lane, Portland

- 2.1 At the meeting of the Southern and Western Planning Committee on 8th October 2020 a report was considered by members regarding a proposal by officers to seek the modification of two existing permissions for the residential development at Bumpers Lane, Portland. The modification proposed was to add a condition to each permission regarding groundworks below a certain depth to prevent the breaching of the protective membrane at the site, without planning permission having first been obtained, in order to address the potential release of contaminants as a result of any such breach. This condition was recommended following advice received from the Council's land contamination consultants, WPA, as a result of their consideration of information regarding remediation of contaminated land which had been submitted in order to comply with a number of pre-existing planning conditions attached to the two permissions in question. Members at the committee meeting in October 2020 resolved that officers should pursue the modification of the planning permissions.

- 2.2 The order to modify the permissions was required to be confirmed or otherwise by the Secretary of State following the hearing of any objections. The sole objector to the orders was Betterment Properties (Weymouth) Ltd, the developer of the estate.
- 2.3 The objection resulted in a hearing by the Planning Inspectorate on 18th January 2022 and on the 7th of December 2022 the decision letter of the Secretary of State for Levelling up, Housing and Communities was received. The Planning Inspector had recommended to the Secretary of State that the modification orders should not be confirmed. The Secretary of State accepted the Inspector's findings and agreed with the Inspector that it would not be expedient to confirm the orders.
- 2.4 The Inspectors main conclusions as set out in the Secretary of State's letter were:
- New conditions cannot apply to the houses that were complete at the time that the orders were made and that a good proportion of the houses on the development had been completed by the time the orders were made.
 - The covenants relating to the site are exceptionally restrictive and appear to be more restrictive than the conditions, except in respect of works within the properties themselves, which are very unlikely.
 - The conditions are not necessary.
 - In terms of enforceability the conditions would be no more effective, and in some regard less so, in preventing potential public health concerns than the covenants already in place.
 - The conditions are unreasonable given the existing covenants.
 - Due regard has been had to the development plan and there has been no breach of Local Plan Policy ENV9.
- 2.5 Whilst the outcome did not go in the favour of the Council, members and officers should be satisfied that, as was their intention, they have done their best to ensure the safety of residents by pursuing the modification of the planning permissions.