



Western and Southern Area Planning Committee

Date: Thursday, 4 September 2025
Time: 10.00 am
Venue: Council Chamber, County Hall, Dorchester, DT1 1XJ

Members (Quorum 6)

Dave Bolwell (Chair), Neil Eysenck (Vice-Chair), Belinda Bawden, Matt Bell, Simon Christopher, Paul Kimber, Craig Monks, David Northam, Louie O'Leary, Pete Roper, David Shortell and Kate Wheller

Chief Executive: Catherine Howe, County Hall, Dorchester, Dorset DT1 1XJ

For more information about this agenda please contact Democratic Services Meeting Contact Joshua.Kennedy@dorsetcouncil.gov.uk 01305 224710

Members of the public are welcome to attend this meeting, apart from any items listed in the exempt part of this agenda. If you would like to attend this meeting and have any specific requirements please contact the Democratic Services Officer named above.

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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 - 12

To confirm the minutes of the meeting held on 17 July 2025.

4. REGISTRATION FOR PUBLIC SPEAKING AND STATEMENTS

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

The deadline for notifying a request to speak is 8.30am on 02 September 2025.

5. P/FUL/2024/05538 - WEYMOUTH HARBOUR, WEYMOUTH, DT4 8AJ 13 - 76

Replacement and strengthening of harbour walls F and G through installation of new sheet pile walls in front of the existing walls, for the portion of the new wall where it is located above the mean low water mark, tie bar extension and ground works, works to the footpaths, creation of open space along with ancillary works.

Appendix 1 – Committee Report from 23 January 2025

Appendix 2 – Update Sheet from 23 January 2025

Appendix 3 – Committee Report from 27 February 2025

6. P/FUL/2024/02448 - BRENDA DENCH HOUSE, ST MARY STREET, WEYMOUTH, DT4 8PU 77 - 100

Alterations and extensions to the existing building comprising: elevation changes at ground and first floor level; changes to light-wells; construction of new floor space at second and third floor level to create 10 no dwellings; increase the height of the existing roof pitch on the south elevation and insertion of new windows; installation of gates at both ends of the ground floor arcade; and installation of ancillary plant and equipment. Change of use of part of hairdresser floorspace at 39 St Mary Street to a retail unit, with the remaining floorspace to accommodate ancillary residential facilities.

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.

8. 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.

There is no scheduled exempt business for this meeting.

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WESTERN AND SOUTHERN AREA PLANNING COMMITTEE

MINUTES OF MEETING HELD ON THURSDAY 17 JULY 2025

Present: Cllrs Dave Bolwell (Chair), Neil Eysenck (Vice-Chair), Belinda Bawden, Matt Bell, Simon Christopher, Paul Kimber, Craig Monks, David Northam, Louie O'Leary, David Shortell and Kate Wheller

Apologies: Cllrs Pete Roper

Also present: Cllr Roland Tarr

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

Marianne Ashworth, Bob Burden (Senior Planning Officer), Ann Collins (Area Manager – Western and Southern Team), Philip Crowther (Legal Business Partner - Regulatory), Joshua Kennedy (Democratic Services Officer), James Lytton-Trevers (Lead Project Officer), Megan Rochester (Senior Democratic Services Officer), Katrina Trevett (Development Management Team Leader) and Louis Wicks (Democratic Services Officer Apprentice)

12. Apologies

An apology for absence was received from Cllr Pete Roper.

13. Declarations of Interest

Cllr Bell declared an interest in item 8 due to having a family member with a property nearby and did not participate in that item.

Cllr Bawden declared that she was pre-determined on item 7 and spoke as the Ward Member.

Cllr Wheller declared that item 8 had been considered by Weymouth Town Council, however she had not participated in the item when it was considered and was not pre-determined.

14. Minutes

The minutes of the meeting held on 12 June 2025 were confirmed and signed.

15. Registration for public speaking and statements

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.

16. **P/FUL/2024/06791 Picnic Area Café New Street Lane Bridport DT6 6AS**

The Senior Planning Officer used plans and aerial photographs to identify the site and explained the proposal, relevant planning policies, and site context. It was explained that there was a range of alternative sites that were suitable for stopping in the nearby area for cars and that for HGV's the nearest sites for stopping were in Honiton and Dorchester, however there was no policy in the Neighbourhood Plan that required provision of stopping areas for HGVs.

The proposed plans and layout were shown to members and the trees that were proposed to be removed and the replacement trees were highlighted on the plans. Landscape sections were provided, which indicated that the site would be largely screened by planting.

The main planning issues were summarised and officers considered that the application was acceptable subject to conditions.

Ms Tilley spoke as the agent for the application, noting that National Highways had given careful consideration to the location of the development and this site had been identified as the most suitable. National Highways recognised the loss of the rest facility, however noted the positive benefits of the proposal including the creation of jobs.

Belinda Bawden left the Council Chamber from 10:27 – 10:30 and did not participate in the rest of the item.

Cllr Hartmann, representing Symondsburry Parish Council spoke in objection to the application. He noted that the roads had previously been serviced from a depot in Honiton and did not see why this could not continue. The site lay outside of the Development Boundary and within the National Landscape and it was felt that the development would be more intrusive than the current picnic area.

In response to a question from one member, the Senior Planning Officer clarified that 5 jobs were likely to be rolled over from other sites, which would result in the creation of approximately 13-18 new full-time jobs.

Several members expressed concern over the loss of the rest facility; however, it was explained by the Senior Planning Officer that alternative sites had been considered by the applicant and the reasons for the applicant not pursuing them were listed in the report.

It was proposed by Cllr Kimber and seconded by Cllr Northam to grant the application.

Decision: That the application be granted subject to the conditions set out in the appendix to these minutes.

17. **WD/D/20/002002 Manor Farm Manor Farm Lane Winterbourne Abbas ST2 9LR**

The Lead Project Officer presented the application, which was for a development consisting of 32 dwellings and associated works. The existing buildings were identified on an aerial photograph of the site and photographs were also provided of the agricultural buildings and stone wall to the front of the site.

The proposed plans were shown to members, showing the design and scale of the proposed dwellings in each part of the site. It was explained that an attenuation basin was proposed to manage surface water run off and a dedicated play area and car park, to serve the nearby school, were to be built on site. 11 affordable dwellings could be secured through a Section 106 legal agreement.

The key planning issues were explained and it was considered that, while there were benefits of the proposal, it was unacceptable in terms of flood risk. The access to the site fell within flood zones 2 and 3 and the application failed the Sequential Test, as it was determined that there were other available alternative sites that would be at a lesser risk of flooding within the catchment area. Photographs of the site in a state of flooding were provided and the attenuation basin was proposed to assist the management of the current surface water flooding issues and this scheme had been approved by drainage engineers.

Mr Smythe spoke as the applicant for the application, noting that a significant amount of time and money had been spent on the application so far and that there were significant benefits to the proposal, including the provision of 32 dwellings, which the applicant intended to provide as 100% affordable housing.

Mr Moir spoke as the agent for the application, noting that all but one issue had been resolved by working with the Planning Authority and the real-world harm of the flooding issue would be minimal.

The following answers were provided in response to members questions:

- There had been a successful appeal on a planning application elsewhere in respect of the sequential test, however it wasn't considered that this set a precedent, as there were different circumstances to this application, namely that the Local Authority did not have a five-year housing land supply in that case.
- The applicant had not yet entered into a S106 legal agreement, as there were costs associated with doing so and the application was being recommended for refusal.
- There was safe pedestrian access out of the site that would be available, should the road access be flooded.
- The catchment area for the sequential test was a 3-mile radius and sites within that area were considered for alternative locations.
- The Environment Agency does not apply the Sequential Test, which was why they did not comment on that aspect of the application.

Members had the opportunity to debate the merits of the application, having asked technical questions of the planning officers. Members were generally in agreement that the scheme was well designed and made good use of a currently derelict site. They emphasised the benefits of additional housing provision, even if only 11 could be secured as affordable housing via a S106 legal agreement.

One member raised a concern about the access for emergency vehicles in a situation where the access to the site was flooded and saw this as a significant risk to the safety of the residents in the development.

The meeting adjourned to allow officers to present draft conditions for the committee to consider 11:54 – 12:08

It was proposed by Cllr Monks and seconded by Cllr Northam that the application be granted, for the reason that the significant benefits of the scheme, including the provision of 32 dwellings, 11 of which would be secured as affordable, the car park for the school, the play area and improvements to the footpath outweighed the risk of the 1 in 30 year flooding event that would impact the access to the site.

Decision: That authority be delegated to the Service Manager for Development Management and Enforcement and the Area Manager for the Southern and Western Area Team to grant subject to the completion of a S106 agreement and planning conditions to be first agreed in writing by the Chairman of the committee.

18. P/VOC/2024/06786 5 Overton Close Timber Hill Lyme Regis DT7 3HQ

Cllr Monks and Cllr O'Leary left the meeting at 12:20

The meeting adjourned from 12:20 – 13:00.

Cllr Bawden moved to the public speaking section of the Council Chamber.

The Development Management Team Leader presented the application, which was to vary a condition on a previously approved application to change the ridge height on the dwelling from an increase of 1.3m to 1.6m.

The site within Lyme Regis was identified on a map and the nearby South West Coast Path and the entrance to the Spittles were highlighted. Photographs were provided of the other properties in the area, showing a variety of different styles in the area.

The proposed plans were shown to members and were overlaid against the original plans, to give a sense of the proposed change in the height of the dwelling, which was 300mm. Various photographs from the street and footpath looking towards the site were provided, which showed that the site would benefit from the screening of trees in the summer to minimise views of the site and it was not considered that there would be a significant impact on the landscape as a result of the proposed change.

The key planning issues were summarised and although it was recognised that the higher ridgeline would impact on the views of a neighbouring property, it was not considered to be overwhelmingly overbearing.

Mr Offord, a nearby resident, spoke in objection to the application, stating that the dwelling was too large and overly dominant for the area. He stated that the large size of dwelling detracted from the National Landscape and South West Coast

Path and that the dwelling would be significantly larger than the other chalet bungalows in the area.

Mr Bastin spoke in support of the application, he explained that there had been a mistake with the original drawings, which resulted in the dwelling being built 300mm higher than intended and the higher ridge height was not intentional.

Ms Wells spoke as the agent for the application. She noted that the design and style of the dwelling had previously been approved and the application was just to vary the height of the dwelling by 300mm. It was explained that this had been a genuine mistake in the construction of the dwelling, however the higher ridge height was not a significant change to the previously approved application.

Cllr Bawden spoke as the Ward Member for Lyme and Charmouth. She explained that the Town Council had also objected to this application and that the comparison to the nearby former care home was misleading as the other chalet bungalows in the area were of a modest size and this dwelling would be completely out of character for the road. She disagreed with the views that the application wouldn't result in harm to area.

Cllr Bell left the meeting at 13:31.

Cllr Bawden left the Council Chamber 13:38.

Several members asked for the photographs to be brought back so they could get a better idea of the appearance of the dwelling from various viewpoints. In response to one member's question the Development Management Team Leader explained that a previous application had been refused due to both the height and proximity of the dwelling to neighbours and this application was not considered to be overbearing at the proposed height.

Several members expressed support for the application, noting the relatively modest change in the height of the dwelling, compared to what was originally proposed, however one member stated that they believed that there was harm being caused by the dwelling to the setting of the area and the Spittles.

It was proposed by Cllr Kimber and seconded by Cllr Shortell that the application be approved.

Decision: That the application be granted, subject to the conditions set out in the appendix to these minutes.

19. P/FUL/2025/000780 46 St Davids Road Weymouth DT4 9LP

Cllr Bawden and Cllr Monks returned to the Council Chamber at 13:56.

Cllr Christopher left the meeting at 13:57.

With the aid of a visual presentation including plans and aerial photographs, the Senior Planning Officer identified the site and explained the proposal, which

consisted of the demolition of 3 disused garages and the erection of a 3-bedroom, 1.5 storey dwelling, with associated parking and ground works.

Plans of the site and proposed dwelling were shown to members and the relative distances to the neighbouring properties were provided. Photographs of the site in its current condition were also shown, as well as photographs from the garden of a neighbouring property, to give members an indication of the level of impact that the new dwelling would have on neighbouring amenity.

The application was considered to be acceptable in terms of design and amenity and highways had confirmed they were happy with the two off-road parking spaces provided. It was not considered that the proposal would have a significant adverse impact on neighbouring amenity.

Mr Le Lerre spoke in objection to the application, as a resident of one of the neighbouring properties, he expressed that although he had no objection to the principle of development, the proposed dwelling was too large for the size of the plot and would result in loss of outlook and loss of sunlight for the neighbouring properties.

Mr Twigg spoke on behalf of Mr Tufnail, who was a resident of one of the neighbouring properties. He stated that the dwelling would cover half of the garden boundary to the neighbouring property and that the dwelling would also have a very small garden and cramped parking spaces.

Ms Rasch spoke in support of the application. She stated that the application fell within the Defined Development Boundary and that no detrimental impact would be caused to the neighbouring properties, as the view from the dormer window would look out towards the front of the property and all other windows were on the ground floor.

The Vice-chair read out a statement on behalf of Cllr Webb, a Ward Member for Rodwell and Wyke, who could not be present at the meeting. She noted that there was significant concern amongst the local residents about the scale and mass of the dwelling. She also raised concerns about procedural process for the application and cited the lack of a noise impact assessment, and no tree survey or asbestos report.

The Senior Planning Officer clarified that a noise impact assessment wasn't required following consultation with the applicant, the garages already had consent to be demolished and the tree officer had determined that an on-site survey wasn't required.

The following responses were provided to members questions:

- It was considered that there was sufficient outside amenity space for occupiers of the dwelling to use.
- There were two roof lights at a high level in the dwelling that would not allow a view of the neighbouring properties and a single dormer window to the front of the property, therefore officers did not consider there to be an issue with overlooking onto neighbouring properties.

- The garden was approximately 34sqm, which was considered a sufficient size and there were two parking spaces available to the front of the property.

Several members raised concerns with the application, that included the size of the dwelling in relation to the size of the plot it was located on and a lack of outside space and the impact on neighbouring amenity from the construction of a large dwelling in close proximity to the existing neighbouring properties.

However, other members expressed that although they understood the concerns raised by other members of the committee, they did not feel that their concerns warranted refusal of the application.

It was proposed by Cllr Eysenck and seconded by Cllr Monks, that the application be granted.

Upon being put to a vote the motion fell.

The meeting adjourned from 14:50 – 15:00.

It was proposed by Cllr Wheller and seconded by Cllr Bawden, that the application be refused for the reason that the dwelling was oversized for the site resulting in a lack of amenity space and that it was out of keeping with the local area.

Upon being put to the vote the motion fell.

It was proposed by Cllr Northam and seconded by Cllr Monks, that the application be granted.

Decision: That the application be granted subject to the conditions set out in the appendix to these minutes.

20. P/VOC/2025/01396 The Pavilion Complex The Esplanade Weymouth DT4 8ED

The Senior Planning Officer presented the application, which was for the variation of condition on an approved application, granted in 2017. The location of the site was identified on a map and aerial photograph. The approved elevation plan was shown in comparison to the proposed and the changes were highlighted to members. The sign was proposed to be rebuilt and raised and was already situated on site in the new location and it was no longer proposed for there to be a balcony and terrace area and the first-floor extension would instead extend across this area. Photographs of the building and the sign were shown.

The planning issues were summarised and the application was considered to be acceptable.

It was proposed by Cllr Northam and seconded by Cllr Wheller, that the application be granted.

Decision: That the application be granted subject to the conditions set out in the appendix to these minutes.

21. **Urgent items**

There were no urgent items.

22. **Exempt Business**

There was no exempt business.

23. **Update Sheet**

Decision Sheet

Duration of meeting: 10.00 am - 3.21 pm

Chairman

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Application Number:	P/FUL/2024/05538
Webpage:	https://planning.dorsetcouncil.gov.uk/
Site address:	Weymouth Harbour, Weymouth, DT4 8AJ
Proposal:	Replacement and strengthening of harbour walls F and G through installation of new sheet pile walls in front of the existing walls, for the portion of the new wall where it is located above the mean low water mark, tie bar extension and ground works, works to the footpaths, creation of open space along with ancillary works.
Applicant name:	Dorset Council
Case Officer:	Matthew Pochin-Hawkes
Ward Member(s):	Cllr Orrell

1.0 Reason for Planning Committee Consideration

1.1 This application is being re-reported to planning committee due to a revised recommendation following the resolution of the 27 February 2025 Western and Southern Area Planning Committee. The application site is Dorset Council owned land.

2.0 Summary of Recommendation

2.1 Grant planning permission subject to the planning conditions at Section 7 of this report.

3.0 Background and assessment

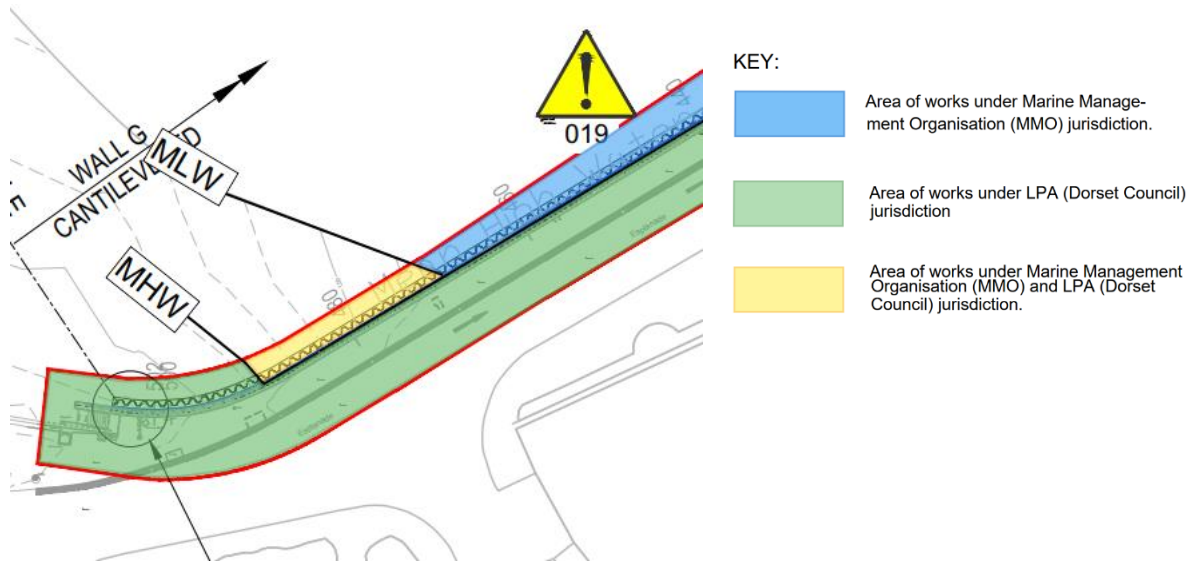
3.1 This application forms part of a broader Council-led initiative to restore and reinforce the harbour walls to the west and north of Weymouth Pavillion and improve the surrounding public open space. The project requires consent from both Dorset Council, as the Local Planning Authority, and the Marine Management Organisation (MMO). This application relates solely to works within the jurisdiction of Dorset Council.

3.2 Figure 1 below illustrates the extent of the proposed new harbour walls and their respective jurisdictions:

- The section highlighted **green** falls solely within the jurisdiction of the Local Planning Authority.
- The section highlighted **yellow** lies within the intertidal zone and requires both planning permission and a marine licence from the MMO.
- The section highlighted **blue** falls entirely within the MMO's jurisdiction.

Construction of the majority of the new walls, as well as demolition of existing structures, cannot proceed without the marine licence.

Figure 1 – Annotated plan identifying the works subject to planning permission and marine licencing



3.3 The works to restore and reinforce the harbour walls may affect seagrass habitats and protected species of seahorse. Although the majority of these works fall under the jurisdiction of the MMO, the Local Planning Authority must nevertheless be satisfied that appropriate ecological mitigation measures are in place to negate any harm.

3.4 The application was first presented to the Western and Southern Area Planning Committee for determination in January 2025. The Committee Report (Paragraph 16.51) confirmed that the potential impacts on marine ecology were considered capable of being mitigated and compensated, and that these impacts would not affect the design of the proposed development subject to this planning application. However, at the time of the meeting the proposed mitigation and compensation strategy was still under review by the MMO. Accordingly, Members resolved to grant planning permission subject to planning conditions and receipt of written confirmation from the MMO that the parallel marine licensing application would secure appropriate ecological mitigation and compensation. This approach was intended to ensure that the planning decision was aligned with marine environmental safeguards, while allowing the Council to proceed with its statutory planning responsibilities. The earlier Committee Reports (January and February 2025) and Update Sheet (January 2025) are included at **Appendix 1**.

3.5 The marine licence application was submitted in August 2024 and remains under consideration by the MMO. The applicant has confirmed it is currently undertaking further seahorse surveys and is engaging with the Ocean Conservation Trust and the Environment Agency in respect of new seagrass surveys to inform compensation measures.

3.6 Due to the delays in determining the marine license, the applicant has requested that the planning and marine licensing processes be “decoupled”. This would allow planning permission to be formally granted ahead of the MMO decision. The applicant advises that this would enable earlier discharge of planning conditions and reduce the lead-in time for commencing urgent flood defence works by approximately 2 to 4 weeks. While some elements of the works do not require a

marine licence, the applicant has confirmed that construction will not begin until the licence is issued, to ensure efficient sequencing of works, including piling from Weymouth Beach to the Pleasure Pier.

3.7 This report assesses the request to revise the February 2025 Committee Resolution and 'decouple' the marine license and planning applications and sets out a revised recommendation.

3.8 Unless otherwise stated, all other matters set out in the 23 January 2025 Committee Report and Update Sheet relating to: the description of the site, proposed development, planning history, constraints, relevant policies, human rights, public sector equalities duty, benefits and environmental implications remain unchanged. The report and Update Sheet are provided at **Appendix 1** for ease of reference.

4.0 Planning History

4.1 The applicant has sought pre-application advice from the council in respect of draft information related to the following draft planning conditions:

- Condition 3 – Construction Traffic Management Plan
- Condition 4 – Construction Staff Parking
- Condition 7 – Dust and Airbourne Particulate Mitigation
- Condition 13 – Historic Building Record
- Condition 14 – Habitat Management and Monitoring Plan (HMMP)
- Statutory BNG Condition – Biodiversity Gain Plan

4.2 The pre-application request aims to speed up determination of the necessary discharge of conditions application(s) following a grant of planning permission. The Highways Authority, Environmental Health Officer, Conservation Officer and Natural Environment Team have confirmed that the submitted information provides the necessary details required by the draft conditions subject to minor amendments.

5.0 Consultations

5.1 The MMO, Natural England and the Council's Natural Environment Team (NET) have been consulted on the proposal to enable the grant of planning permission prior to agreement of the marine mitigation associated with the marine licencing application. Responses are summarised as follows and are available in full on the Council's Planning Register:

Natural England – No comments received

Marine Management Organisation – No comments received

Natural Environment Team – Recommend that a Construction Environmental Management Plan (CEMP) is secured via planning condition to control indirect impacts on marine ecology.

6.0 Material Planning Considerations

6.1 The Dorset Council Local Plan Options consultation took place between January and March 2021 with further consultation is being undertaken between 18 August –

13 October 2025. Being at a very early stage of preparation, the relevant policies in the draft plan should be accorded very limited weight in decision making.

6.2 On 25 March 2025 the Environment Agency published new flood zone data (NaFRA2). The data updates flood zones for rivers and sea.

6.3 Officers have reviewed the updated mapping for the site and note the site still falls within Flood Zones 2 and 3. Surface water flood extents are slightly more extensive to the north and west of the Pavillion. This does not materially change the understanding of flood risk for the site. No further consultations with the Lead Local Flood Authority and/or the Environment Agency are required and the proposed planning conditions set out in the Committee Report remain appropriate. The proposed development would provide enhanced protection from tidal flooding and improved surface water drainage.

7.0 Planning assessment

7.1 This planning application is for “replacement and strengthening of harbour walls F and G through installation of new sheet pile walls in front of the existing walls, for the portion of the new wall where it is located above the mean low water mark, tie bar extension and ground works, works to the footpaths, creation of open space along with ancillary works.” Accordingly, no works subject to this planning application are below the mean low water mark. Therefore, the works would not directly affect marine ecology. A recommended condition in respect of dust and airborne and particulate mitigation is proposed to manage indirect effects as recommended by the Council’s Environmental Health Officer. Furthermore, the condition is proposed to be amended to incorporate the recommendations of the Council’s Natural Environment Team – to expand the condition to require the agreement of a Construction Environmental Management Plan prior to commencement of development. The proposed wording requires details of mitigation in respect of vibration and surface water runoff.

7.2 The proposed development is reliant on marine works subject to the parallel marine licencing application. This includes the full extent of the proposed walls save for a relatively short section along Weymouth Beach which sits above the mean high water mark (see Figure 1). The marine works below the mean low water mark have potential to impact marine ecology. Mitigation of direct impacts from the construction of the new sea walls on seagrass and seahorses (which predominantly use the seagrass as habitat) fall outside of the jurisdiction of the Local Planning Authority and would be controlled through marine licensing. Officers note that the Underwater Noise Assessment relevant to the marine licence application considers the effects of piling on marine species. An informative in relation to marine noise and vibration is proposed to bring the applicant’s attention to this matter and it is expected that the impacts of marine works will be suitably controlled though conditions on the marine licence.

7.3 It is for the MMO to ensure that marine works are acceptable in respect of marine ecology taking account of advice from consultees, including Natural England. As impacts on marine ecology are regulated by another legislative regime, the planning system must operate on the assumption that it is effective. If the marine licensing application is approved, the development subject to this planning application could

proceed as intended. If the marine license is refused, the applicant may need to amend the planning permission or seek a new planning permission for revised works to tie in with a revised marine development. Either way, adverse impacts on marine ecology would be controlled by the MMO.

7.4 Taking into account the above, officers propose a revised recommendation which removes the need to obtain written confirmation from the MMO that the parallel marine licencing application secures appropriate mitigation and compensation for marine ecology. As noted above, the dust and airborne particles condition is proposed to be expanded to require a CEMP and an informative highlighting the need to obtain a marine license is proposed.

8.0 Recommendation

8.1 Grant planning permission subject to the following planning conditions. Updates to the conditions and informatives included within the February 2025 Committee Report are shown in **bold** for ease of reference:

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:

DR-PL-0001 P02 Application site boundary

DR-PL-0002 P03 Site location plan

DR-PL-0004 P03 New site structures, general arrangement

DR-PL-0005 P02 Landscape design layout plan and site sections

DR-PL-0006 P01 Capping Beam Elevations Wall G Cantilevered

DR-PL-0008 P01 Landscape Design Strategy Plan

DR-MP-0102 P05 Demolition plan

DR-MP-0200 P03 Wall F Anchored-Sheet pile general arrangement 1 of 2

DR-MP-0201 P03 Wall F Anchored-Sheet pile general arrangement 2 of 2

DR-MP-0202 P03 Wall G Anchored-Sheet pile general arrangement 1 of 2

DR-MP-0203 P03 Wall G Anchored-Sheet pile general arrangement 2 of 2

DR-MP-0204 P03 Wall G Cantilevered- Sheet pile general arrangement 1 of 2

DR-MP-0205 P03 Wall G Cantilevered- Sheet pile general arrangement 2 of 2

DR-MP-0210 P02 Wall F Anchored-Sheet pile elevation

DR-MP-0211 P04 Wall G Anchored-Sheet pile elevation

DR-MP-0220 P02 Sheet Pile Typical Section Walls F & G Anchored

DR-MP-0221 P03 Wall G Cantilevered-Sheet pile sections

DR-MP-0222 P06 Sheet Pile Typical Section Wall F Pile Ring

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

3. Before the development hereby approved commences a Construction Traffic Management Plan (CTMP) must be submitted to and approved in writing by the Planning Authority. The CTMP must include:

- a) Construction vehicle details (numbers, sizes, type, and frequency of movement per day).
- b) A programme of construction works for anticipated deliveries by HGV and barge.
- c) A framework for managing abnormal loads.
- d) Timing of deliveries to avoid, where possible, network peak hours 08:00-09:00, 17:00-18:00, as well as interpeak for the tourist season.
- e) A Banks person / Marshall will be required and positioned at the zebra crossing near the junction leading to the site / compound ensuring all vehicles and deliveries drive at a slow speed due to pedestrian movement in and around that area.
- f) Public to be safely segregated from works.
- g) Wheel and Vehicle cleaning facilities.
- h) A scheme of appropriate signing of vehicle route to the site from the surrounding highway network i.e. the A35.
- i) Swept path analysis detailing the ingress, internal layout circulation routes and egress of the largest vehicle.
- j) Temporary traffic management measures where necessary
- k) Potential for any staff/contractors/operatives to use local sustainable transport or car share/minibus pick up and drop offs.

The development must be carried out strictly in accordance with the approved Construction Traffic Management Plan.

Reason: To minimise the likely impact of construction traffic on the surrounding highway network and prevent the possible deposit of loose material on the adjoining highway.

4. Before the development hereby approved commences a scheme for the parking for site operatives and visitors within the application site area must be submitted to and approved in writing by the Planning Authority. The approved

scheme shall be provided and adhered to throughout the construction period of the development.

Reason: To minimise the likelihood of indiscriminate parking on the surrounding highway network.

5. Any lighting and/or floodlighting during construction must be located and screened in such a manner that no illumination is directed towards the adjoining highway. Details of any proposed external lighting shall first be submitted to and approved in writing by the Local Planning Authority. Thereafter, external lighting shall be installed as approved.

Reason: To ensure that drivers aren't dazzled or distracted by the light.

6. Before the development hereby approved is utilised the following works must have been constructed to the specification of the Planning Authority:

- i. Footway works as per landscape design layout plan and site sections A1 to C drawing PL-0005 P02.

Reason: These specified works are seen as a pre-requisite for allowing the development to proceed, providing the necessary highway infrastructure improvements to mitigate the likely impact of the proposal.

7. Prior to the commencement of any works of demolition or construction, **a Construction Environmental Management Plan (CEMP) (Biodiversity) must be submitted to and approved in writing by the local Planning Authority. The CEMP must include the following:**

- a) Risk assessment of potentially damaging construction activities.
- b) Identification of "biodiversity protection zones".
- c) Practical measures (both physical measures and/or sensitive working practices) including measures related to piling and surface water management to avoid or reduce impacts during construction (may be provided as a set of method statements).
- d) dust and airborne particle management plan, characterising possible sources of dust and airborne particulate matter (including sand) which may be created by any aspect of the operation, and identifying any mitigation measures which may be necessary to reduce dust and airborne particles as much as practicable.
- e) The location and timing of sensitive works to avoid harm to biodiversity features.
- f) The times during construction when specialist ecologists need to be present on site to oversee works.

- g) Responsible persons and lines of communication.
- h) The role and responsibilities on site of an ecological clerk of works (ECoW) or similarly competent person.
- i) Use of protective fences, exclusion barriers and warning signs

The development shall take place strictly in accordance with the approved CEMP.

Reason: To protect biodiversity, including marine ecology, during the construction phase and in the interests of residential amenity and to protect members of the public from dust/airborne particulate matter during construction.

8. Prior to commencement of above ground construction works, details of both hard and soft landscape works shall have been submitted to and approved in writing by the Local Planning Authority. These details shall include:
- a) A statement setting out the design objectives and how these will be delivered;
 - b) Earthworks showing existing and proposed levels and contours;
 - c) Means of enclosure and retaining structures;
 - d) Boundary treatments;
 - e) Vehicle parking layouts;
 - f) Other vehicle and pedestrian access and circulation areas;
 - g) Hard surfacing materials and construction details;
 - h) The location and construction details of furniture, refuse units, features and signs;
 - i) The location of proposed and existing functional services above and below ground;
 - j) Retention of Pleasure Pier sign;
 - k) The location and construction details of any lighting/floodlighting;
 - l) A specification for any proposed seeding/turfing, tree, and shrub planting including their quantity, size species and position, how they will be planted, protected and maintained, and the proposed time of planting;
 - m) A programme of implementation including phasing where relevant.

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

Reason: To ensure the adequate mitigation of the landscape and visual impact of the proposals and the provision of an appropriate hard and soft landscape scheme which retains non designated heritage assets.

9. Prior to commencement of above ground construction works, a landscape management plan, including long term design objectives, management responsibilities and maintenance schedules for all hard and soft landscape

areas, shall have been submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved management plan.

Reason: To ensure that the management and maintenance of the proposed hard and soft landscape scheme has been agreed.

10. The landscape works shall be carried out in accordance with the approved hard and soft landscape scheme and the implementation programme before any part of the development is brought into use.

Reason: To ensure that the agreed hard and soft landscape scheme is implemented as approved.

11. The completed landscaping scheme shall be managed and maintained in accordance with the approved management plan. Any seeded/turfed areas, trees or other plants indicated in the approved scheme which, within a period of five years from the date of the development being completed, die, are removed or become seriously damaged or diseased shall be replaced during the next planting season with seed/turf, trees or plants of a species and size to be first approved in writing by the Local Planning Authority. Hard landscape features will be maintained for the lifetime of the development.

Reason: To ensure that the agreed hard and soft landscaping scheme is maintained.

12. In the event that contamination is found at any time when carrying out the approved development, it must be reported in writing immediately to the Local Planning Authority and an investigation and risk assessment must be undertaken in accordance with requirements of BS10175 (as amended). Should any contamination be found requiring remediation, a remediation scheme, including a time scale, shall be submitted to and approved in writing by the Local Planning Authority. Remediation shall be carried out in accordance with the approved scheme and on completion of the approved remediation scheme a verification report shall be prepared and submitted within two weeks of completion and submitted to the Local Planning Authority.

Reason: To ensure risks from contamination are minimised.

13. Prior to the removal of the existing railings and Pleasure Pier Sign, a Level 1 Historic Building Record shall be submitted to and approved in writing by the Local Planning Authority.

Reason: To record matters of architectural/historical importance associated with the non-designated heritage assets within the site prior to removal.

14. The development shall not commence until a Habitat Management and Monitoring Plan (the HMMP) has been submitted to and approved in writing by the Local Planning Authority. The HMMP shall include:
- i. A non-technical summary;
 - ii. The roles and responsibilities of the people or organisation(s) delivering the HMMP;
 - iii. The planned habitat creation and enhancement works to create or improve habitat to achieve the biodiversity net gain in accordance with the Biodiversity Gain Plan and a timetable for implementation;
 - iv. The management measures to maintain habitat in accordance with the Biodiversity Gain Plan for a period of 30 years from the completion of the habitat and enhancement works as set out in the HMMP;
 - v. The monitoring methodology and frequency in respect of the created or enhanced habitat to be submitted to the Local Planning Authority.

Thereafter the development shall be carried out, along with the management and monitoring of habitat, in accordance with the approved HMMP.

Reason: In the interests of biodiversity to secure the monitoring and management of significant onsite habitats.

15. Notice in writing shall be given to the Local Planning Authority within one month of the completion of the habitat creation and enhancement works as set out in the approved HMMP. The notice shall include a Completion Report evidencing the completed habitat enhancements.

Reason: In the interests of biodiversity to secure the monitoring and management of significant onsite habitats.

Informatives

1. Informative: National Planning Policy Framework Statement

In accordance with paragraph 39 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 applicants/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.
- The applicant was provided with pre-application advice.
- The application was acceptable as submitted and no further assistance was required.

2. Informative: Rights of Way

The safe free passage of the public on all rights of way must not be obstructed at any time. If the public are unlikely to be able to exercise their public rights on a right of way, then a Temporary Path Closure Order must be obtained. This can be applied for through Rights of Way at Dorset Council see <https://www.dorsetcouncil.gov.uk/w/changing-the-definitive-map>, but the application must be completed and returned at least thirteen weeks before the intended closure date. It should be noted that there is a fee applicable to this application. This application and legal order must be confirmed before any works obstructing the path are commenced.

Any damage to the surface of the footpath attributable to the development must be repaired to Dorset Council's specification, in accordance with Section 59 of the Highways Act 1980 by the applicant.

3. Informative: Biodiversity Net Gain

The effect of paragraph 13 of Schedule 7A to the Town and Country Planning Act 1990 is that planning permission granted for the development of land in England is deemed to have been granted subject to the condition "(the biodiversity gain condition)" that development may not begin unless:

- (a) a Biodiversity Gain Plan has been submitted to the planning authority, and

(b) the planning authority has approved the plan.

The planning authority, for the purposes of determining whether to approve a Biodiversity Gain Plan if one is required in respect of this permission would be Dorset Council.

There are statutory exemptions and transitional arrangements which mean that the biodiversity gain condition does not always apply. These are listed below.

Based on the information available this permission is considered to be one which will require the approval of a biodiversity gain plan before development is begun because none of the statutory exemptions or transitional arrangements listed below are considered to apply.

Read more about Biodiversity Net Gain at

<https://www.dorsetcouncil.gov.uk/w/biodiversity-net-gain>

4. Informative: Statutory Exemptions and Transitional Arrangements in respect of the Biodiversity Gain Plan

1. The application for planning permission was made before 12 February 2024.

2. The planning permission relates to development to which section 73A of the Town and Country Planning Act 1990 (planning permission for development already carried out) applies.

3. The planning permission was granted on an application made under section 73 of the Town and Country Planning Act 1990 and

(i) the original planning permission to which the section 73 planning permission relates* was granted before 12 February 2024; or

(ii) the application for the original planning permission* to which the section 73 planning permission relates was made before 12 February 2024.

4. Development which is not 'major development' (within the meaning of article 2(1) of the Town and Country Planning (Development Management Procedure) (England) Order 2015) where:

i) the application for planning permission was made before 2 April 2024;

ii) planning permission is granted which has effect before 2 April 2024; or

iii) planning permission is granted on an application made under section 73 of the Town and Country Planning Act 1990 where the original permission to which the section 73 permission relates* was exempt by virtue of (i) or (ii).

5. Development below the de minimis threshold, meaning development which:

i) does not impact an onsite priority habitat (a habitat specified in a list published under section 41 of the Natural Environment and Rural Communities Act 2006); and

ii) impacts less than 25 square metres of onsite habitat that has biodiversity value greater than zero and less than 5 metres in length of onsite linear habitat (as defined in the statutory metric).

6. Development which is subject of a householder application within the meaning of article 2(1) of the Town and Country Planning (Development Management Procedure) (England) Order 2015. A "householder application" means an application for planning permission for development for an existing dwellinghouse, or development within the curtilage of such a dwellinghouse for any purpose incidental to the enjoyment of the dwellinghouse which is not an application for change of use or an application to change the number of dwellings in a building.

7. Development of a biodiversity gain site, meaning development which is undertaken solely or mainly for the purpose of fulfilling, in whole or in part, the Biodiversity Gain Planning condition which applies in relation to another development, (no account is to be taken of any facility for the public to access or to use the site for educational or recreational purposes, if that access or use is permitted without the payment of a fee).

8. Self and Custom Build Development, meaning development which:

i) consists of no more than 9 dwellings;

ii) is carried out on a site which has an area no larger than 0.5 hectares; and

iii) consists exclusively of dwellings which are self-build or custom housebuilding (as defined in section 1(A1) of the Self-build and Custom Housebuilding Act 2015).

9. Development forming part of, or ancillary to, the high speed railway transport network (High Speed 2) comprising connections between all or any of the places or parts of the transport network specified in section 1(2) of the High Speed Rail (Preparation) Act 2013.

* "original planning permission means the permission to which the section 73 planning permission relates" means a planning permission which is the first in a sequence of two or more planning permissions, where the second and any subsequent planning permissions are section 73 planning permissions.

5. Informative: Noise

The applicant is advised to carefully acquaint with and act on the advice in WSP Technical Memorandum on noise and vibration (reference 70094412-ACO, dated 7 August 2024). This will ensure the detailed scrutiny of noise and vibration management that this project necessitates. Utilising the services of a suitably qualified and competent noise and vibration consultant to take technical noise and vibration aspects forward is likely to be essential. Failure to follow the above advice may lead to unnecessary community impact from this project, and regulatory action by the council's Environmental Protection Team.

6. Informative: Highway Improvement(s)

The highway improvement(s) referred to in condition 6 must be carried out to the specification and satisfaction of the Highway Authority in consultation with the Local Planning Authority and it will be necessary to enter into an agreement, under Section 278 of the Highways Act 1980, with the Highway Authority, before any works commence on the site. The applicant should contact Dorset Council's Highways Development team. They can be reached by email at highwaysdevelopment@dorsetcouncil.gov.uk, or in writing at Highways Development team, Economic Growth and Infrastructure, Dorset Council, County Hall, Dorchester, DT1 1XJ.

7. Informative: Marine licensing

A marine license from the Marine Management Organisation is required for all works below the mean high water mark. The applicant should comply with all conditions on the marine license, including those related to marine ecology.

Application Number:	P/FUL/2024/05538
Webpage:	https://planning.dorsetcouncil.gov.uk/
Site address:	Weymouth Harbour, Weymouth, DT4 8AJ
Proposal:	Replacement and strengthening of harbour walls F and G through installation of new sheet pile walls in front of the existing walls, for the portion of the new wall where it is located above the mean low water mark, tie bar extension and ground works, works to the footpaths, creation of open space along with ancillary works.
Applicant name:	Dorset Council
Case Officer:	Matthew Pochin-Hawkes
Ward Member(s):	Cllr Orrell

1.0 Reason application is going to committee:

1.1 The applicant is Dorset Council.

2.0 Summary of recommendation:

2.1 Delegate authority to the Head of Planning and Service Manager for Development Management and Enforcement to grant planning permission subject to:

1. receiving written confirmation from the Marine Management Organisation that the parallel marine licencing application secures appropriate mitigation and compensation for marine ecology; and
2. the planning conditions at section 18 of this report.

3.0 Reason for the recommendation:

- The proposed works subject to this planning application are located above the mean-low water mark where the Local Planning Authority has jurisdiction. The Marine Management Organisation has jurisdiction for works below the mean-high water mark.
- Para. 11 of the NPPF establishes that permission should be granted for development proposals that accord with an up-to-date development plan without delay.
- The existing sea defences are in urgent need of replacement.
- The proposals would upgrade existing flood defences with necessary protection taking into account anticipated sea level rise and flood risks.
- The design is acceptable, would not cause harm to heritage assets or the amenity of the area.

- Remodelled and new open spaces would provide appropriate public amenity space and maintain panoramic views over the sea defences.
- Public access would be improved through an updated pedestrian and cycle route around the perimeter of the site.
- There are no material considerations which would warrant refusal of this application.

4.0 Key planning issues

Issue	Conclusion
Principle of development	The replacement of existing sea defences and provision of improved open space and pedestrian/cycle route is wholly acceptable in principle and compatible with the area.
Design, landscape and local character	The proposals are compatible within the area and the design and landscaping is acceptable subject to conditions.
Heritage	Harm to designated heritage assets would be outweighed by public benefits and harm to non-designated heritage assets would be outweighed by the benefits of the proposal.
Amenity	The proposals would not have a significant adverse impact on residential amenity. The new and improved public open spaces would improve public amenity within the local area.
Highways, access, parking and highway safety	The proposals would not give rise to danger to road users or have severe highway impact. Construction traffic impacts can be appropriately managed via planning condition and the slight reduction in car parking-post construction is acceptable.
Ecology and biodiversity	Biodiversity net gains would be delivered through on-site provision and the purchase of credits. Subject to mitigation and compensation being secured by the Marine Management Organisation through the parallel marine licencing application, impacts on marine ecology would be acceptable.
Flood risk and drainage	The proposals would upgrade existing sea defences and would not cause increased risk of flooding elsewhere. Adequate drainage is proposed.

Ground conditions	Acceptable subject to conditions.
Environmental Impact Assessment	The development is not considered to be EIA development.

5.0 Description of Site

5.1 The application site is located along the northern and eastern boundaries of the peninsula, Weymouth. The peninsula is set at the end of The Esplanade opposite the Nothe Fort at the gateway to Weymouth Harbour.

5.2 The 1.09-hectare L-shaped site encompasses two sea walls, the adjacent pedestrian and informal cycle route, areas of public realm, vehicle routes and areas of car parking. The application site boundary extends beyond the existing sea walls to include land up to the mean-low watermark.

5.3 Wall G forms the northern boundary of the site. The 349m wall starts at the stairs leading to the southern end of the beach and continues to the interface with Wall F to the east at the northern edge of the peninsula. The section of the piled wall from the beach steps to the 'Pleasure Pier' signage is topped with balustrading. The retained height of the wall varies between 4.0m to 6.8m. Between the Wall G and The Pavillion is an area of public realm. It consists of a raised platform with planters, six benches and an anchor. The anchor commemorates the opening of the car ferry terminal extension in 1980.

5.4 Wall F forms the eastern boundary of the site. It spans approximately 137m from the interface with Wall G to the north and continues to the interface with the Pleasure Pier and Wall E to the south. The wall consists of piles with a continuous reinforced concrete capping beam at the top of the piles. The height of the wall is approximately 4.3mAOD on average and gradually increases in height towards the Pleasure Pier. Three raised platforms offering panoramic views across the coastline are located along this stretch of wall. The raised platforms are enclosed by balustrading and the northern most platform has two benches. The adjacent pedestrian/cycle route and part of the parking area is cordoned off due to a sinkhole. The walls are in urgent need of repair.

5.5 The application site includes a pedestrian and informal cycle route alongside Walls F and G together with some vehicle access routes and car parking spaces. The height of the walls relative to the adjacent pedestrian/cycle route varies. The wall is generally 1m, thereby allowing views over the top towards Weymouth and the coastline.

5.6 The wider peninsula has largely been cleared of buildings since the ferry service closed in 2015. All that remains are a few re-purposed buildings for fishermen, the disused railway platform, the Weymouth Pavillion theatre, a public car park, areas of public realm and the Pleasure Pier.

5.7 To the west of the peninsula lies the Devonshire Buildings (Grade II* listed) with its rounded façade turning the corner of Custom House Quay and The Esplanade.

The four-storey terrace consists of six guesthouses. The building is separated from the site by The Esplanade and an area of public realm. Nothe Fort lies to the east of the site across the entrance to Weymouth Harbour. It is a Scheduled Monument and Grade II listed building.

5.8 The surrounding areas are a mix of uses, including retail, leisure, commercial, hospitality and residential.

6.0 Description of Development

6.1 The proposed development seeks:

1. the replacement and strengthening of walls F and G through installation of new sheet pile walls in front of the existing walls, tie bar extension and ground works
2. works to the footpath
3. creation of open space
4. ancillary works

6.2 The proposal works subject to this planning application are located above the mean-low water mark. Associated with the planning application, a marine licencing application has been submitted to the Marine Management Organisation for works below the mean-high water mark and a Flood Risk Activity Permit (FRAP) has been sought from the Environment Agency in respect of the replacement sea defences.

6.3 The proposals are summarised as follows:

Replacement Walls

6.4 As described in the submitted Planning Statement, the walls are in a poor state of repair and in urgent need of replacement. The walls are suffering from corrosion which has resulted in significant loss of steel thickness and a sinkhole which has required part of the site to be cordoned off and a sub-station to be demolished.

6.5 The replacement walls would be created by a new line of sheet piles installed in front of the existing walls.

6.6 The sheet piles are proposed to be capped with a reinforced concrete capping beam raised to +4.10mAoD for the majority of Wall G and +4.50mAoD for Wall F. The section of Wall G closest to The Esplanade and adjacent to the existing open spaces would be capped at +3.15mAoD with a short section at the stairs to the beach raised to +3.55mAoD. The walls would be fixed with below ground tie-bars which would connect into existing below ground concrete anchor blocks set back approximately 10m from the walls. The cavity between the existing and proposed walls would be backfilled and the seaward face of the walls would include safety ladders and timber fenders.

6.7 The walls have been designed to protect the peninsula from projected sea level rise and 1 in 200-year flood levels of +3.8m Ad with an additional freeboard of

300mm provided on top. They have a design life of 75 years and would protect against flood events with a 1 in 200-year flood risk up to 2060.

Footpaths

6.8 The existing footpath and informal cycle route would be extended to incorporate the infilled area behind the proposed capping beams. Accordingly, the width of footpath would be extended by approximately 1.3m around the perimeter of the site. This would facilitate creation of a parallel cycle route.

6.9 Proposed ground levels would vary along the length of the walls. The height of the capping beam relevant to adjacent proposed ground levels would vary, with a maximum height of 1.75m. As a result of the increased height of the walls and varied ground levels, visibility over the walls would be restricted from some parts of the footpath.

6.10 The design has been amended over the course of determination to reduce the height of the wall between the beach steps and the 'Pleasure Pier' sign. The proposed capping beam with retained balustrade above would be marginally taller than existing, maintaining panoramic views across Weymouth Bay.

Open spaces and landscaping

6.11 Two publicly accessible open spaces are proposed.

6.12 The existing area of public realm between The Pavilion and Wall G is proposed to be remodelled. Ground levels would be increased in height and six benches would be installed to enable views over the new seawall. The anchor would be retained, and the rear of the open space would incorporate a new planter.

6.13 A new open space is proposed at the north of the peninsula at the interface of walls F and G. The space includes six benches and grassed areas of general amenity. Ground levels would be increased in height to enable views over the new walls.

Ancillary works

6.14 Ancillary works include planting between the two open spaces (separating the footpath/cycle route from the car park), minor changes to the car parking layout and repositioned pay and display machines.

Construction process

6.15 All construction works are proposed to be undertaken from the landside, proceeding from west to east across the site. Areas within the car park and commercial pier would be used temporarily during the construction period to provide construction access, site compound space and a stockpile area. The use of these areas is proposed to be undertaken under permitted development rights and do not form part of the proposed development.

6.16 During the construction period the existing footpaths would be closed with temporary routes created to maintain access to The Pavilion and commercial areas

of the harbour. Access to the Pleasure Pier would be restricted for part of the construction works.

6.17 Construction works are expected to take 12 months.

7.0 Relevant Planning History and Policy Context

7.1 Related to the current planning application, the Council issued a Screening Opinion in May 2024 confirming that the proposed replacement, strengthening and maintenance of harbour walls was not EIA development (P/ESC/2024/02394).

7.2 In 2018, the council approved the strengthening of Wall D (WP/18/00586/FUL). The 76m wall is located on the south of the peninsula adjacent to Custom House Quay and the Devonshire Buildings. The design is similar to that proposed by the current planning application – with the replacement sheet pile wall installed immediately in front of the old wall. The works have been completed.

7.3 The peninsula has historically been used for a variety of uses, including leisure and tourism. The peninsula has largely been cleared of buildings since the ferry service closed in 2015. All that remains are a few re-purposed buildings for fishermen, the disused railway platform, the Weymouth Pavillion theatre, a public car park, areas of public realm and the Pleasure Pier.

7.4 Policy WEY6 of the West Dorset, Weymouth and Portland Local Plan (2015) allocates the peninsula for mixed use development. It states that the site should be re-developed to include leisure / tourist-related uses, supported by complementary town centre uses which may include housing, and including provision for the continued operation of the ferry service. The policy requires a comprehensive scheme which complements the scale, mass and rhythm of the terraces along the Esplanade so as to create a coherent seafront and does not detract from the dominance of the Nothe Fort in views from the North. It notes that the site may include an elegant landmark building.

7.5 The Weymouth Town Centre Masterplan Supplementary Planning Document (SPD) was adopted in October 2015, shortly after the Local Plan. This SPD establishes a long-term regeneration strategy for the town centre and includes a section with a comprehensive strategy for Weymouth Peninsula, based on identifying key objectives namely:

- provision of strategic flood defence work
- creation of pedestrian and public areas, public art and links to the town centre
- improve the harbour facilities for boats and the local fishing industry
- mixed use activities focussed on café and restaurant, commercial and retail uses
- high quality, unique housing

7.6 Aligning with this planning policy context, an application for comprehensive mixed-use development of the site was submitted in 2018 (WP/18/00403/OUT). The application involved demolition of buildings (excluding the Pavilion Theatre and Jurassic Skyline viewing tower – the latter now demolished) and redevelopment of the site for a mix of leisure and commercial uses including hotels, mixed use

pub/diner with guest accommodation, restaurants and cafes, indoor leisure buildings, public car parking, commercial fishing and mixed-use harbour buildings, harbour operation and storage areas together with associated works and open space.

7.7 The Weymouth and Portland Planning Committee resolved to approved the application in November 2018 subject to planning conditions and a section 106 legal agreement to secure sustainable transport contributions and marine ecology mitigation and enhancements. However, the legal agreement has not been completed and the application remains pending determination.

7.8 The peninsula is one of four sites that benefits from a share of £19.5 million secured through the previous government's Levelling Up fund. The Council has prepared a vision for the harbour and peninsula areas. Of relevance to this planning application, the vision states that the remedial works to the harbour and peninsula walls are *“essential for the long term sustainability of the Harbour and peninsula, so constitute a irreducible minimum component of the regeneration programme.”* The vision outlines a range of future medium term opportunities for the peninsula, potentially including: hospitality facilities (including a hotel and entertainment facilities), retail facilities, residential and public space.

7.9 Relevant planning history is summarised as follows:

Harbour Walls – Walls F and G

P/ESC/2024/02394 - Decision: Not EIA - Decision Date: 21/05/2024

Request for EIA Screening Opinion under the Town and Country Planning (Environmental Impact Assessment) Regulations 2017 to support a planning and marine licence application for the replacement, strengthening and maintenance of harbour walls

Harbour Walls – Wall D

WP/18/00586/FUL - Decision: GRA - Decision Date: 18/12/2018

Strengthening of 76 metres of sheet steel pile wall by a line of new sheet steel piles driven into the harbour bed immediately in front of the old wall. Replacement of the four flights of existing ferry steps by two new flights of steps supported on the new piles. Demolition of the brick and concrete kiosk building at the top of the ferry steps.

Observation tower (Jurassic Skyline viewing tower)

11/00512/FUL - Decision: GRA - Decision Date: 24/08/2011

Construction of 53m high observation tower and associated ground works, admissions/retail unit with staff facilities, queue-line structures, perimeter fencing and control building

WP/17/00687/VOC - Decision: GRA - Decision Date: 14/12/2017

Construction of 53m high observation tower and associated ground works, admissions/retail unit with staff facilities, queue-line structures, perimeter fencing and control building - (variation of conditions 1, 2, 3, 4, 5, 6, 8, and 9 of planning permission ref. 11/00512/FUL and 12/00364/NONMAT)

Mixed use development

WP/18/00403/OUT - Decision: Undetermined subject to S106 Agreement completion

Demolition of existing buildings (excluding Pavilion Theatre and Jurassic Skyline viewing tower) and redevelopment for a mix of leisure and commercial uses including hotels, mixed use pub/diner with guest accommodation, restaurants and cafes, indoor leisure buildings, public car parking, commercial fishing and mixed-use harbour buildings and harbour operation and storage areas together with associated landscaping, street furniture, structures, open space and access to and within the site.

8.0 List of Constraints

Within Defined Development Boundary

Weymouth Town Centre

Weymouth Town Centre Strategy Area

Site allocation for mixed use development: Ferry Peninsula, Policy WEY6

Landscape Character Area – Weymouth Urban Area

Partially within Weymouth Town Centre Conservation Area – a small portion of the southwest corner of the site falls within the conservation area

Nearby Heritage assets:

- Devonshire Buildings (Terrace), 1-6 Esplanade, Grade II*. List entry: 1145964. Distance: 18m to southwest of site.
- Dorset and East Devon Coast, World Heritage Coast. List entry: 1000101. Distance: 160m to south of site.
- Scheduled Monument: Nothe Fort, tramway and searchlight battery at The Nothe. List entry: 1020063. Distance: 175m to southeast of site.

- Northe Fort and outer gateway, Grade II*. List entry: 1313430. Distance: 175m to southeast of site.

South West Coastal Path – runs through a small portion of the southwest corner of the site.

Within Flood Zones 2 and 3

Risk of Surface Water Flooding Extent 1/30 year, 1/100 year and 1/1000 year

RAMSAR: Chesil Beach & the Fleet (UK11012); Distance: 3km

Special Area of Conservation (SAC) (5km buffer): Chesil & The Fleet (UK0017076); Distance: 3.3km

Site of Special Scientific Interest (SSSI) impact risk zone.

Contaminated Land – Area of approximately 80sq.m to the southwest of the site and north of the Pavillion identified as contaminated land (ref: 6686, Ferry Car Park)

Office of Nuclear Regulation – Portland 12km zone

Radon: Class 1: Less than 1%

Dorset Council owned land

9.0 Consultations

9.1 Two rounds of consultations have been carried out in respect of this application: one following submission of the application and the other following amendments to the proposals.

9.2 Consultation responses are summarised below. All consultee responses can be viewed in full on the website.

Consultees

Environment Agency

9.3 The EA raises no objection and notes the revised crest height of Wall G (3.15mAoD) remains in line with the strategic adaptive approach agreed with the Council to periodically raise harbour walls and construct defences under a phased approach. The EA notes this was agreed in the National Flood and Coastal Erosion Risk Management (FCERM) Strategic Outline Case (2021).

Natural England

9.4 Providing the works are carried out in accordance with the application, the proposals are unlikely to have a significant effect on any SAC, SPA or Ramsar site.

9.5 Note the proximity of the site to Radipole Site of Special Scientific Interest (SSSI). The proposal is unlikely to harm the SSSI providing the works are undertaken in strict accordance with the submitted details.

9.6 Natural England raise concern with impacts on Sea Grass, and whether the compensation hierarchy of avoid/mitigate/compensate has been demonstrated. Natural England recommend that any compensation is secured via planning condition.

Historic England

9.7 Consider that the proposals will not have any impact on the significance of nearby heritage assets.

Marine Management Organisation – No comments received.

DC Conservation

9.8 Initial comments confirmed no objection pending the submission of a Heritage Statement and confirmation of a retention strategy about wall top railings. The response concluded the originally proposed height of the wall would have caused less than substantial harm to the Devonshire Buildings (Grade II* listed) and noted that the existing railings (a non-designated heritage asset) should be retained. The harm to the Devonshire Buildings would be outweighed by public benefits, notably the provision of essential coastal protection.

9.9 Subsequent comments following the submission of updated drawings and documents confirm no objection. The Conservation Officer concludes the revised proposal would cause less than substantial harm to the Weymouth Town Centre Conservation Area, Devonshire Buildings (Grade II*) and railings.

9.10 The officer notes that careful removal of the railings and sign with a clear intention of appropriate reinstatement, within an agreed extent of the scheme, would result in a conclusion of no harm. Based on the degree of deterioration of the railings, the Conservation Officer notes a preference for retention of the best representative examples of railing sections and a commitment to incorporate sections, or elements of sections, into part of the hard landscape scheme. A Level 1 recording of the railings and sign is recommended.

DC Landscape

9.11 No objection subject to conditions. The proposals would likely enhance rather than detract from the landscape character, would restore existing hard and soft landscape features and provide additional enhancement through new hard and soft landscaping. Consider that the scheme should include the planting of trees within the soft landscaped areas unless there are clear, justifiable and compelling reasons why this would be inappropriate.

DC Highways

9.12 The Highways Authority recommends that the applicant consult with Dorset Council Parking Services team so that the public parking demand can be adequately managed, especially during peak periods.

9.13 Overall, the Highways Authority raises no objection subject to planning conditions.

DC Urban Design – No comments to make.

DC Environmental Assessment – No comments received.

DC Economic Development and Tourism – Fully support the application.

DC Flood Risk Management

9.14 Raise no objection to the proposals.

9.15 Note the proposed development can be considered as water compatible. The proposed development is compatible with the groundwater/surface water flood risk.

9.16 The submitted Flood Risk Assessment provides the necessary evidence that the design of the proposed replacement wall will maintain the existing surface water drainage regime.

9.17 Surface water flood risk or drainage related conditions are not considered to be required by the Lead Local Flood Authority (LLFA). However, the application should be referred to the Environment Agency for their assessment of risk to the proposed development from tidal and/or fluvial flood risk.

DC Rights of Way

9.18 Raise no objection to the proposals.

9.19 Note the Southwest Coastal Path crosses the south west corner of the site. State that the full width of the public bridleway must remain open and available to the public, with no materials or vehicles stored on the route during the construction period.

DC Natural Environment Team

9.20 In respect of the proposed works above the mean-low water mark (subject to the planning application and falling within the jurisdiction of the Local Planning Authority), NET note the application is not within the scope of the Dorset Biodiversity Appraisal Protocol (BDAP) as there are no habitats or protected species. Recommend that the mitigation within the Construction Environmental Management Plan (CEMP) is secured.

9.21 NET confirm the proposals are subject to 10% biodiversity net gain (BNG) requirements given the proposals would result in the loss of 25sq.m of planters and would therefore not benefit from the de minimis exemption. Following submission of BNG information by the applicant, NET confirmed no objection.

9.22 NET notes the provision of Intertidal Green and Grey Infrastructure is considered significant. Therefore, a HMMP will be required for this feature at the pre-commencement stage and ongoing monitoring and management secured within a Section 106. NET draw attention to the fact that there is a discrepancy between the excel metric submission and the metric used to inform the report. The difference appears to be the percentage loss of area habitats: 18.72% in the submitted metric and 18.78% in the associated report. The metric concludes that the loss is wholly accounted for by the reduction in Intertidal Hard Structures, whereas the report attributes this to a reduction in Intertidal Hard Structure and Introduced Shrub. These are both low distinctiveness habitats and NET advise that this discrepancy does not pose a barrier to approval of the application. However, this should be addressed with submission of the Biodiversity Gain Plan at the pre-commencement stage. Proof of purchase of sufficient offsite units/credits will be required at the pre-commencement stage to meet the BNG obligation.

9.23 In respect of proposed works below the mean-low water mark (subject to marine licencing and outside of the jurisdiction of the Local Planning Authority), NET note the anticipated impacts on seagrass. They suggest further information be sought by the Marine Management Organisation (MMO) in respect of marine ecology.

DC Environmental Protection

9.24 Recommend conditions related to dust and unexpected contamination.

9.25 Suggest an informative in relation to noise and vibration impacts during construction and state that the recommendations of the submitted Technical Memorandum – Assessment of Noise and Vibration from Construction Works (WSP, ref: 70094412-ACO, dated 7 August 2024) should be followed.

DC Coastal Risk Management – No comments received.

DC Building Control – Confirm no comments to make on this application.

Public Health Dorset

9.26 Public Health Dorset welcome the: improved sea defences, changes to accommodate pedestrian and cycle access and new landscaping and picnic area. Request that: shading and shelter is provided, seating takes account of inclusive mobility guidelines and appropriate lighting is proposed for safety and security.

DC Assets and Property – No comments received.

Jurassic Coast Trust

9.27 Confirm the application site is outside of the World Heritage Site (WHS). Advise the application would have no impact on the WHS' Outstanding Universal Value or its setting.

Office for Nuclear Regulation

9.28 Confirm the ONR has no comments to make as the application does not meet ONR's consultation criteria.

Dorset Wildlife Trust – No comments received.

Ramblers Association – No comments received.

Wessex Water – No comments received.

Ward Councillors

Cllr. Bell

9.29 This work is crucial to ensure the strength and stability of the peninsula and ensure further regeneration works can take place on the site. Climate change is causing sea levels to rise and this project will help to increase Weymouth's resilience to the challenges that creates.

Cllr. Orwell

9.30 Cllr. Orwell has provided two sets of comments. The first stating that repair and improvement of all our sea walls is increasingly urgent due to climate chaos, global heating and sea level rises. The second set of comments state the Councillor is totally in support of the work and steps to ensure it is as strong and enduring as possible.

Weymouth Town Council

9.31 Initial comments confirm the Council support the application and note it is vital for the regeneration of the town, and looks forward to its timely delivery.

9.32 Subsequent comments advise the Council enthusiastically supports the application, which is vital for flood defence and the economic development of the town.

Representations received

9.33 Representations from the **Weymouth Civic Society** has been received. The first set of comments raise some concerns with the high parts of the proposed walls by the public walkway, which would restrict views of the bay and coastline. Subsequent comments note the amended proposals and give support to the proposed viewing hill.

9.34 No other third party comments have been received.

10.0 Duties

10.1 s38(6) of the Planning and Compulsory Purchase Act 2004 requires that the determination of planning applications must be in accordance with the development plan unless material circumstances indicate otherwise.

10.2 Section 66 requires that when considering whether to grant planning permission for a development which affects a listed building or its setting, there is a general duty to have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses.

10.3 Section 72 requires that special attention shall be paid to the desirability of preserving or enhancing the character or appearance of conservation areas.

11.0 Relevant Policies

Development Plan

West Dorset, Weymouth and Portland Local Plan (2015)

- INT1 Presumption in favour of sustainable development
- ENV1 Landscape, seascape and sites of geological interest
- ENV2 Wildlife and habitats
- ENV4 Heritage assets
- ENV5 Flood risk
- ENV8 Pollution and contaminated land
- ENV10 The landscape and townscape setting
- ENV11 The pattern of streets and spaces
- ENV16 Amenity
- SUS2 Distribution of development
- COM7 Creating a safe and efficient transport network
- WEY1 Weymouth town centre strategy
- WEY6 Ferry peninsula

Material Considerations

Emerging Local Plans:

11.1 Paragraph 49 of the NPPF provides that local planning authorities may give weight to relevant policies in emerging plans according to:

- the stage of preparation of the emerging plan (the more advanced its preparation, the greater the weight that may be given);
- the extent to which there are unresolved objections to relevant plan policies (the less significant the unresolved objections, the greater the weight that may be given); and
- the degree of consistency of the relevant policies in the emerging plan to the NPPF (the closer the policies in the emerging plan are to the policies of the NPPF, the greater the weight that may be given).

The Dorset Council Local Plan

11.2 The Dorset Council Local Plan Options Consultation took place between January and March 2021. Being at an early stage of preparation, the relevant policies in the Draft Dorset Council Local Plan should be accorded very limited weight in decision making.

Neighbourhood Plans

11.3 Weymouth Neighbourhood Plan - In preparation – limited weight applied to decision making. The draft plan (December 2024) includes the following policies of relevance:

- W01 – Shoreline Protection
- W03 – Wildlife Habitats and Areas
- W07 – Rights of Way, and Access to the Countryside
- W34 – Sustainable Development
- W44 – Design
- W45 – Heritage Assets
- W50 – Cycle Routes

National Planning Policy Framework

11.4 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.

11.5 Other relevant NPPF sections include:

- Chapter 14: Meeting the challenge of climate change, flooding and coastal change. Paragraph 181 states that planning applications should not increase flooding elsewhere and should be supported by site-specific flood-risk assessment. Paragraph 183 states that in coastal areas, decisions should take account of the UK Marine Policy Statement and marine plans. Integrated

Coastal Zone Management should be pursued across local authority and land/sea boundaries, to ensure effective alignment of the terrestrial and marine planning regimes.

- Chapter 16: Conserving and enhancing the historic environment. Paragraph 215 notes that where development will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal. Paragraph 216 requires that a balanced judgment is carried out in relation to any harm or loss of significance of a non-designated heritage assets.

Other material considerations

11.6 The Weymouth Town Centre Masterplan SPD provides a detailed planning strategy to guide development and investment in Weymouth Town Centre for 10 years from its adoption by Full Council on 4 June 2015. It includes site-specific policy, supporting the policy framework of the local plan and guidance for the consideration of planning applications in the town centre area. The SPD requires a full detailed assessment of the capacity of the peninsula site, to demonstrate that a viable scheme can be accommodated with a mix of uses including residential. Weymouth Town Centre Conservation Area Appraisal (2012)

Landscape Character Assessment

Dorset Council Interim Guidance and Position Statement Appendix B: Adopted Local Plan policies and objectives relating to climate change, renewable energy, and sustainable design and construction. December 2023.

LTN1/20: Cycle Infrastructure Design (2020)

South Devon and Dorset Shoreline Management Plan. June 2011.

12.0 Human rights

Article 6 - Right to a fair trial.

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

The first protocol of Article 1 Protection of property.

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

13.0 Public Sector Equalities Duty

13.1 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.

13.2 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.

13.3 Notably the proposals retain step free access around the site to support access by people with disabilities, mobility impairments or pushing buggies. Seating is proposed within the two publicly accessible open spaces within the site.

14.0 Benefits

What	Amount / value
Sea defences	Improved sea defences and reduced risks of flooding.
Construction	Short term construction jobs and associated supply chain benefits (unquantified).
Public realm, pedestrian and cycle routes	Around the perimeter of the site. Including the two areas of public realm with seating areas. Associated health benefits of supporting active travel.
Supporting regeneration of Weymouth Peninsula	By protecting against flood risk, thereby helping to support regeneration of the wider peninsula.

15.0 Environmental Implications

15.1 The proposal would lead to additional CO2 emissions from the construction of the proposed development.

15.2 The construction phase would include the release of CO2 emissions from workers vehicles during the construction process. CO2 emission would be produced as a result of the production and transportation of the building materials and during the construction process.

15.3 This has to be balanced against the benefits of providing much needed sea defences which would protect existing land, buildings and business from flooding and help to support the regeneration and redevelopment of the peninsula in the future.

15.4 As an allocated brownfield site within the Defined Development Boundary of Weymouth, the proposed redevelopment is inherently sustainable in that it would support future redevelopment in a highly sustainable location within walking distance of the centre of Weymouth.

16.0 Planning Assessment

16.1 The following assessment considers the proposed works above the mean-low water mark. These works fall within the scope of the planning application. They comprise parts of Wall G next to the beach, parts of the pedestrian/cycle route and the two public open spaces.

16.2 The works below the mean-low water mark fall entirely within the jurisdiction of the Marine Management Organisation (MMO) and are outside of the scope of this planning application and jurisdiction of Dorset Council as Local Planning Authority. The works include the majority of the replacement sea walls, below-sea piling and parts of the pedestrian/cycle route where land is proposed to be reclaimed from the sea.

Principle of development

16.3 The site falls within the Defined Development Boundary of Weymouth and is allocated for mixed use development under Policy WEY6. Walls F and G are in urgent need of replacement.

16.4 The proposed works to replace the walls through new sheet piled walls are wholly acceptable in principle as necessary flood defence works. The works align with the policy to 'hold the line' set out within the South Devon and Dorset Shoreline Management Plan and the key objectives of the Weymouth Town Centre Masterplan (2015) to provide strategic flood defences and are compatible with the mixed use allocation of the site. The proposals also align with emerging Weymouth Neighbourhood Plan Policy W01.

16.5 Depending what future uses are proposed on the peninsula, further upgrades to sea defences may be required.

Design, landscaping and local character

16.6 The replacement walls would be created by a new line of sheet piles installed in front of the existing walls. The sheet piles are proposed to be capped with a reinforced concrete capping beam, as existing.

16.7 Between the beach steps and the approximate location of the Pleasure Pier sign, the capping beam to the new Wall G would be topped with railings. This reflects the current design of the sea defences and would maintain uninterrupted views of the coastline for the first section of the sea defences next to the Pavillion Theatre.

16.8 Beyond the Pleasure Pier sign, the height of the capping beam would increase to 4.10mAoD. Relative to ground level, the height of the wall would vary between approximately 1.20m to 1.75m. This represents an increase from existing (approximately 0.95m to 1.05m) and would restrict visibility over sections of the walls from the adjacent pedestrian/cycle route. To address this, the applicant has proposed a viewing and picnic area in the north of the site. The raised ground levels would offer panoramic views over the walls, alongside new seating and picnic areas.

16.9 The existing open space adjacent to The Pavillion is also proposed to be remodelled with a new planter separating it from the adjacent access road. New planting would also be provided between the remodelled open space and

viewing/picnic area. The pedestrian/cycle route around the perimeter of the walls would vary between approximately 3-4m width.

16.10 The Council's Landscape Officer suggests that the proposals should include tree planting for amenity reasons. Whilst this would be beneficial, given the site currently has very limited landscaping and the proposals do not form part of comprehensive redevelopment proposals, the provision of new tree planting cannot be mandated. Should mixed-use redevelopment of the site come forward as allocated via Policy WEY6, the proposals would be expected to provide sufficient new soft landscaping appropriate for a mixed-use scheme. This may include tree-lined streets, as sought by the NPPF (Para. 136) and tree planting to ensure an attractive public realm and successful integration with the character of the surrounding area (as sought by Policies ENV10 and WEY1).

16.11 The design and landscaping are acceptable subject to conditions in respect of detailed landscaping proposals, landscape maintenance and management, and implementation. Proposed ground levels and wall heights at various sections are detailed on the proposed drawings which would also be secured via planning condition. Subject to these conditions, the proposals would enhance local landscape character and comply with relevant design and landscaping policies (local plan Policies ENV1, ENV10 and ENV11 and emerging Weymouth Neighbourhood Plan Policy W44). Through the creation of new public open space with boundary planting, an attractive public realm would be created in accordance with Policy WEY1.

Heritage

16.12 As identified in the constraints section of this report, a small portion of the southwest corner of the site falls within the Weymouth Town Centre Conservation Area and the site falls within the setting of the Devonshire Buildings (Grade II* listed). The existing railings which span The Esplanade and the Pleasure Pier sign are also considered to be non-designated heritage assets.

16.13 Further afield, the Dorset and East Devon Coast, World Heritage Coast (World Heritage Site, WHS) is located 160m to south of site and the Nothe Fort (Schedule Monument and Grade II* listed) is approximately 175m to southeast of site.

16.14 The relevant aspects of the significance of these assets are summarised as follows:

Summary of significance

Devonshire Buildings

16.15 The Devonshire Buildings are a Grade II* listed terrace fronting The Esplanade. It is located immediately south of the site opposite the steps to Weymouth beach adjacent to the Pulteney Buildings (Grade II and Grade II* listed).

16.16 Built in early 1800s, the Georgian terrace forms an unspoilt group with a rhythm of segmental bow windows, recessed doorways, dormers and wooden fences or iron railings together with a rounded termination at the eastern end. It acts as an entrance feature for the nearby Pleasure Pier and provided bed and breakfast accommodation to summer visitors during the Victorian era of mass seaside tourism.

It was around this building that American servicemen queued, awaiting their turn to embark D-Day vessels bound for France. The inscriptions of servicemen on the wall using bayonets are preserved beneath a perspex sheet.

16.17 The significance of the building lies in its aesthetic and historical significance. The building also holds group value with the adjacent Pulteney Buildings Nos. 13-15 (Grade II listed) and Nos. 7-12 (Grade II* listed) and the location opposite the beach makes a positive contribution to its setting.

Weymouth Town Centre Conservation Area

16.18 The significance of the Weymouth Town Centre Conservation Area lies in its spatial relationship with the coast, which forms a distinctive and dramatic boundary. The Esplanade stretches over a kilometre along the curve of Weymouth Bay. The building layouts and architectural styles along The Esplanade are remarkably consistent, reflecting the survival of much of the 18th to early 19th century infrastructure.

Railings and Pleasure Pier sign

16.19 The blue and white railings to the beach – within the site and along The Esplanade – and Pleasure Pier sign make a positive contribution to the conservation area and are considered non-designated heritage assets.

Nothe Fort Complex

16.20 Nothe Fort Complex is Grade II* listed and a registered Scheduled Ancient Monument. It is located approximately 175m southeast of the site across Weymouth Harbour. Its significance relates to:

- Its topographical position on a prominent and defensible headland, reflecting its suitability as a location for a gun fort (since at least the Tudor period);
- the intentional sweeping views in a wide arc from north to south east indicating its effective angle of fire to protect both Weymouth and Portland harbours;
- associated long views towards the monument/asset from these directions, all of which permit an understanding and appreciation of its historic purpose and use; and
- its spatial and functional relationship with the other coastal defences, such as the breakwater forts and Castles, all of which form a group with a shared intention of protecting the approaches to the harbour and naval base over several centuries.

Dorset and East Devon Coast, World Heritage Coast

16.21 The Dorset and East Devon Coast World Heritage Site (WHS), otherwise known as the Jurassic Coast, starts 160m to the south east of the site. It was inscribed in 2001 for its internationally significant geology, palaeontology and geomorphology.

Impacts on significance

16.22 The proposals would have a direct impact on the railings between the beach steps and Pleasure Pier sign, and on the Pleasure Pier sign itself. They also have potential to impact on the setting of the above designated heritage assets.

16.23 The applicant has submitted a Heritage Statement and planning statement addendum which considers impacts on heritage assets. Impacts on the significance of these heritage assets is assessed by officers as follows:

Devonshire Buildings

16.24 The original proposals included a wall of approximately 1.4m in height adjacent to the buildings. This would have harmed the setting of the buildings and its relationship with the beach. The design has been amended to reduce the height of the wall. The revised proposals would not harm the significance of the Devonshire Buildings.

Weymouth Town Centre Conservation Area

16.25 Owing to the loss of the railings, which make a contribution to the conservation area, the proposals would result in less than substantial harm to the setting of the conservation area.

Railings and Pleasure Pier sign

16.26 The submitted Heritage Statement advises that the existing railings are in a poor condition and are unsuitable for retention. The proposal to remove the railings would harm the significance of the railings due to removal and replacement with more modern railings. This would cause less than substantial harm to the asset. The scale of harm is considered to be at the lower end of the less than substantial harm spectrum given the assets extend along the beachfront with the section within the site forming a relatively small component of the wider asset.

16.27 The Pleasure Pier sign is proposed to be removed, safely stored for the duration of the piling and capping beam construction works and reinstated in its current position as part of the landscaping works. Subject to securing this via planning condition, the proposals would not harm the significance of the Pleasure Pier sign.

Nothe Fort Complex

16.28 Owing to the distance from the North Fort Complex and limited additional height of the replacement walls, the proposals would not harm the significance of the Nothe.

Dorset and East Devon Coast, World Heritage Coast

16.29 The NPPF defines the WHS as a designed heritage asset and affords it the highest significance (Para. 202). The Jurassic Coast Partnership Plan 2020-2025 defines the setting of the WHS in terms of its experiential setting and its functional setting. In summary, the experiential setting is regarded as the surrounding landscape and seascape and concerns the quality of the cultural and sensory experience surrounding the exposed coasts and beaches. In order to maintain Outstanding Universal Value (OUV) of the WHS, the cliffs need to be allowed to function and erode into a natural setting. The proposals would not affect the setting of the WHS or its Outstanding Universal Value.

Heritage Balance

16.30 As less than substantial harm has been identified, the NPPF requires that the harm is weighed against the public benefits of the proposal (Para. 213).

16.31 Public benefits are defined in the PPG (Para. 020 Reference ID: 18a-020-20190723) as anything that delivers economic, social or environmental objectives as described in the NPPF (Para. 8). Public benefits should flow from the proposed development and be of a nature or scale to be of benefit to the public at large and not just be a private benefit. However, benefits do not always have to be visible or accessible to the public in order to be genuine public benefits.

16.32 The following public benefits are attributed to the proposed development:

1. Short term construction jobs
2. Improved flood protection
3. Creation of open space and public realm
4. Promotion of walking and cycling across the site and associated health benefits
5. Supporting regeneration of Weymouth Peninsula

16.33 The NPPF (Para. 212) requires that when considering the impact of a proposed development on the significance of a designated heritage asset, *“great weight should be given to the asset’s conservation (and the more important the asset, the greater the weight should be)...”*. In this instance less than substantial harm has been identified in relation to the significance of the Weymouth Town Centre Conservation Area and railings (non-designated heritage assets).

16.34 Applying this weight to the harm it is concluded that the identified less than substantial harm to the Weymouth Town Centre Conservation Area is outweighed by the above public benefits (NPPF Para. 215).

16.35 In respect of the railings (a non-designated heritage asset), the NPPF (Para. 216) states in weighing applications that affect non-designated heritage assets, a balanced judgement will be required having regard to the scale of any harm or loss and the significance of the heritage assets. In this instance, the loss of the railings is considered to be outweighed by the benefits of the development. Nevertheless, the applicant is encouraged to consider how the railings may be incorporated within the proposed landscaping scheme.

16.36 Subject to securing the reinstatement of the Pleasure Pier sign and a Level 1 recording of the railings and sign, the concerns of the Council’s Conservation Officer have been addressed and no objections are raised by Historic England or the Jurassic Coast Trust. The proposals accord with Policy ENV4 of the local plan, emerging Weymouth Neighbourhood Plan Policies W44 and W45, and the NPPF.

Amenity

16.37 The closest residential properties are located along The Esplanade. The Council’s Environmental Health Officer has reviewed the proposals and the submitted Technical Memorandum on noise and vibration (dated 7 August 2024) and

raises no amenity objections subject to a dust and particulate matter management plan condition. Subject to this condition, the proposal would be acceptable from a residential amenity perspective in accordance with Policy ENV16 of the local plan.

16.38 The site includes important public amenity space from which the unique coastline and townscape of Weymouth can be appreciated. It includes benches within the amenity space north of The Pavillion and benches offering sea views to the northeast of the site adjacent to Wall F. Whilst the height of the wall would be increased, the remodelled and new open spaces would provide appropriate public amenity space.

16.39 Public Health Dorset request that the proposals incorporate shading and shelter and appropriate lighting. Shading and shelter is not considered necessary from an amenity perspective. Lighting is not considered necessary given the coastal location of the site and presence of lighting within the car park. However, the appropriate design of any external lighting can be secured via planning condition.

Highways, access, parking and highway safety

16.40 Access arrangements would generally be retained as existing. The existing footpath/cycle route would be widened through the incorporation of reclaimed land to create a wider route for pedestrians and cyclists. The Highways Authority note the route should be constructed to comply with Cycle Infrastructure Design Guidance: LTN1/20 with consideration given to the segregation of pedestrian and cyclists, through for example contrasting surface finishes or segregation features. The details of the route are proposed to be secured via planning condition.

16.41 Vehicle access would be maintained as existing, with minor modifications to the white lining within the car park due to the provision of boundary planting along part of the pedestrian/cycle route and the new public open space. There would be a slight reduction in parking spaces within the application site:

Table 16.1 – Vehicle parking changes

Type of space	Existing	Proposed	Change
Standard	17	8	-9
Accessible	4	8	+4
Motorhome	2	0	-2
Total	23	16	-7

16.42 The proposed change in vehicle parking is considered to be acceptable and would not materially affect town centre parking provision.

16.43 During the construction works, the footpath and part of the public car park would be closed to facilitate construction. Some adjacent land outside of the application site boundary would also be used to facilitate construction under permitted development rights. Vehicle access routes in and out of the car park would remain as existing for the duration of the works and managed through temporary traffic management works. A Construction Traffic Management Plan (CTMP) is proposed to be secured via planning condition to manage the construction traffic impacts of the development.

16.44 The Highways Authority has no objection subject to conditions related to details of footway works, CTMP, parking for site operatives and visitors and external lighting. Subject to these conditions, the development would not give rise to highway safety concerns or lead to severe highways impacts. The proposals accord with Policy COM7 of the local plan and emerging Weymouth Neighbourhood Plan Policies W07 and W50.

Ecology and biodiversity

Biodiversity Net Gains

16.45 The site is predominantly hard standing. Within the existing public open space adjacent to The Pavillion are various planters which offer very limited ecological value. Nevertheless, as more than 25sq.m of planters are proposed to be removed the proposals do not benefit from the de minimis exemption and are required to deliver 10% biodiversity net gains (BNG).

16.46 A BNG Statement and metric has been submitted by the applicant. It identifies a net loss of -18.78% habitat units. The submitted metric concludes that the loss is wholly accounted for by the reduction in intertidal hard structures, whereas the report attributes this to a reduction in intertidal hard structures and introduced shrub. The applicant proposes that credits are secured to meet 10% BNG. Given the need to provide flood defences, and inability to avoid construction within the intertidal zone, avoidance or off-site provision is not considered feasible. Accordingly, compensation through the purchase of sufficient offsite units/credits is therefore considered reasonable in this instance and complies with the mitigation hierarchy.

16.47 The provision of intertidal green and grey infrastructure is considered significant. Therefore, a Habitat Management and Monitoring Plan (HMMP) is required for this feature at the pre-commencement stage and ongoing monitoring and management will be secured within a Section 106 agreement. Proof of purchase of sufficient offsite units/credits will be required at the pre-commencement stage to meet the BNG obligation. Subject to the standard BNG condition and post-determination Section 106, the proposal is acceptable in respect of BNG.

Radipole Lake SSSI

16.48 Radipole Lake is located approximately 600m to the northwest of the site. It is notified for its aggregations and assemblages of breeding and non-breeding birds and its rare bird species. Given the distance from the SSSI, the proposal is not considered to harm the SSSI. An appropriately worded condition is proposed in respect of dust and particulate matter. Given the distance to Radipole Lake SSSI, the proposals would not adversely affect the SSSI though construction impacts.

Marine ecology

16.49 Natural England and NET note the potential for impacts on sea grass and seahorse through construction works below the mean-low water mark. Such works fall within the scope of the parallel marine licencing application and are outside of the scope of this planning application. Nevertheless, it is necessary for the Local Planning Authority to be satisfied that the marine works include appropriate measures to avoid adverse impacts on protected species.

16.50 Officers met with the MMO and the applicant to discuss the strategy for mitigating impacts on marine ecology. The proposed Options Study Note demonstrates that the proposed construction of new flood defences in front of the existing flood defences is the only practical solution if the sea defences are to be upgraded. Accordingly, some direct impacts from the development are inevitable and cannot be avoided.

16.51 At the time of writing, further details on the proposed mitigation and compensation strategy are expected to be submitted to the MMO for review under the marine licencing application. It is expected that the impacts on marine ecology are capable of mitigation and/or compensation and would not affect the design of the proposed development. The mitigation and/or compensation would be secured by condition on the marine licence.

16.52 To ensure impacts on marine ecology are satisfactory managed, the recommendation is subject to an acceptable solution being agreed and confirmed by the MMO prior to planning permission being granted.

Habitat Regulations Assessment

16.53 The proposals are not considered to lead to an appreciable impact upon a European Site, as there is no viable pathway which would link the environmental changes resulting from the development to an effect upon a European Site, taking into consideration the characteristics of the proposed development, the threats and pressures of the European Sites in the surrounding areas, and the distance between the European Sites and the development area.

16.54 It is therefore concluded that there would be no likely significant effect upon a European Site resulting from the proposed works at the HRA screening stage, and an Appropriate Assessment is not required. This position is supported by Natural England's consultation response dated 1 November 2024.

16.55 Overall, subject to further confirmations on BNG and marine ecology, the proposal is acceptable in respect of ecology and biodiversity in accordance with local plan Policy ENV2 and emerging Weymouth Neighbourhood Plan Policy W03.

Flood risk and drainage

16.56 The site falls within Flood Zone 3 and existing surface water drainage discharges into Weymouth Bay at various points along Walls F and G.

16.57 The proposed replacement walls are designed to protect the site and surrounding area from projected sea level rises and 1 in 200-year flood risk events of +3.8m with an additional freeboard of 300mm up to 2060. The walls are designed to have a 75-year design life.

16.58 The application is supported by a Flood Risk Assessment (FRA). The FRA informs the proposed height of the replacement walls and confirms that the proposals are designed to accommodate surface water drainage. With the proposed measures in place, the proposal would not create any adverse impacts on flood risk elsewhere and would be acceptable from a flood risk perspective in accordance with

Policy ENV5 of the local plan. The Environment Agency and Lead Local Flood Authority have no objection and do not recommend any conditions in respect of flood risk or surface water drainage.

Ground conditions

16.59 Owing to the site comprising reclaimed land, and known contamination near to the site, an unexpected contamination condition is proposed. Subject to this condition, the proposals accord with Policy ENV8 of the local plan.

Environmental Impact Assessment

16.60 Following consideration of the relevant selection criteria for screening Schedule 2 development presented in Schedule 3 of the EIA regulations, it is concluded that the proposed development is unlikely to result in significant environmental impacts. Therefore, an Environmental Statement is not required in this instance.

17.0 Conclusion

17.1 The existing flood defences of Walls F and G are in urgent need of repair. The proposed development is essential to deliver strategic flood defences and would deliver improved pedestrian/cycle routes and open spaces. The development would have an acceptable impact subject to conditions and is considered to accord with the development plan. There are no material considerations indicating that planning permission should be refused.

18.0 Recommendation

18.1 Delegate authority to the Head of Planning and Service Manager for Development Management and Enforcement to grant planning permission subject to:

1. receiving written confirmation from the Marine Management Organisation that the parallel marine licencing application secures appropriate mitigation and compensation for marine ecology; and
2. the following planning 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:

DR-PL-0001 P02 Application site boundary

DR-PL-0002 P03 Site location plan

DR-PL-0004 P03 New site structures, general arrangement

DR-PL-0005 P02 Landscape design layout plan and site sections

DR-PL-0006 P01 Capping Beam Elevations Wall G Cantilevered
 DR-PL-0008 P01 Landscape Design Strategy Plan
 DR-MP-0102 P05 Demolition plan
 DR-MP-0200 P03 Wall F Anchored-Sheet pile general arrangement 1 of 2
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 DR-MP-0202 P03 Wall G Anchored-Sheet pile general arrangement 1 of 2
 DR-MP-0203 P03 Wall G Anchored-Sheet pile general arrangement 2 of 2
 DR-MP-0204 P03 Wall G Cantilevered- Sheet pile general arrangement 1 of 2
 DR-MP-0205 P03 Wall G Cantilevered- Sheet pile general arrangement 2 of 2
 DR-MP-0210 P02 Wall F Anchored-Sheet pile elevation
 DR-MP-0211 P04 Wall G Anchored-Sheet pile elevation
 DR-MP-0220 P02 Sheet Pile Typical Section Walls F & G Anchored
 DR-MP-0221 P03 Wall G Cantilevered-Sheet pile sections
 DR-MP-0222 P06 Sheet Pile Typical Section Wall F Pile Ring
 Reason: For the avoidance of doubt and in the interests of proper planning.

3. Before the development hereby approved commences a Construction Traffic Management Plan (CTMP) must be submitted to and approved in writing by the Planning Authority. The CTMP must include:
 - a) Construction vehicle details (numbers, sizes, type, and frequency of movement per day).
 - b) A programme of construction works for anticipated deliveries by HGV and barge.
 - c) A framework for managing abnormal loads.
 - d) Timing of deliveries to avoid, where possible, network peak hours 08:00-09:00, 17:00-18:00, as well as interpeak for the tourist season.
 - e) A Banks person / Marshall will be required and positioned at the zebra crossing near the junction leading to the site / compound ensuring all vehicles and deliveries drive at a slow speed due to pedestrian movement in and around that area.
 - f) Public to be safely segregated from works.
 - g) Wheel and Vehicle cleaning facilities.
 - h) A scheme of appropriate signing of vehicle route to the site from the surrounding highway network i.e. the A35.
 - i) Swept path analysis detailing the ingress, internal layout circulation routes and egress of the largest vehicle.
 - j) Temporary traffic management measures where necessary
 - k) Potential for any staff/contractors/operatives to use local sustainable transport or car share/minibus pick up and drop offs.

The development must be carried out strictly in accordance with the approved Construction Traffic Management Plan.

Reason: To minimise the likely impact of construction traffic on the surrounding highway network and prevent the possible deposit of loose material on the adjoining highway.

4. Before the development hereby approved commences a scheme for the parking for site operatives and visitors within the application site area must be submitted to and approved in writing by the Planning Authority. The approved scheme shall be provided and adhered to throughout the construction period of the development.

Reason: To minimise the likelihood of indiscriminate parking on the surrounding highway network.

5. Any lighting and/or floodlighting during construction must be located and screened in such a manner that no illumination is directed towards the adjoining highway. Details of any proposed external lighting shall first be submitted to and approved in writing by the Local Planning Authority. Thereafter, external lighting shall be installed as approved.

Reason: To ensure that drivers aren't dazzled or distracted by the light.

6. Before the development hereby approved is utilised the following works must have been constructed to the specification of the Planning Authority:

- i. Footway works as per landscape design layout plan and site sections A1 to C drawing PL-0005 P02.

Reason: These specified works are seen as a pre-requisite for allowing the development to proceed, providing the necessary highway infrastructure improvements to mitigate the likely impact of the proposal.

7. Prior to the commencement of any works of demolition or construction, a dust and airborne particle management plan, characterising possible sources of dust and airborne particulate matter (including sand) which may be created by any aspect of the operation, and identifying any mitigation measures which may be necessary to reduce dust and airborne particles as much as practicable must be submitted to and approved in writing by the Local Planning Authority. Thereafter the development shall proceed in accordance with the approved management plan for the duration of the construction.

Reason: In the interests of residential amenity and to protect members of the public from dust/airborne particulate matter during construction.

8. Prior to commencement of above ground construction works, details of both hard and soft landscape works shall have been submitted to and approved in writing by the Local Planning Authority. These details shall include:

- a) A statement setting out the design objectives and how these will be delivered;
- b) Earthworks showing existing and proposed levels and contours;
- c) Means of enclosure and retaining structures;
- d) Boundary treatments;
- e) Vehicle parking layouts;
- f) Other vehicle and pedestrian access and circulation areas;
- g) Hard surfacing materials and construction details;
- h) The location and construction details of furniture, refuse units, features and signs;
- i) The location of proposed and existing functional services above and below ground;
- j) Retention of Pleasure Pier sign;
- k) The location and construction details of any lighting/floodlighting;
- l) A specification for any proposed seeding/turfing, tree, and shrub planting including their quantity, size species and position, how they will be planted, protected and maintained, and the proposed time of planting;
- m) A programme of implementation including phasing where relevant.

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

Reason: To ensure the adequate mitigation of the landscape and visual impact of the proposals and the provision of an appropriate hard and soft landscape scheme which retains non designated heritage assets.

9. Prior to commencement of above ground construction works, a landscape management plan, including long term design objectives, management responsibilities and maintenance schedules for all hard and soft landscape areas, shall have been submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved management plan.

Reason: To ensure that the management and maintenance of the proposed hard and soft landscape scheme has been agreed.

10. The landscape works shall be carried out in accordance with the approved hard and soft landscape scheme and the implementation programme before any part of the development is brought into use.

Reason: To ensure that the agreed hard and soft landscape scheme is implemented as approved.

11. The completed landscaping scheme shall be managed and maintained in accordance with the approved management plan. Any seeded/turfed areas, trees or other plants indicated in the approved scheme which, within a period of five years from the date of the development being completed, die, are removed or become seriously damaged or diseased shall be replaced during the next

planting season with seed/turf, trees or plants of a species and size to be first approved in writing by the Local Planning Authority. Hard landscape features will be maintained for the lifetime of the development.

Reason: To ensure that the agreed hard and soft landscaping scheme is maintained.

12. In the event that contamination is found at any time when carrying out the approved development, it must be reported in writing immediately to the Local Planning Authority and an investigation and risk assessment must be undertaken in accordance with requirements of BS10175 (as amended). Should any contamination be found requiring remediation, a remediation scheme, including a time scale, shall be submitted to and approved in writing by the Local Planning Authority. Remediation shall be carried out in accordance with the approved scheme and on completion of the approved remediation scheme a verification report shall be prepared and submitted within two weeks of completion and submitted to the Local Planning Authority.

Reason: To ensure risks from contamination are minimised.

13. Prior to the removal of the existing railings and Pleasure Pier Sign, a Level 1 Historic Building Record shall be submitted to and approved in writing by the Local Planning Authority.

Reason: To record matters of architectural/historical importance associated with the non-designated heritage assets within the site prior to removal.

Informatives

1. Informative: National Planning Policy Framework Statement

In accordance with paragraph 39 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 applicants/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.
- The applicant was provided with pre-application advice.
- The application was acceptable as submitted and no further assistance was required.

2. Informative: Rights of Way

The safe free passage of the public on all rights of way must not be obstructed at any time. If the public are unlikely to be able to exercise their public rights on a right of way, then a Temporary Path Closure Order must be obtained. This can be applied for through Rights of Way at Dorset Council see <https://www.dorsetcouncil.gov.uk/w/changing-the-definitive-map>, but the application must be completed and returned at least thirteen weeks before the intended closure date. It should be noted that there is a fee applicable to this application. This application and legal order must be confirmed before any works obstructing the path are commenced.

Any damage to the surface of the footpath attributable to the development must be repaired to Dorset Council's specification, in accordance with Section 59 of the Highways Act 1980 by the applicant.

3. Informative: Biodiversity Net Gain

The effect of paragraph 13 of Schedule 7A to the Town and Country Planning Act 1990 is that planning permission granted for the development of land in England is deemed to have been granted subject to the condition "(the biodiversity gain condition)" that development may not begin unless:

- (a) a Biodiversity Gain Plan has been submitted to the planning authority, and
- (b) the planning authority has approved the plan.

The planning authority, for the purposes of determining whether to approve a Biodiversity Gain Plan if one is required in respect of this permission would be Dorset Council.

There are statutory exemptions and transitional arrangements which mean that the biodiversity gain condition does not always apply. These are listed below.

Based on the information available this permission is considered to be one which will require the approval of a biodiversity gain plan before development is begun because none of the statutory exemptions or transitional arrangements listed below are considered to apply.

Read more about Biodiversity Net Gain at
<https://www.dorsetcouncil.gov.uk/w/biodiversity-net-gain>

4. Informative: Statutory Exemptions and Transitional Arrangements in respect of the Biodiversity Gain Plan

1. The application for planning permission was made before 12 February 2024.
2. The planning permission relates to development to which section 73A of the Town and Country Planning Act 1990 (planning permission for development already carried out) applies.
3. The planning permission was granted on an application made under section 73 of the Town and Country Planning Act 1990 and
 - (i) the original planning permission to which the section 73 planning permission relates* was granted before 12 February 2024; or

(ii) the application for the original planning permission* to which the section 73 planning permission relates was made before 12 February 2024.

4. Development which is not 'major development' (within the meaning of article 2(1) of the Town and Country Planning (Development Management Procedure) (England) Order 2015) where:

- i) the application for planning permission was made before 2 April 2024;
- ii) planning permission is granted which has effect before 2 April 2024; or
- iii) planning permission is granted on an application made under section 73 of the Town and Country Planning Act 1990 where the original permission to which the section 73 permission relates* was exempt by virtue of (i) or (ii).

5. Development below the de minimis threshold, meaning development which:

i) does not impact an onsite priority habitat (a habitat specified in a list published under section 41 of the Natural Environment and Rural Communities Act 2006); and

ii) impacts less than 25 square metres of onsite habitat that has biodiversity value greater than zero and less than 5 metres in length of onsite linear habitat (as defined in the statutory metric).

6. Development which is subject of a householder application within the meaning of article 2(1) of the Town and Country Planning (Development Management Procedure) (England) Order 2015. A "householder application" means an application for planning permission for development for an existing dwellinghouse, or development within the curtilage of such a dwellinghouse for any purpose incidental to the enjoyment of the dwellinghouse which is not an application for change of use or an application to change the number of dwellings in a building.

7. Development of a biodiversity gain site, meaning development which is undertaken solely or mainly for the purpose of fulfilling, in whole or in part, the Biodiversity Gain Planning condition which applies in relation to another development, (no account is to be taken of any facility for the public to access or to use the site for educational or recreational purposes, if that access or use is permitted without the payment of a fee).

8. Self and Custom Build Development, meaning development which:

- i) consists of no more than 9 dwellings;
- ii) is carried out on a site which has an area no larger than 0.5 hectares; and
- iii) consists exclusively of dwellings which are self-build or custom housebuilding (as defined in section 1(A1) of the Self-build and Custom Housebuilding Act 2015).

9. Development forming part of, or ancillary to, the high speed railway transport network (High Speed 2) comprising connections between all or any of the places or parts of the transport network specified in section 1(2) of the High Speed Rail (Preparation) Act 2013.

* "original planning permission means the permission to which the section 73 planning permission relates" means a planning permission which is the first in a

sequence of two or more planning permissions, where the second and any subsequent planning permissions are section 73 planning permissions.

5. Informative: Noise

The applicant is advised to carefully acquaint with and act on the advice in WSP Technical Memorandum on noise and vibration (reference 70094412-ACO, dated 7 August 2024). This will ensure the detailed scrutiny of noise and vibration management that this project necessitates. Utilising the services of a suitably qualified and competent noise and vibration consultant to take technical noise and vibration aspects forward is likely to be essential. Failure to follow the above advice may lead to unnecessary community impact from this project, and regulatory action by the council's Environmental Protection Team.

6. Informative: Highway Improvement(s)

The highway improvement(s) referred to in condition 6 must be carried out to the specification and satisfaction of the Highway Authority in consultation with the Local Planning Authority and it will be necessary to enter into an agreement, under Section 278 of the Highways Act 1980, with the Highway Authority, before any works commence on the site. The applicant should contact Dorset Council's Highways Development team. They can be reached by email at highwaysdevelopment@dorsetcouncil.gov.uk, or in writing at Highways Development team, Economic Growth and Infrastructure, Dorset Council, County Hall, Dorchester, DT1 1XJ.



Western and Southern Area Planning Committee

Date: Thursday, 23 January 2025
Time: 10.00 am
Venue: Council Chamber, County Hall, Dorchester, DT1 1XJ

Members (Quorum 6)

Dave Bolwell (Chair), Neil Eysenck (Vice-Chair), Belinda Bawden, Louise Bown, Simon Christopher, Paul Kimber, Craig Monks, David Northam, Louie O'Leary, Pete Roper, David Shortell and Kate Wheller

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

For more information about this agenda please contact Democratic Services
Meeting Contact 01305 224710

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
9. UPDATE SHEET	3 - 6

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Planning Committee – Update Sheet

Western and Southern Area Planning Committee 23 January 2025

Planning Applications

Application Ref.	Address	Agenda ref.	Page no.
P/FUL/2024/05538	Weymouth Harbour, Weymouth, DT4 8AJ	Item 5	11 - 42
<u>Corrections</u> Footpath widths - Paragraph 6.8 states that the width of footpath would be extended by approximately 1.3m around the perimeter of the site. In fact, the extension varies between approximately 0.80m to 1.4m as shown on the proposed Landscape Design Layout Plan and Site Sections drawing (ref: 70094412-WSP-XX-DR-PL-0005 Rev P02). Ward Members – Paras. 9.29 and 9.30 should have stated that the ward member is Cllr Orrell. Cllr Bell is the ward member for Radipole Ward.			
P/FUL/2024/02116	Tyre and Exhaust Centre, Westwey Road, Weymouth, DT4 8SU	Item 6	43 - 70
<u>Updated Flood Warning and Evacuation Plan</u> Following publication of the Committee Report, the applicant has submitted an updated Flood Warning and Evacuation Plan (FWEP) (dated 20 January 2025) to replace the version dated 20 November 2024 and received on 6 January 2025. The updated FWEP includes expanded text in relation to flood warnings and alerts. In summary, the FWEP notes: • The Environment Agency (EA) aims to provide a minimum of six hours lead time before the occurrence of tidal flooding events. • Flood alerts will be issued during waking hours (6am – 9pm) with 2-12 hours advanced notice to warn residents of possible flooding. The alerts will only in very exceptional circumstances be issued before 6am or after 9pm. • Flood warnings will be issued at any time of day or night. The EA aims to provide as much lead time as possible, at least six hours for any tidal or coastal locations. • The EA's warning system is specifically designed to provide adequate warning times for tidal flooding events. There would be a minimum two to six-hour lead time for residents at tidal locations, providing them with sufficient preparation time regardless of when flood alerts or warnings are issued. • Met Office weather alerts are also recommended to be monitored.			

Officers have reviewed the response and consider that it does not satisfactorily address the concerns set out in the Committee Report or recommended reason for refusal.

As noted at Para. 16.53 of the Committee Report, it cannot be guaranteed that residents would be able to evacuate in time. Furthermore, the Planning Practice Guidance¹ notes:

- Residual risk includes “a failure of flood forecasting or flood warning and the risks associated with people not receiving warnings or acting upon them.”
- “Vehicular access to allow the emergency services to safely reach the development during design flood conditions will also normally be required in addition to the requirements of the building regulations.”
- “Wherever possible, safe access routes should be provided that are located above design flood levels and which avoid flow paths. Where this is not possible, limited depths of flooding may be acceptable, provided that the proposed access is designed with appropriate signage etc. to make it safe.”
- “Any place of safety needs to be designed to facilitate rescue in case emergency care is needed or if it is unlikely to be safe for occupants/users to wait until flood waters have receded sufficiently for safe access/escape to be possible.”

The recommendation for refusal accords with Planning Practice Guidance and is consistent with appeal decision [APP/L5810/W/24/3343664](#) dated 3 January 2025, which was dismissed for similar reasons.

Committee Briefing Note

The applicant has circulated a Briefing Note to Members of the Planning Committee. It summarises the development proposals, scheme benefits and argues that the development is acceptable in respect of flood risk considerations.

For the reasons set out above and within the Committee Report, matters related to flood risk remain unacceptable.

In the interests of transparency, the note has been uploaded to the council’s online Planning Register.

Updated recommendation

In light of the updated FWEP, the recommendation is **updated** as follows:

“Delegate Authority to the Head of Planning and Service Manager for Development Management and Enforcement to refuse the application for the reason set out below, subject to no comments or no adverse comments, that include material planning considerations, being received from third parties by 29th January 2025 (due to notification to landowner in respect of extension of application area during the course of the application):

¹ Paragraph: 041 Reference ID: 7-041-20220825 <https://www.gov.uk/guidance/flood-risk-and-coastal-change>

1. Due to the sole vehicle and pedestrian access falling within Flood Zones 2 and 3 and being affected by significant flood depths in the 1 in 200-year flood event where flood defences are breached through tide and wave overtopping, safe access and escape routes, either on foot or by vehicle, would only be possible where residents take urgent action upon receipt of a flood warning from the Environment Agency. The submitted Flood Warning and Evacuation Plan **(dated 20 January 2025)** is not considered acceptable as the flood warning service cannot be solely relied on and safe access and escape routes not affected by severe flooding have not been identified. This places future residents at unacceptable risk should they require emergency assistance in the event of a flood. This conflicts with West Dorset, Weymouth and Portland Local Plan Policy ENV5 (part ii) and the NPPF Paragraph 181.”

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Application Number:	P/FUL/2024/05538
Webpage:	https://planning.dorsetcouncil.gov.uk/
Site address:	Weymouth Harbour, Weymouth, DT4 8AJ
Proposal:	Replacement and strengthening of harbour walls F and G through installation of new sheet pile walls in front of the existing walls, for the portion of the new wall where it is located above the mean low water mark, tie bar extension and ground works, works to the footpaths, creation of open space along with ancillary works.
Applicant name:	Dorset Council
Case Officer:	Matthew Pochin-Hawkes
Ward Member(s):	Cllr Orrell

1.0 Reason for Planning Committee Consideration

1.1 This application is being re-reported to planning committee due to proposed changes to planning conditions which were resolved at the 23 January 2025 Western and Southern Area Planning Committee.

2.0 Summary of Recommendation

2.1 Delegate authority to the Service Manager for Development Management and Enforcement and the Development Management Area Manager for the Southern and Western Team to grant planning permission subject to:

1. receiving written confirmation from the Marine Management Organisation that the parallel marine licencing application secures appropriate mitigation and compensation for marine ecology; and
2. the planning conditions at Section 7 of this report.

3.0 Background and assessment

3.1 At the 23 January 2025 Western and Southern Area Planning Committee Members resolved to grant planning permission for this application subject to planning conditions and receiving written confirmation from the Marine Management Organisation (MMO) that the parallel marine licencing application secures appropriate mitigation and compensation for marine ecology. The earlier Committee Report and Update Sheet is included at **Appendix 1**.

3.2 The January 2025 Committee Report noted at Paragraph 16.47 that a Habitat Management and Monitoring Plan (HMMP) would be required at the pre-commencement stage for Intertidal Green and Grey Infrastructure and that ongoing monitoring and management should be secured within a Section 106 Agreement.

3.3 Since the committee meeting, officers have explored securing the ongoing monitoring and management via a Section 106 Agreement (Unilateral Undertaking). However, as the applicant and Local Planning Authority is Dorset Council, colleagues in the Council's legal team advise that a Unilateral Undertaking is not an appropriate mechanism for securing ongoing monitoring and management.

3.4 This report outlines the proposed alternative mechanism for securing ongoing monitoring and management via planning conditions. The report sets out a revised recommendation with two new planning conditions.

3.5 Unless otherwise stated, all other matters set out in the 23 January 2025 Committee Report and Update Sheet relating to: the description of the site, proposed development, planning history, constraints, relevant policies, human rights, public sector equalities duty, benefits and environmental implications remain unchanged. The report and Update Sheet are provided at **Appendix 1** for ease of reference.

4.0 Consultations

4.1 No further consultation has been carried out and no additional comments have been received.

5.0 Material Planning Considerations

5.1 On 7 February 2025 MHCLG published an amended version of the NPPF. The amended version corrects cross-references from footnotes 7 and 8, and amends text at Paragraph 155 related to Green Belt development. The changes are not relevant to the determination of this planning application.

6.0 Planning assessment

Biodiversity Net Gain

6.1 The significant onsite habitat for which management and maintenance of over a 30 year period needs to be secured is limited to a grey/green wall feature. Management and maintenance would ordinarily be secured via a post-determination Section 106 Agreement and a Habitat Management and Monitoring Plan (HMMP), submitted pursuant to the standard BNG condition where significant on-site BNG is proposed.

6.2. However, as Dorset Council (as Local Planning Authority) cannot enter into a Section 106 Agreement with itself (as applicant), two additional planning conditions are proposed as an alternative mechanism to secure the significant onsite habitat. In summary, these conditions seek to secure:

- Condition 14 – Habitat Management and Monitoring Plan: HMMP to be agreed before commencement of the development. The HMMP shall include the detailed scope listed at Section 7 of this report, including: iv) management measures to maintain the habitat in accordance with the Biodiversity Gain Plan for a period of 30 years from the completion of the habitat and enhancement works as set out in the HMMP; and v) the monitoring methodology and frequency in respect of the created or enhanced habitat to be submitted to the Local Planning Authority.

- Condition 15 – Notice and completion report: Notice to be given to the Local Planning Authority within one month of the habitat creation and enhancement works as set out in the approved HMMP being completed and a completion report evidencing completion of the habitat enhancements to be provided.

6.3 The necessary monitoring fee for monitoring of the created habitat by the Local Planning Authority would be obtained by internal transfer from the relevant Dorset Council service to the Local Planning Authority. The monitoring figure would be calculated following agreement of the HMMP.

6.4 Subject to these additional conditions, the proposed development is considered acceptable and is recommended for approval.

7.0 Recommendation

7.1 Delegate authority to the Service Manager for Development Management and Enforcement and the Development Management Area Manager for the Southern and Western Team to grant planning permission subject to:

1. receiving written confirmation from the Marine Management Organisation that the parallel marine licencing application secures appropriate mitigation and compensation for marine ecology; and
2. the following planning conditions:

7.2 For ease of reference, the recommended changes to the planning conditions resolved at the 23 January 2025 Western and Southern Area Planning Committee are shown in **bold and underlined**.

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:

DR-PL-0001 P02 Application site boundary

DR-PL-0002 P03 Site location plan

DR-PL-0004 P03 New site structures, general arrangement

DR-PL-0005 P02 Landscape design layout plan and site sections

DR-PL-0006 P01 Capping Beam Elevations Wall G Cantilevered

DR-PL-0008 P01 Landscape Design Strategy Plan

DR-MP-0102 P05 Demolition plan

DR-MP-0200 P03 Wall F Anchored-Sheet pile general arrangement 1 of 2

DR-MP-0201 P03 Wall F Anchored-Sheet pile general arrangement 2 of 2

DR-MP-0202 P03 Wall G Anchored-Sheet pile general arrangement 1 of 2

DR-MP-0203 P03 Wall G Anchored-Sheet pile general arrangement 2 of 2

DR-MP-0204 P03 Wall G Cantilevered- Sheet pile general arrangement 1 of 2

DR-MP-0205 P03 Wall G Cantilevered- Sheet pile general arrangement 2 of 2

DR-MP-0210 P02 Wall F Anchored-Sheet pile elevation

DR-MP-0211 P04 Wall G Anchored-Sheet pile elevation

DR-MP-0220 P02 Sheet Pile Typical Section Walls F & G Anchored

DR-MP-0221 P03 Wall G Cantilevered-Sheet pile sections

DR-MP-0222 P06 Sheet Pile Typical Section Wall F Pile Ring

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

3. Before the development hereby approved commences a Construction Traffic Management Plan (CTMP) must be submitted to and approved in writing by the Planning Authority. The CTMP must include:

- a) Construction vehicle details (numbers, sizes, type, and frequency of movement per day).
- b) A programme of construction works for anticipated deliveries by HGV and barge.
- c) A framework for managing abnormal loads.
- d) Timing of deliveries to avoid, where possible, network peak hours 08:00-09:00, 17:00-18:00, as well as interpeak for the tourist season.
- e) A Banks person / Marshall will be required and positioned at the zebra crossing near the junction leading to the site / compound ensuring all vehicles and deliveries drive at a slow speed due to pedestrian movement in and around that area.
- f) Public to be safely segregated from works.
- g) Wheel and Vehicle cleaning facilities.
- h) A scheme of appropriate signing of vehicle route to the site from the surrounding highway network i.e. the A35.
- i) Swept path analysis detailing the ingress, internal layout circulation routes and egress of the largest vehicle.
- j) Temporary traffic management measures where necessary

- k) Potential for any staff/contractors/operatives to use local sustainable transport or car share/minibus pick up and drop offs.

The development must be carried out strictly in accordance with the approved Construction Traffic Management Plan.

Reason: To minimise the likely impact of construction traffic on the surrounding highway network and prevent the possible deposit of loose material on the adjoining highway.

- 4. Before the development hereby approved commences a scheme for the parking for site operatives and visitors within the application site area must be submitted to and approved in writing by the Planning Authority. The approved scheme shall be provided and adhered to throughout the construction period of the development.

Reason: To minimise the likelihood of indiscriminate parking on the surrounding highway network.

- 5. Any lighting and/or floodlighting during construction must be located and screened in such a manner that no illumination is directed towards the adjoining highway. Details of any proposed external lighting shall first be submitted to and approved in writing by the Local Planning Authority. Thereafter, external lighting shall be installed as approved.

Reason: To ensure that drivers aren't dazzled or distracted by the light.

- 6. Before the development hereby approved is utilised the following works must have been constructed to the specification of the Planning Authority:

- i. Footway works as per landscape design layout plan and site sections A1 to C drawing PL-0005 P02.

Reason: These specified works are seen as a pre-requisite for allowing the development to proceed, providing the necessary highway infrastructure improvements to mitigate the likely impact of the proposal.

- 7. Prior to the commencement of any works of demolition or construction, a dust and airborne particle management plan, characterising possible sources of dust and airborne particulate matter (including sand) which may be created by any aspect of the operation, and identifying any mitigation measures which may be

necessary to reduce dust and airborne particles as much as practicable must be submitted to and approved in writing by the Local Planning Authority. Thereafter the development shall proceed in accordance with the approved management plan for the duration of the construction.

Reason: In the interests of residential amenity and to protect members of the public from dust/airborne particulate matter during construction.

8. Prior to commencement of above ground construction works, details of both hard and soft landscape works shall have been submitted to and approved in writing by the Local Planning Authority. These details shall include:
- a) A statement setting out the design objectives and how these will be delivered;
 - b) Earthworks showing existing and proposed levels and contours;
 - c) Means of enclosure and retaining structures;
 - d) Boundary treatments;
 - e) Vehicle parking layouts;
 - f) Other vehicle and pedestrian access and circulation areas;
 - g) Hard surfacing materials and construction details;
 - h) The location and construction details of furniture, refuse units, features and signs;
 - i) The location of proposed and existing functional services above and below ground;
 - j) Retention of Pleasure Pier sign;
 - k) The location and construction details of any lighting/floodlighting;
 - l) A specification for any proposed seeding/turfing, tree, and shrub planting including their quantity, size species and position, how they will be planted, protected and maintained, and the proposed time of planting;
 - m) A programme of implementation including phasing where relevant.

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

Reason: To ensure the adequate mitigation of the landscape and visual impact of the proposals and the provision of an appropriate hard and soft landscape scheme which retains non designated heritage assets.

9. Prior to commencement of above ground construction works, a landscape management plan, including long term design objectives, management responsibilities and maintenance schedules for all hard and soft landscape areas, shall have been submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved management plan.

Reason: To ensure that the management and maintenance of the proposed hard and soft landscape scheme has been agreed.

10. The landscape works shall be carried out in accordance with the approved hard and soft landscape scheme and the implementation programme before any part of the development is brought into use.

Reason: To ensure that the agreed hard and soft landscape scheme is implemented as approved.

11. The completed landscaping scheme shall be managed and maintained in accordance with the approved management plan. Any seeded/turfed areas, trees or other plants indicated in the approved scheme which, within a period of five years from the date of the development being completed, die, are removed or become seriously damaged or diseased shall be replaced during the next planting season with seed/turf, trees or plants of a species and size to be first approved in writing by the Local Planning Authority. Hard landscape features will be maintained for the lifetime of the development.

Reason: To ensure that the agreed hard and soft landscaping scheme is maintained.

12. In the event that contamination is found at any time when carrying out the approved development, it must be reported in writing immediately to the Local Planning Authority and an investigation and risk assessment must be undertaken in accordance with requirements of BS10175 (as amended). Should any contamination be found requiring remediation, a remediation scheme, including a time scale, shall be submitted to and approved in writing by the Local Planning Authority. Remediation shall be carried out in accordance with the approved scheme and on completion of the approved remediation scheme a verification report shall be prepared and submitted within two weeks of completion and submitted to the Local Planning Authority.

Reason: To ensure risks from contamination are minimised.

13. Prior to the removal of the existing railings and Pleasure Pier Sign, a Level 1 Historic Building Record shall be submitted to and approved in writing by the Local Planning Authority.

Reason: To record matters of architectural/historical importance associated with the non-designated heritage assets within the site prior to removal.

- 14. The development shall not commence until a Habitat Management and Monitoring Plan (the HMMP) has been submitted to and approved in writing by the Local Planning Authority. The HMMP shall include:**
- i. A non-technical summary;**
 - ii. The roles and responsibilities of the people or organisation(s) delivering the HMMP;**
 - iii. The planned habitat creation and enhancement works to create or improve habitat to achieve the biodiversity net gain in accordance with the Biodiversity Gain Plan and a timetable for implementation;**
 - iv. The management measures to maintain habitat in accordance with the Biodiversity Gain Plan for a period of 30 years from the completion of the habitat and enhancement works as set out in the HMMP;**
 - v. The monitoring methodology and frequency in respect of the created or enhanced habitat to be submitted to the Local Planning Authority.**

Thereafter the development shall be carried out, along with the management and monitoring of habitat, in accordance with the approved HMMP.

Reason: In the interests of biodiversity to secure the monitoring and management of significant onsite habitats.

- 15. Notice in writing shall be given to the Local Planning Authority within one month of the completion of the habitat creation and enhancement works as set out in the approved HMMP. The notice shall include a Completion Report evidencing the completed habitat enhancements.**

Reason: In the interests of biodiversity to secure the monitoring and management of significant onsite habitats.

Informatives

1. Informative: National Planning Policy Framework Statement

In accordance with paragraph 39 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 applicants/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.
- The applicant was provided with pre-application advice.
- The application was acceptable as submitted and no further assistance was required.

2. Informative: Rights of Way

The safe free passage of the public on all rights of way must not be obstructed at any time. If the public are unlikely to be able to exercise their public rights on a right of way, then a Temporary Path Closure Order must be obtained. This can be applied for through Rights of Way at Dorset Council see <https://www.dorsetcouncil.gov.uk/w/changing-the-definitive-map>, but the application must be completed and returned at least thirteen weeks before the intended closure date. It should be noted that there is a fee applicable to this application. This application and legal order must be confirmed before any works obstructing the path are commenced.

Any damage to the surface of the footpath attributable to the development must be repaired to Dorset Council's specification, in accordance with Section 59 of the Highways Act 1980 by the applicant.

3. Informative: Biodiversity Net Gain

The effect of paragraph 13 of Schedule 7A to the Town and Country Planning Act 1990 is that planning permission granted for the development of land in England is deemed to have been granted subject to the condition "(the biodiversity gain condition)" that development may not begin unless:

- (a) a Biodiversity Gain Plan has been submitted to the planning authority, and
- (b) the planning authority has approved the plan.

The planning authority, for the purposes of determining whether to approve a Biodiversity Gain Plan if one is required in respect of this permission would be Dorset Council.

There are statutory exemptions and transitional arrangements which mean that the biodiversity gain condition does not always apply. These are listed below.

Based on the information available this permission is considered to be one which will require the approval of a biodiversity gain plan before development is begun because none of the statutory exemptions or transitional arrangements listed below are considered to apply.

Read more about Biodiversity Net Gain at

<https://www.dorsetcouncil.gov.uk/w/biodiversity-net-gain>

4. Informative: Statutory Exemptions and Transitional Arrangements in respect of the Biodiversity Gain Plan

1. The application for planning permission was made before 12 February 2024.

2. The planning permission relates to development to which section 73A of the Town and Country Planning Act 1990 (planning permission for development already carried out) applies.

3. The planning permission was granted on an application made under section 73 of the Town and Country Planning Act 1990 and

(i) the original planning permission to which the section 73 planning permission relates* was granted before 12 February 2024; or

(ii) the application for the original planning permission* to which the section 73 planning permission relates was made before 12 February 2024.

4. Development which is not 'major development' (within the meaning of article 2(1) of the Town and Country Planning (Development Management Procedure) (England) Order 2015) where:

i) the application for planning permission was made before 2 April 2024;

ii) planning permission is granted which has effect before 2 April 2024; or

iii) planning permission is granted on an application made under section 73 of the Town and Country Planning Act 1990 where the original permission to which the section 73 permission relates* was exempt by virtue of (i) or (ii).

5. Development below the de minimis threshold, meaning development which:

i) does not impact an onsite priority habitat (a habitat specified in a list published under section 41 of the Natural Environment and Rural Communities Act 2006); and

ii) impacts less than 25 square metres of onsite habitat that has biodiversity value greater than zero and less than 5 metres in length of onsite linear habitat (as defined in the statutory metric).

6. Development which is subject of a householder application within the meaning of article 2(1) of the Town and Country Planning (Development Management Procedure) (England) Order 2015. A "householder application" means an application for planning permission for development for an existing dwellinghouse, or development within the curtilage of such a dwellinghouse for any purpose incidental to the enjoyment of the dwellinghouse which is not an application for change of use or an application to change the number of dwellings in a building.

7. Development of a biodiversity gain site, meaning development which is undertaken solely or mainly for the purpose of fulfilling, in whole or in part, the Biodiversity Gain Planning condition which applies in relation to another development, (no account is to be taken of any facility for the public to access or to use the site for educational or recreational purposes, if that access or use is permitted without the payment of a fee).

8. Self and Custom Build Development, meaning development which:

i) consists of no more than 9 dwellings;

ii) is carried out on a site which has an area no larger than 0.5 hectares; and

iii) consists exclusively of dwellings which are self-build or custom housebuilding (as defined in section 1(A1) of the Self-build and Custom Housebuilding Act 2015).

9. Development forming part of, or ancillary to, the high speed railway transport network (High Speed 2) comprising connections between all or any of the places or parts of the transport network specified in section 1(2) of the High Speed Rail (Preparation) Act 2013.

* "original planning permission means the permission to which the section 73 planning permission relates" means a planning permission which is the first in a sequence of two or more planning permissions, where the second and any subsequent planning permissions are section 73 planning permissions.

5. Informative: Noise

The applicant is advised to carefully acquaint with and act on the advice in WSP Technical Memorandum on noise and vibration (reference 70094412-ACO, dated 7 August 2024). This will ensure the detailed scrutiny of noise and vibration management that this project necessitates. Utilising the services of a suitably qualified and competent noise and vibration consultant to take technical noise and vibration aspects forward is likely to be essential. Failure to follow the above advice may lead to unnecessary community impact from this project, and regulatory action by the council's Environmental Protection Team.

6. Informative: Highway Improvement(s)

The highway improvement(s) referred to in condition 6 must be carried out to the specification and satisfaction of the Highway Authority in consultation with the Local Planning Authority and it will be necessary to enter into an agreement, under Section 278 of the Highways Act 1980, with the Highway Authority, before any works commence on the site. The applicant should contact Dorset Council's Highways Development team. They can be reached by email at highwaysdevelopment@dorsetcouncil.gov.uk, or in writing at Highways Development team, Economic Growth and Infrastructure, Dorset Council, County Hall, Dorchester, DT1 1XJ.

Application number:	P/FUL/2024/02448
Webpage:	https://planning.dorsetcouncil.gov.uk/
Site address:	Brenda Dench House St Mary Street Weymouth DT4 8PU
Proposal:	Alterations and extensions to the existing building comprising: elevation changes at ground and first floor level; changes to light-wells; construction of new floor space at second and third floor level to create 10 no dwellings; increase the height of the existing roof pitch on the south elevation and insertion of new windows; installation of gates at both ends of the ground floor arcade; and installation of ancillary plant and equipment. Change of use of part of hairdresser floorspace at 39 St Mary Street to a retail unit, with the remaining floorspace to accommodate ancillary residential facilities
Applicant name:	Mr Storfer
Case officer:	Steve Tapscott
Ward members:	Cllr Orrell

1. Reason application is going to committee

- 1.1 In accordance with the Council's scheme of delegation, this application is brought to committee for determination because the officer recommendation to refuse is contrary to Weymouth Town Council's support for the application and the application is a "major" application.

2. Summary of recommendation

- 2.1 REFUSE, for the following reasons:

- The site is identified in the Weymouth Level 2 Strategic Flood Risk Assessment (SFRA2) as being at future risk of tidal flooding in 1 in 30-year (high risk) and 1 in 200-year (medium risk) events. It is also identified in the Environment Agency's National Flood Risk Assessment map as being at future risk. The SFRA2 maps indicate deep, and some fast-moving, water is anticipated around the application site with high hazard ratings. Many of the surrounding streets are also constrained, not just with tidal flood risk, but also the risk of fluvial and pluvial flooding. This would hinder safe egress by future occupants during a design flood event, as well as safe access/egress by the emergency services. Flood warnings cannot be fully relied on, and the applicant's identified escape route is some 0.6km long, which would cross land at risk of flooding and could lead to significant difficulty for those with limited mobility. The proposal therefore fails to demonstrate safe access and escape routes, in conflict with policies ENV5 and WEY1 of the West Dorset, Weymouth and Portland Local Plan (2015), paragraph 181 of the NPPF (2025 update) and ref. IDs 7-005-20220825, 7-044-20220825 and 7-047-20220825 of the Planning Practice Guidance.

2. The application site is located within the town centre conservation area. It has a dual frontage and it is highly prominent in the street scene, within the setting of several listed buildings, including the adjacent grade I listed St Mary's Church. A high-quality design is therefore required, but the poor materials and detailing fail to achieve this. The proposal is therefore in conflict with policies ENV4, ENV10, ENV12 and ENV15 of the of the West Dorset, Weymouth and Portland Local Plan (2015) and paragraphs 135, 139, 212 and 215 of the NPPF (2025 update). The development would lead to less than substantial harm to designated heritage assets, which would not be outweighed by public benefits.
3. The development would be in very close proximity to the sole kitchen window serving a residential property at 36a Maiden Street. The development would completely compromise the outlook and light entering this room, as well as result in an overbearing relationship. This would be detrimental to the living conditions of this neighbouring residential property. The proposal is therefore in conflict with Policy ENV16 of the West Dorset, Weymouth and Portland Local Plan (2015) and paragraph 135f of the NPPF (2025 update).
4. The proposed floorplans show bedrooms in flats 8, 9 and 18 would endure an unacceptably poor outlook with little natural light and an overbearing relationship from surrounding lightwell walls. Bedrooms in flats 8, 9, 14 and 15 would have a very close relationship to neighbouring third-party trees, which would compromise their natural light and outlook. The proposal is therefore in conflict with Policy ENV16 of the West Dorset, Weymouth and Portland Local Plan (2015) and paragraph 135f of the NPPF (2015 update).
5. There is a group of trees located to the immediate south of the building within third-party land. In order to facilitate the build, access to this land would be required, but there is no guarantee the landowner would agree. In addition, fairly extensive works would be required to cut back the trees to achieve a maintainable clearance for the amenity of future occupants. This would require regular applications to undertake tree works, which again cannot be guaranteed because of the landownership issue. There is thus no certainty of an acceptable relationship with these trees during either the build or for the longer-term habitation of the flats. This places the proposal in conflict with Policy ENV10 of the West Dorset, Weymouth and Portland Local Plan (2015) and paragraph 136 of the NPPF (2025 update).

3. Key planning issues

Issue	Conclusion
Principle of development, including the loss of retail floorspace	Acceptable: the site is within Weymouth's Defined Development Boundary, where new residential accommodation is acceptable in principle. The loss of an area of ground-floor retail space is also acceptable, on balance.
Flood risk	Unacceptable: the Weymouth Level 2 Strategic Flood Risk Assessment and the Environment Agency's National Flood Risk Assessment map identify significant future risks, both at the site and around it.

Issue	Conclusion
	The application fails to demonstrate the development would be safe for its lifetime in terms of safe access and egress during a flood event.
Impacts on local character, including heritage	Unacceptable: the quality of the proposed design does not conserve or enhance the character and appearance of the conservation area and would cause less than substantial harm (lower end), which is not outweighed by the public benefits of the scheme.
Affordable/market housing mix	Acceptable: the applicant's viability report has been independently assessed by the District Valuation Service, which supports the report's conclusion that it would not be viable to provide any affordable housing. The proposed market housing mix is acceptable for this location.
Impacts on neighbour amenity	Unacceptable: the development would be in very close proximity to a third party's sole kitchen window. The light and outlook for this window would be harmfully compromised.
Impacts on the amenity of future occupiers	Unacceptable: bedrooms in three flats would endure a poor outlook and levels of natural light. The proximity of protected third-party trees would result in a poor outlook and light levels for several habitable rooms.
Highways	Acceptable: no objections are raised by Highways to this car-free scheme, subject to conditions requiring a construction management plan and to ensure the delivery of cycle parking.
Ecology, Biodiversity Net Gain and Chesil and the Fleet SAC recreation impacts	Acceptable: NET raises no objections to the submitted ecology report, subject to securing mitigation and enhancement measures by a condition. The proposal is BNG exempt because it falls within the 'de minimis' threshold. Chesil and the Fleet mitigation would be delivered via the Community Infrastructure Levy.
Waste storage	Acceptable.
Trees	Unacceptable: there are adjacent third-party trees that would need to be protected during the build, but this would require access to land outside the applicant's control. A separate application would be needed to cut back the trees to a maintainable clearance, but there is no guarantee of the landowner's agreement, either now or ongoing for the lifetime of the development.

4. Description of site

- 4.1 This is a 2/2.5-storey building located within Weymouth's town centre and conservation area. It has ground-floor retail uses, with nine flats above. The building has a dual frontage onto St Mary Street and Maiden Street, making it

highly visible in the street scene. The west-facing side of the site fronting St Mary's Street lies within the Primary Shopping Frontage, whereas the Maiden Street side does not fall within either the Primary or Secondary Shopping Frontage.

- 4.2 Several listed buildings are situated near to the application site, including the grade I listed St Mary's Church to the immediate south. Some mature trees sit between the site and the church, close enough to be touching the application site building. As with much of the conservation area, the site is within a zone of archaeological potential. The building at the corner of Market Street and Maiden Street, currently used as a fish and chip shop, is recorded in the adopted conservation area appraisal as an Important Local Building (a non-designated heritage asset).
- 4.3 This is a dense town centre, with typical town centre uses that often have residential accommodation on upper floors. The streetscape is relatively varied in terms of architectural styles and detailing. Building heights are generally around three storeys, but there are some examples of larger properties in the local area.
- 4.4 The topography is relatively level.

5. Description of development

- 5.1 The application seeks full planning permission to create an additional 10 flats by building upwards. Some internal alterations would be required to some of the existing flats, and around 2/3 of the existing floorspace serving a hairdresser at No.39 would be lost to make way for stairs, bin storage, bikes, etc. No parking is proposed.

6. Relevant planning history

- 6.1 In 1994, consent was granted under ref. 93/00690/FUL for '*refurbishment and conversion to provide 9 flats on first and second floors and retain ground floor retail units.*'
- 6.2 In 2006, new roller shutters were approved on No.40 St Mary Street under ref. 06/00273/FUL. This is the current Kodak Express unit.
- 6.3 In 2020, consent ref. WP/19/00902/FUL allowed for the '*change of use to Sui Generis Class (Nail salon) and alterations to shopfront door*' at No.40. The use at the time was a jewellers, but it appears the consent was never implemented.
- 6.4 In 2020, pre-application advice was issued under ref. WP/20/00427/PRE in respect of a scheme to make alterations and extensions to facilitate up to nine additional residential units at the site. The advice noted how the site constituted a non-designated heritage asset in the town centre conservation area. Although modern in parts, it does have some attractive features in the central part, namely pilasters and a false gable in an art-deco style. The St Mary Street elevation was considered to be the most important, and there is an opportunity to improve its relationship with the adjacent listed church.
- 6.5 The advice was positive in respect of an upward extension to create two additional floors, but the design would need to be high quality, retaining the historic pilasters and pediment. Of the tabled options, the one showing a full-

height additional floor with a roof set back from the gable was considered to be the most appropriate. The applicant was advised to ensure the window proportions reflect the proportions of the building by getting smaller, as per the Georgian style. The retention of the ground floor in retail use or other flexible use was welcomed.

- 6.6 The officer advised that a zero-parking scheme would be acceptable. As the site is in the flood zone, an FRA with reference to the most up-to-date climate change predictions would be needed. It should include an evacuation plan and a means of escape.
- 6.7 Application ref. P/FUL/2021/04330 subsequently followed. This was approved in December 2021 and permitted the *'alteration and extension of the existing building comprising: elevation changes at ground and first floor level; changes to light-wells; construction of new floor space at second and third floor level to create 9.no dwellings; increasing the height of the existing roof pitch on the South elevation and formation and insertion of new windows; installation of gates at either end of the ground floor arcade; and, installation of ancillary plant and equipment. Additionally, change of use of shop unit at 36 Maiden Street to accommodate ancillary residential facilities.'*
- 6.8 This permission was not implemented, and it has since lapsed.
- 6.9 A review of the case officer's report shows that the historic interest of the existing building lies in its southern elevation, which retains the wall of a mid-19th century market house. The rest of the building, including the pilasters and art deco gable date from the mid-20th century and 1990s.
- 6.10 The proposal involved the loss of a ground-floor retail unit at No.36 (currently Wessex Photo, accessed via Maiden Street) to provide bike and bin storage. This loss was considered by the case officer as acceptable on balance, although it is important to note that the case officer recognised how Policy ECON4 of the local plan focuses on the loss of retail/town centre uses on the defined frontages. Unit 36 is not in either the primary or secondary frontage, such that the loss of floorspace did not need to be considered. This is an important distinction to make with this current live application, which proposes the loss of most of No.39, which is on the primary shopping frontage.
- 6.11 Gates were approved at either end of the ground floor.
- 6.12 Having regard to flood risk, no FRA was submitted, despite the requirement set out in the pre-application advice. The case officer stated that the site is not in a high-risk flood zone, and there was no further discussion in their report. It is important to recognise, however, that the application was approved in 2021, before the Weymouth Level 2 Strategic Flood Risk Assessment was published in 2023.
- 6.13 Noteworthy conditions include:
3. Compliance with ecological mitigation and enhancement measures.
 4. Pre-occupation provision of cycle parking.
 5. Pre-occupation provision of gates that do not open over the public highway.
 6. Pre-occupation provision of doors and windows that do not open over the public highway.

7. Pre-commencement details of windows, external doors and the lift overrun.
 8 and 9: Pre-commencement details and samples of materials.
- 6.14 At no point during either the pre-application advice stage or the subsequent planning application was there any discussion about relationship between the new second floor and third-floor windows and the adjacent trees.

7. List of constraints

CHURCH OF ST MARY listed building grade G1. HE Reference: 1147947 - Distance: 0

Grade: II Listed Building: MARKET HOUSE PUBLIC HOUSE List Entry: 1142289.0; - Distance: 18.83

Grade: II Listed Building: 61, ST MARY STREET List Entry: 1147936.0; - Distance: 22.56

Grade: II Listed Building: CHURCHYARD RAILINGS AND GATES TO CHURCH OF ST MARY List Entry: 1147948.0; - Distance: 9.56

Grade: II Listed Building: 66, ST MARY STREET List Entry: 1147937.0; - Distance: 15.12

Grade: II Listed Building: 31, MAIDEN STREET List Entry: 1142288.0; - Distance: 10.27

Grade: II Listed Building: 67, ST MARY STREET List Entry: 1147938.0; - Distance: 15.4

Grade: II Listed Building: 7 AND 8, ST ALBAN STREET List Entry: 1132610.0; - Distance: 20.42

Grade: II Listed Building: 9, ST ALBAN STREET List Entry: 1132611.0; - Distance: 14.7

Grade: II Listed Building: WINCHESTER HOUSE List Entry: 1142287.0; - Distance: 24.12

Weymouth Town Centre Conservation Area - Distance: 0

WEY2; Town Centre and Commercial Road Area - Distance: 0

ECON4; Town Centre Areas; Weymouth - Distance: 0

ENV 4; Area of Archaeological Potential; Town Centre North of Harbour, Weymouth - Distance: 0

Landscape Character; Urban Area; Weymouth Urban Area - Distance: 0

WEY 1; Weymouth Town Centre Strategy; Weymouth Town Centre - Distance: 0

SUS2; Defined Development Boundary; Weymouth - Distance: 0

ECON 4; Primary Shopping Frontage; St Alban Street/St Mary Street Weymouth - Distance: 0

Type: Neighbourhood Plan - Emerging; Name: Weymouth NP; Status Reg 14 consultation completed; - Distance: 0

Melcombe Regis Ward - Distance: 0

Radipole Ward - Distance: 570.94

Rodwell & Wyke Ward - Distance: 153.72

Westham Ward - Distance: 162.48

Natural England Designation - RAMSAR: Chesil Beach & the Fleet (UK11012); - Distance: 2857.36

Special Area of Conservation (SAC) (5km buffer): Chesil & The Fleet (UK0017076); - Distance: 3163.26

Site of Special Scientific Interest (SSSI) impact risk zone; - Distance: 0

Radon: Class: Class 1: Less than 1% - Distance: 0

ONR portland_12km_zone - Distance: 0

8. Consultations

- 8.1 All consultee responses can be viewed in full on the website. Note that further to receiving additional information and revised plans, the application was subject to a second round of consultation.

Consultees

1. **Historic England:** defer to the Council's conservation team.
2. **Natural England:** no objection.
3. **Environment Agency:** comment that the development does not fall within its consultation criteria. Confirms that the EA does not make a determination as to the safety of access/egress proposals, as that is within the LPA's remit. If dry access/egress is not possible, the proposed routes can be wet but must be safe. The safety can be informed by the flood hazard rating. If there is internal safe refuge, then this can be a more appropriate course of action.
4. **Wessex Water:** no response received.
5. **Dorset and Wilts Fire and Rescue:** comments in terms of the Building Regulations stage. Confirmation that access gates are acceptable in principle, with details to be agreed at the Building Regulations stage.
6. **Natural Environment Team:** initial concerns over ecological enhancement measures, but this was subsequently resolved, and no objections are raised.
7. **Environmental Assessment:** produced an Appropriate Assessment concluding that recreational impacts on Chesil and the Fleet Special Area of Conservation can be mitigated through the Community Infrastructure Levy.
8. **Tree officer:** notes that the adjacent trees would restrict access to undertake the construction, and 'fairly extensive' tree works would be required to achieve a workable and maintainable clearance. Such works would require separate permission from the adjacent landowner, and they cannot be permitted as part of this application. The ground around the trees (on third-party land) would also need to be protected during construction. The tree officer suggests a pre-commencement condition to secure an Arboricultural Method Statement.
9. **Highways:** no objection, subject to a pre-commencement condition requiring a construction method statement, and a condition requiring the delivery of cycle parking.

10. Waste: no response received.

11. Conservation: Notes the opportunity for enhancement of the site. However, the proposal fails to achieve good design:

- Windows should demonstrate diminishing proportions, aligned in a balanced way with horizontal and vertical relationships. Frames and units should be painted timber, sliding sash and a pane-over-pane format. They should be set back in a reveal.
- Questions over the use of fully rendered elevations.
- Shopfront designs are inappropriate.
- The decorative brick slip columns with enclosed rainwater pipes are not typical of the street scene.
- The windows and parapet in the previous scheme were appropriate.
- The south elevation is an improvement on the previous scheme, but the 'sarnafil' single ply finish now proposed is not appropriate.
- No details of the external finish of the southern elevation have been supplied.

Revised plans were submitted. Although the roof, parapet and fenestration have been improved, an objection is maintained on grounds of the poor, terracotta render, which would simulate an expansive, pattern-less, brick-esque façade. By contrast, the previously approved plans showed a better degree of variation, with part brick and part render.

12. Housing Enabling: notes the number of households on the housing waiting list, and that 35% affordable housing should be sought from the proposal.

13. Economic Development and Tourism: support on grounds of:

- Providing jobs in the construction industry.
- Bringing a better quality residential offer into the town.
- Making it a safe and cleaner space.
- The retention of the retail units on the ground floor will contribute to the local economy while addressing the antisocial behaviour that has been prevalent in the area.

14. Flood Risk Management: notes that the site is at future risk of fluvial and tidal flooding, which falls under the Environment Agency's remit. Initially recommended a holding objection on grounds of the lack of a site-specific flood risk assessment and surface water drainage details, including in-principle approval from Wessex Water that rainwater can continue to enter the combined sewer. Further to receiving an SSFRA and drainage details, no objections were raised and no planning conditions are requested.

15. Environmental Protection: initial concerns raised over the lack of a noise assessment of the proposed air-source heat pump and the lack of an odour report in respect of local sources of smells. These were subsequently provided, and no objections were raised to the odour report, which could be conditioned. The noise assessment fails to assess the intended plant, but a revised report could be secured by a planning condition.

16. Building Control: notes a number of areas where Building Regulations approval is required.

17. Archaeology: no response received.

18. Public Health Dorset: support in terms of:

- Potential for job creation.
- Use of air-source heat pumps.
- Green roofs.
- Insulation and ventilation improvements.
- Bat and bird boxes.
- Compliance with the Nationally Described Space Standards.

More detail requested in terms of:

- Lack of affordable housing.
- Adequate light.
- Adequate space in individual rooms.
- Accessibility, including M4(2) compliance.
- Sustainability.
- Charging for e-bikes and mobility scooters.
- Urban greening, e.g. window boxes and living walls.

19. Emergency Planning: no response received.

20. Weymouth Town Council: several separate comments received:

- *'It is felt that the new scheme will look better from both the front and rear.'*
- *'The Council supports this application and raises no objection.'*
- *'The Council supports this scheme and wishes to see it progress. It will provide better light and increase the number of people able to live in the town centre. However, emergency services need to be able to gain access through the gates at all times.'*
- *'Weymouth Town Council is happy to support this application.'*

21. Cllr Orrell (ward member): *'The application looks reasonable. I note the loss of the passageway during the night. The side streets nearby and passageway by St Marys should provide adequate pedestrian routes. This building is showing signs of deterioration and needs major investment to bring it up to standard. A redesign of the interior is welcome. There have been several plans approved but no works completed. It would be good to see this work underway so more homes can be made available for local people.'*

Representations received

8.2 None.

Summary of Duties

- 8.3 s38(6) of the Planning and Compulsory Purchase Act 2004 requires that the determination of planning applications must be in accordance with the development plan unless material circumstances indicate otherwise.
- 8.4 Section 66 of the Planning (Listed Buildings and Conservation Areas) Act requires that when considering whether to grant planning permission for a development which affects a listed building or its setting, there is a general duty to have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses.

- 8.5 Section 72 of the Planning (Listed Buildings and Conservation Areas) Act requires that special attention shall be paid to the desirability of preserving or enhancing the character or appearance of conservation areas.

9. Relevant policies

Development plan

West Dorset, Weymouth and Portland Local Plan (2015)

- INT1: Presumption in Favour of Sustainable Development
- ENV1: Landscape, Seascape and 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
- ENV13: Achieving High Levels of Environmental Performance
- ENV15: Efficient and Appropriate Use of Land
- ENV16: Amenity
- SUS2: Distribution of Development
- ECON4: Retail and Town Centre Development
- COM7: Creating a Safe and Efficient Transport Network
- COM9: Parking Provision
- COM10: The Provision of Utilities Services Infrastructure
- WEY1: Weymouth Town Centre Strategy
- WEY2: Town Centre Core and Commercial Road Area

Material considerations

Emerging Dorset Local Plan

- 9.1 The Dorset Council Local Plan Options consultation took place between January and March 2021, with further consultation planned between 18th August – 13th October 2025. In accordance with paragraph 49 of the NPPF, this emerging plan is at too early a stage to carry any weight in decision making.

Emerging Weymouth Neighbourhood Plan

- 9.2 In accordance with paragraph 48 of the NPPF, this emerging plan is at too early a stage to carry any weight in decision making.

National Planning Policy Framework

- 9.3 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.
- 9.4 Other relevant NPPF sections include:

- Section 4: ‘Decision making.’ Paragraph 39 requires local planning authorities to approach decisions on proposed development in a positive and creative way. They should use the full range of planning tools available...and work proactively with applicants to secure developments that will improve the economic, social and environmental conditions of the area. Decision-makers at every level should seek to approve applications for sustainable development where possible.
- Section 5: ‘Delivering a sufficient supply of homes.’ This outlines the government’s objective in respect of land supply.
- Section 6: ‘Building a strong, competitive economy.’
- Section 11: ‘Making effective use of land.’
- Section 12: ‘Achieving well-designed places.’ This indicates that all development to be of a high quality in design, and the relationship and visual impact of it to be compatible with the surroundings. In particular, and amongst other things, paragraphs 131 – 141 advise that:
 - The creation of high quality, beautiful and sustainable buildings and places is fundamental to what the planning and development process should achieve. Good design is a key aspect of sustainable development.
 - Development that is not well designed should be refused, especially where it fails to reflect local design policies and government guidance on design.
- Section 14: ‘Meeting the challenges of climate change, flooding and coastal change.’
- Section 15: ‘Conserving and enhancing the natural environment.’ Paragraphs 192-195 set out how biodiversity is to be protected and encourage net gains for biodiversity.
- Section 16: ‘Conserving and Enhancing the Historic Environment.’ Paragraph 212 says that 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. The effect of an application on the significance of non-designated heritage assets should also be taken into account (para 216).

Other material considerations

- Dorset Council Interim Guidance and Position Statement Appendix B: Adopted Local Plan policies and objectives relating to climate change, renewable energy, and sustainable design and construction (December 2023).

10. 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.

10.1 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.

11. Public Sector Equalities Duty

- 11.1 As set out in the Equalities Act 2010, all public bodies, in discharging their functions must have 'due regard' to this duty. There are three 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.
- 11.2 Whilst there is no absolute requirement to fully remove any disadvantage, the Duty is to have 'regard to' and remove or minimise disadvantage. In considering the merits of this planning application, the planning authority has taken into consideration the requirements of the Public Sector Equalities Duty.
- 11.3 The submitted plans show an internal lift system, which would assist those with mobility issues. However, people with mobility issues could be disadvantaged during a flooding event by being unable to escape the building via the applicant's suggested route, which is around 0.6m long and through land at risk of flooding.

12. Financial benefits

What	Amount/value
Material considerations	
None	
Non-material considerations	
CIL contribution	TBC
Business rates	TBC
New Homes Bonus	TBC

13. Environmental implications

- 13.1 None.

14. Planning assessment

Principle of development, including the loss of retail floorspace

- 14.1 The site is located within Weymouth's defined development boundary, where Policy SUS2 of the local plan allows for residential development in principle.
- 14.2 This proposal would see the loss of around 2/3 of the floorspace of the hairdresser's unit at No.39. The entrance to this unit is via St Mary Street, which is part of the primary shopping area and primary shopping frontage. As there is no entrance connecting this unit to Maiden Street, this means the whole ground floor is within the primary shopping frontage. The loss of this floorspace therefore needs to be considered against Policy ECON4 (v and vi) of the local plan, as well as the support for retaining retail set out in policies WEY1 (third bullet) and WEY2 (i).
- 14.3 The originally submitted plans also showed no staff facilities for future users of the remaining shop floor, compared with the existing offer that includes toilets,

a kitchen and storage. This put into question the attractiveness of the unit to the market.

- 14.4 Revised plans have since been submitted that now show a staff WC and some storage space.
- 14.5 The applicant has also now supplied a letter from a local estate agent, who says the unit has been vacant for some time, and there are several barriers to letting it. These include the size of the property, rent, business rates and a lack of interest from larger retailers. The agent believes that by making the unit smaller, it would make it cheaper to rent and an attractive prospect for a commercial tenant. Their experience of similar-sized units nearby is that they are let '*instantly*.'
- 14.6 On this basis, it appears that no demonstrable harm would arise to the town centre through the loss of the floorspace, with the smaller retained unit continuing to be attractive to the market.
- 14.7 The proposal therefore accords with Policies SUS2, ECON4, WEY1 and WEY2 of the local plan.

Flood risk

- 14.8 The application site is within the town centre, which was subject to a flood risk sequential test at the local plan-making stage. It is therefore not necessary to rerun the sequential test for this application.
- 14.9 Nevertheless, the site is identified in the Weymouth Level 2 Strategic Flood Risk Assessment (SFRA2) as being at future risk of tidal flooding in 1 in 30-year (high risk) and 1 in 200-year (medium risk) events. There is a future fluvial flood risk as well, but only on the St Mary's Street side of the site. Elsewhere, pluvial (surface water) flooding is a risk for surrounding streets. The site is identified in the National Flood Risk Assessment (NaFRA) map as being at future risk.
- 14.10 Whilst the flood depths appear to be relatively shallow, whichever route would be used to escape during a flood event would require going through areas of highest water velocity, and hazard ratings are high. The Association of Directors of Environment, Economy, Planning & Transport (ADEPT) guidance, produced in conjunction with the Environment Agency, confirms that '*pedestrian routes should not be subject to any combination of depth and velocity that would result in a flood hazard rating of 0.75 ('danger for some') or greater.*'
- 14.11 Hazard ratings immediately around the site would exceed ADEPT's threshold for safe pedestrian routes. It is also important to recognise that whilst parts of the Esplanade and New Street have a hazard rating of less than 0.75, there would be no way to access or egress the building to safety without going through land above the 0.75 hazard rating.
- 14.12 For additional context, the NaFRA map shows most of the town centre and beyond as being at risk once an allowance for climate change has been added. Although the EA's mapping does not provide the same level of detail as the SFRA2 in terms of water depth, velocity or hazard ratings, it is still evidence of a potentially worsening problem that needs to be taken into account.

- 14.13 Policy ENV5 of the local plan says that new development or the intensification of existing uses should be planned to avoid risk of flooding. When assessing proposals for development in areas at medium or higher risk of flooding, the Council will need to be satisfied that safe access and escape routes are provided, where required.
- 14.14 Policy WEY1 requires flood risk to be managed, including through securing good access arrangements. It says that planning permission will not be granted for development that would compromise the flood risk strategy.
- 14.15 At the national level, paragraph 181 of the NPPF says that applications to develop sites at future flood risk should be supported by a site-specific flood risk assessment. This requires, inter alia 'e) *safe access and escape routes are included where appropriate, as part of an agreed emergency plan.*'
- 14.16 The application did not originally contain a site-specific flood risk assessment (FRA), but one was subsequently supplied. This details various resistance and resilience measures, and it also looks at the level of risk. It concludes that, despite the identified future risks in this part of Weymouth, there would be no risk because the residential development would be located on an upper floor. It also says that access and egress routes would be unaffected, and all site users would be '*encouraged*' to sign up to flood warning schemes. This is in spite of the site lying outside of the EA's flood alert and flood warning areas.
- 14.17 It is difficult to agree with the FRA's conclusions, as the SFRA2 maps indicate the hazard rating would be too high. Equally important is that the requirement for safe access and escape routes does not simply mean finding an area of dry land to wait on until flood waters subside. Indeed, the national Planning Practice Guidance (PPG) specifically refers to the need for safe access and egress for emergency services, including vehicles:
- 'The emergency services are unlikely to regard developments that increase the scale of any rescue that might be required as being safe'* (ID: 7-044-20220825).
- 'Access routes should allow occupants to safely access and exit their dwellings in design flood conditions. Vehicular access to allow the emergency services to safely reach the development during design flood conditions will also normally be required in addition to the requirements of the building regulations'* (ID: 7-047-20220825).
- 14.18 In this case, whilst the Council acknowledges the degree of predictability of tidal flooding compared with other sources, it can still occur at night when people are asleep and therefore unaware of any flood warnings. Moreover, tidal flooding is not the only source predicted to affect the surrounding streets. In such an eventuality where the emergency services are called to someone still in the building, the emergency services would need to get through surrounding roads to access the site, then safely exit the site. The high hazard rating and fast velocity of water on roads around the site suggest it would not be safe for the emergency services to attend.
- 14.19 This was communicated to the applicant, and they were invited to challenge the conclusions of the SFRA2. Instead, they have supplemented their FRA with a flood warning and evacuation plan. Whilst the Council's lead local flood authority raises no concerns with it, it gives no mention to access and egress

by the emergency services. It therefore fails to accord with the above requirements of the PPG.

- 14.20 The flood warning and evacuation plan also appears to include a fundamental flaw. It argues, e.g. at paragraph 4.1.6, that there will only be a risk of flooding after the year 2125, which is 100 years from now and would therefore postdate the 100-year lifetime of the development. Firstly, it is unclear where the 2125 data are derived from (the SFRA2 uses a date of 2138). Secondly, even if 2125 were to be used, a planning permission only needs to be implemented within three years and therefore it could be completed at a later date, meaning the dwellings could feasibly last beyond 2125. Thirdly, dwellings could feasibly last more than 100 years anyway. But moreover, the applicant's argument appears to assume the risk would suddenly commence in 2125 and not before then. That is clearly not the case.
- 14.21 In terms of the report's recommendations, it says future occupiers should sign up to flood alert and warning services. In the event a warning is issued, paragraph 6.1.4 says occupants should evacuate to the nearest safe location, which is 0.6km away. This could be a challenging distance for less mobile individuals, plus the route mostly follows flow paths, which ref. ID: 7-047-20220825 of the PPG advises against. If there is too little time to respond, the report says at section 7 that people should stay put in temporary refuge for 3-6 hours.
- 14.22 The obvious question is what would happen if there were an emergency during that potential six-hour period. In an acute medical situation, deep and/or fast-moving flood water could prohibit safe access for emergency service personnel. The result would be an increased risk to life.
- 14.23 The Council recently refused application ref. P/FUL/2024/02116 for the redevelopment of land at Westwey Road for residential purposes. The reason for refusal sets out how it would be inappropriate to rely on a flood warning, plus the identified access and escape routes were at severe risk.
- 14.24 There is also a similarity between this current application and a dismissed appeal relating to a site in Richmond Upon Thames, where an additional storey to provide five new flats was proposed (PINS ref. APP/L5810/W/24/3343664; LPA ref. 23/2511/GPH01). The inspector drew attention to ref. ID: 7-005-20220825 of the PPG, which requires that when assessing whether a development would be safe for its lifetime, the safety of people within a building if it floods and also the safety of people around a building and in adjacent areas, including people who are less mobile or who have a physical impairment, should be considered. This includes the ability of residents and users to safely access and exit a building during a design flood event.
- 14.25 The inspector noted how the submitted flood evacuation plan suggested evacuating the building and walking '*a considerable distance*' to safety, which would include a route at risk of flooding. This could lead to significant difficulty for those with more limited mobility. Whilst this risk would be apparent for existing residents, the development would increase the number of occupants and therefore the risk.
- 14.26 The inspector commented that:

'Even if future occupants were encouraged to sign up to the EA flood warning service, warnings would not be guaranteed to work if the flood event occurred during the night when future occupants could be asleep. In such instances, future occupants may become stranded and require emergency assistance. It would place future occupants at greater and unnecessary risk from flooding and its consequences... The provision of five additional residential units at the appeal site would increase the burden on emergency services were a flood to occur.'

14.27 The inspector also concluded that:

'Given the proposal relates to the sixth floor of the building, well above predicted flood levels, there would be no significant flood risk within the dwellings themselves. However, this would not be sufficient to outweigh the inadequate escape route.'

14.28 Taking the factors set out in the preceding paragraphs into consideration, the proposal fails to accord with the requirements of local plan policies ENV5 and WEY1, paragraph 181 of the NPPF and ref. IDs 7-005-20220825, 7-044-20220825 and 7-047-20220825 of the Planning Practice Guidance.

Impacts on local character, including heritage

14.29 Policy ENV4 of the local plan requires development to conserve, or, where appropriate, enhance the significance of designated and non-designated heritage assets. Any harm must be justified and weighed against the public benefits of the proposal.

14.30 Policy ENV10 requires development to respond positively to local identity and distinctiveness, being informed by the character of the site and its surroundings.

14.31 Policy ENV12 requires development to achieve a high quality of sustainable and inclusive design, where the alignment, design, scale, mass and materials complement and respect the character of the surrounding area. The general design should be in harmony with the area as a whole.

14.32 Policy ENV15 requires the efficient use of land, subject to the site's limitations and the impact on local character.

14.33 At the national level, paragraph 135 of the NPPF requires planning decisions to ensure that development would add to the overall quality of the area; be visually attractive as a result of good architecture and layout; and be sympathetic to local character and history, including the surrounding built environment and landscape setting. Paragraph 139 directs councils towards refusing developments that are not well designed.

14.34 Paragraph 212 requires councils to give '*great weight*' to the conservation of heritage assets, with greater weight given to more important assets. Paragraph 213 says that any harm should require clear and convincing justification. Where less than substantial harm is identified, this should be weighed against the public benefits, in line with paragraph 215. Paragraph 216 advises that the effects on the significance of a non-designated heritage asset will require a balanced judgement, having regard to the scale of the harm and significance of the asset.

- 14.35 This part of Weymouth shows a varied street scene, with no uniform style of architecture and plenty of variation in roofscapes. The scale of buildings is generally around three storeys, but there are some examples of larger properties in the locality.
- 14.36 The Council's conservation officer raised a number of initial concerns about the design, and revised plans have been received attempting to address those concerns. The roof, parapet and fenestration have been improved, with 'eternit' slates, UPVC and 'Sarnafil' products now omitted. But concerns persist in several respects, and in some ways, the redesign is a backwards step. The frontage onto St Mary Street now reads as a large, contiguous block, having lost the rhythm created by the previously proposed decorative columns that helped break up the mass and articulate the separation between the retail units on the ground floor.
- 14.37 The use of a terracotta render finish is particularly poor. This takes no references from the street scene, where part brick, part render is more common. Where render is present, it is in an off-white finish, rather than this colour. Better articulation through string courses could have been used in the design.
- 14.38 The applicant did not seek pre-application advice prior to submitting the proposal. During the course of the application, they responded in part to initial officer feedback by submitting revised plans. However, the current proposal, as shown in the latest submitted drawings, does not yet demonstrate a sufficiently high standard of design.
- 14.39 The conservation officer's comments in respect of the shopfront design are noted. However, the agent has since confirmed that the shopfronts do not form part of the application, and they are for illustrative purposes only. This is now confirmed on the revised elevation drawings.
- 14.40 Nevertheless, the proposal fails to achieve good-quality design, and it is in conflict with policies ENV4, ENV10, ENV12 and ENV15 of the local plan, and paragraphs 135, 139, 212 and 215 of the NPPF. The development would lead to less than substantial harm to the character and appearance of the conservation area, which is a designated heritage asset. The conservation officer has confirmed the level of harm is at the lower end of the scale. This triggers the need to consider whether the harm would be outweighed by any public benefits. In this case, a benefit would arise through the delivery of 10 dwellings in a sustainable location, which carries weight. A small degree of weight can also be attributed to the perceived reduction in antisocial behaviour.
- 14.41 However, this is a very prominent site in the heart of the conservation area, and the poor design would be highly perceptible. This would be to the detriment of the character and appearance of this designated heritage asset, and the harm is not outweighed by the public benefits.

Affordable/market housing mix

- 14.42 With a net dwelling yield of 10 units, the proposal is liable to provide 35% affordable housing in accordance with Policy HOUS1 of the local plan. This policy confirms that where an applicant seeks to deliver less than the policy requirement, they will be expected to provide an assessment of viability. In

this case, the applicant has provided a viability assessment, which has been independently checked by the Council's viability consultant. Taking into account various factors, including build costs, land values and a standard developer profit of between 15 and 20%, the consultant agrees with the report's conclusion that it would not be viable to provide any onsite affordable housing or a commuted sum in lieu of any onsite delivery. On this basis, the proposal accords with Policy HOUS1.

- 14.43 The proposed housing mix is for 4 x 1-bed units and 6 x 2-beds. Whilst Policy HOUS3 of the local plan requires a mix in terms of the size and type of dwellings, and the submission neighbourhood plan shows a smaller need for 1-bed units, this is a town centre location with high-density residential accommodation forming part of the character. The proposed mix is therefore considered acceptable.

Impacts on neighbour amenity

- 14.44 Policy ENV16 of the local plan requires development proposals to minimise their impacts on the amenity of existing residents. Proposals should not have a significant adverse effect on living conditions through loss of privacy, inadequate daylight, excessive overshadowing or overbearing impacts.
- 14.45 Paragraph 135f of the NPPF contains a slightly different threshold of '*a high standard of amenity.*'
- 14.46 There are windows serving 36a Maiden Street to the north of the site, which a review of the planning history (file ref. 4/92/0303) indicates is the sole window serving the kitchen. There are also several windows at first and second-floor levels in the west elevation that overlook a void over the Fantastic Sausage Factory.
- 14.47 A review of the previously approved application shows that impacts on the southern kitchen window at 36a were considered:
- 'There is an existing window at second floor level on the southern elevation of 36a Maiden Street that partially overlooks the existing roof of Brenda Dench House. This window is largely obstructed by a wall, and this is reported to be the original side (North) elevation of the Market Hall building that occupied the site prior to the current development and to have been the arrangement for a significant period. The proposed plans allow for this in terms of the built form within the adjoining area and this arrangement would be largely unchanged.'*
- 14.48 Whilst the existing outlook and natural light for this window are 'largely obstructed,' no equivalent offset for this window has been identified on the drawings accompanying this current application. This means an already bad situation would be made worse by severely compromising any remaining outlook and light to a materially harmful level. Furthermore, the proposed roof plan shows a 'fixed access ladder', which could potentially lead to overlooking directly into the kitchen window whenever it is in use.
- 14.49 Whilst paragraph 130c of the NPPF suggests a '*flexible approach*' to daylight and sunlight where this would otherwise inhibit making efficient use of a site, this is subject to the resulting scheme providing acceptable living standards. In this case, the daylight and outlook for this room would be completely

compromised and the development would lead to an overbearing presence, resulting in unacceptable living standards for occupiers of No.36a.

- 14.50 The proposed west elevation submitted with this live application does not show 36a's existing west-facing windows, which the 1992 plans indicate serve a mixture of bedrooms and bathrooms at first and second-floor levels. Given the scale of development, had a street scene drawing been supplied that would allow for a '45 degree test' under the BRE guidance, it would likely show daylight serving those windows would be compromised. This 'tunnelling effect' could be materially harmful, but it is probably already experienced to a degree.
- 14.51 The relationships with residential properties to the east and west would not be materially different compared with the previous scheme that was assessed to be acceptable.
- 14.52 Nevertheless, the proposed development's relationship with No.36a's southern window is materially different from the previous scheme, and this unacceptable relationship places the proposal in conflict with Policy ENV16 of the local plan and paragraph 135f of the NPPF.

Impacts on the amenity of future occupiers

- 14.53 As per the above considerations on neighbour amenity, Policy ENV16 of the local plan requires development proposals to minimise their impacts on the amenity of future residents. Schemes should not have a significant adverse effect on living conditions through loss of privacy, inadequate daylight, excessive overshadowing or overbearing impacts.
- 14.54 The requirement in paragraph 135f of the NPPF for '*a high standard of amenity*' also applies to future users.
- 14.55 The proposed plans show how lightwells are proposed to supply natural light to several habitable rooms. This is acceptable, on balance, for open-plan arrangements where there would still be a window providing an outlook (flats 11 and 12, for example).
- 14.56 In some instances, the use of lightwells would reflect existing conditions for flat 1, bedroom 2 and flat 4, bedroom 2. But it is important to point out these existing living conditions are poor as a result: these sole habitable room windows have no outlook, and such a relationship would be unlikely to be supported nowadays. Yet this unacceptable relationship has been replicated in the proposed plans: flat 8, bedroom 1 and flat 9, bedroom 2 currently enjoy an outlook across the roof, but a lightwell is now proposed in front of these sole bedroom windows, with walls at close range. Meanwhile, flat 18, bed 1 would have one window into the lightwell, with no outlook. In fact, the distance from this window to the wall would be just 1.2m, which is extremely poor.
- 14.57 These rooms would experience a very poor outlook, with little natural light. The surrounding walls would also create an overbearing relationship.
- 14.58 A review of the previously approved plans shows that the bedrooms in flat 8 and 9 would have had an outlook across green roofs and larger lightwells. Whilst still not ideal, this is nevertheless a better relationship compared with the current plans. Unlike the current plans, no other habitable rooms in that scheme had an unacceptable outlook.

- 14.59 There are significant third-party trees to the immediate south of the building. This was never discussed in the previous case officer's report, but that is not justification for now agreeing to an unacceptable relationship between habitable rooms and these trees. The proposed second-floor plans show internal changes in units 8 and 9 that would result in the existing kitchens becoming bedrooms with one south-facing window each. Meanwhile, units 14 and 15 above would experience a similar relationship.
- 14.60 Whilst property owners have the right to trim back branches to their boundary, doing that would still result in trees right up to the windows in question. This would compromise their outlook and light levels, with the tree officer confirming that to achieve a '*maintainable clearance*,' '*fairly extensive*' works would be needed on these trees. As they are in third-party ownership and separate tree works consent would be needed, there is no guarantee of the landowner agreeing. It is also important to recognise that regular trimming would need to take place to achieve an acceptable relationship for the lifetime of the development, which is again not guaranteed.
- 14.61 In light of the above, the proposal would result in unacceptable living conditions for future occupiers, contrary to Policy ENV16 of the local plan and paragraph 135f of the NPPF.
- 14.62 Policy HOUS4 of the local plan requires flatted developments to not result in a cramped form of development. Although the Nationally Described Space Standards are not adopted in the local plan, they are nevertheless a material consideration in terms of indicating the minimum acceptable living standards for residential development. The plans have been reviewed in the context of the space standards, and they are broadly compliant.
- 14.63 HOUS4 also requires 20% of the site area to be dedicated to private amenity space, unless undesirable in design terms. In this case, no external amenity space is proposed, but it is not a characteristic of town centre residential development. Therefore, any provision would be out of character and undesirable in design terms. Furthermore, there is plenty of public open space available nearby, such as at Weymouth beach and the Nothe Gardens. The lack of external amenity space is therefore acceptable in this instance.
- 14.64 Public Protection raises no objections in terms of odour or noise, subject to conditions.
- 14.65 Overall, whilst the proposal accords with Policy HOUS4 of the local plan, it is in conflict with Policy ENV16 and paragraph 135f of the NPPF.

Highways

- 14.66 The highway authority raises no objections to this car-free scheme, subject to a condition to ensure the delivery of cycle parking. A further condition requiring a construction management statement is theoretically reasonable, given the location.
- 14.67 Whilst Highways did not comment specifically on this, had the application been acceptable and recommended for approval, it would also be reasonable to roll forward previous conditions in respect of ensuring windows, doors and gates would not open over the highway.

Ecology, Biodiversity Net Gain and Chesil and the Fleet SAC recreation impacts

- 14.68 The Natural Environment Team's initial concerns in respect of ecological enhancements being provided onsite and mitigation being identified separately in the ecological report have been overcome. Had the application been acceptable in all respects, the mitigation and enhancement measures could be secured by a planning condition.
- 14.69 The proposal is BNG exempt because it falls within the 'de minimis' threshold.
- 14.70 Recreational impacts from new overnight accommodation on Chesil and the Fleet Special Area of Conservation can be mitigated through financial contributions. In this case, the development would be CIL liable, and the mitigation would be delivered through the CIL pot.

Waste storage

- 14.71 Two bin stores are shown at ground-floor level. No comments have been received from the Council's waste team about this arrangement. In the absence of any concerns, it is considered acceptable.

Trees

- 14.72 Policy ENV10 of the local plan requires development to provide for the future retention and protection of trees.
- 14.73 At the national level, paragraph 136 of the NPPF requires the retention of existing trees wherever possible.
- 14.74 The Council's tree officer notes the close relationship between the mature trees to the immediate south of the site, which are protected by the conservation area status. Whilst not covered by TPOs, they are nevertheless positive features in the conservation area.
- 14.75 The tree officer has commented that these trees pose a physical constraint to developing the site, and that branches will need to be cut back for access. This would require separate consent, which would rely on an application from the neighbouring landowner. That cannot be considered under this current planning application, so there is thus no guarantee of the landowner's agreement, nor whether consent would ultimately be granted. As set out above, an ongoing agreement with the landowner would be needed to regularly apply to cut the trees as they grow back.
- 14.76 It would also be necessary to protect the trees during construction, which would mean erecting protection measures on third-party land. Again, there is no guarantee the neighbouring landowner would agree to this. Furthermore, although the tree officer has suggested a pre-commencement Arboricultural Method Statement condition, the landownership issue makes it difficult to see how this would pass the tests for planning conditions set out in paragraph 57 of the NPPF, i.e. reasonableness and enforceability. Ref. ID: 21a-009-20140306 of the Planning Practice Guidance says:
- 'Conditions requiring works on land that is not controlled by the applicant, or that requires the consent or authorisation of another person or body often fail the tests of reasonableness and enforceability.'*
- 14.77 In light of the above, the development would fail to have an acceptable long-term relationship with the third-party trees, and their welfare during the build

cannot be guaranteed. The proposal is thus in conflict with Policy ENV10 of the local plan and paragraph 136 of the NPPF.

Planning balance

- 14.78 The proposal is in conflict with the development plan policies discussed above. Under Section 38 of the Planning and Compulsory Purchase Act 2004, decisions on planning applications must be made in accordance with the development plan unless other material considerations indicate otherwise.
- 14.79 The Council is able to demonstrate a five-year housing land supply and it has passed the Housing Delivery Test. Policies relating to the delivery of housing thus carry fully weight and the tilted balance of the presumption in favour of sustainable development is not engaged. Although the Council therefore needs to apply a 'flat' planning balance in the determination of this application, moderate positive weight can still be attributed to the benefit from the delivery of 10 homes in this sustainable location. A small degree of weight can also be derived from the economic benefits through the construction phase, the ability of future occupants to support local facilities and services and the perceived reduction in antisocial behaviour.
- 14.80 However, there is a clear message in paragraph 170 of the NPPF that inappropriate development in areas at risk of flooding should be avoided or made safe for its lifetime. That would not be the case here. The unacceptable design would lead to harm to the character and appearance of the conservation area, as well as the setting of several listed buildings, including the adjacent grade I listed church. Paragraph 212 of the NPPF attributes '*great weight*' to conserving designated heritage assets, and paragraph 131 says that creating high-quality buildings and places is fundamental to planning. The development would also lead to demonstrably poor living conditions for future occupiers of several flats, as well as an existing neighbour. There are no guarantees of an acceptable relationship with trees, either during the build or for the lifetime of the development, and paragraph 136 of the NPPF requires existing trees to be retained '*wherever possible*.' Collectively, these factors weigh heavily against the proposed development, and the identified conflict with the development plan is not outweighed.

Other matters

- 14.81 Weymouth Town Council's concerns over emergency access through the proposed gates is noted. However, Dorset and Wilts fire safety adviser has confirmed that gates are acceptable in principle, and this would be a matter for the Building Regulations stage.
- 14.82 Public Health's question over Part M4(2) compliance is noted, but Planning Practice Guidance says this has to be a requirement set out in the local plan. That is not the case here and therefore it is not a relevant planning consideration for this application. Similarly, charging for e-bikes and mobility scooters and urban greening (e.g. window boxes and living walls) are not material considerations.

15. Conclusion

- 15.1 The proposed development is unacceptable, it does not accord with the policies of the development plan and it is recommended for refusal.

16. Recommendation

REFUSE for the following reasons:

1. The site is identified in the Weymouth Level 2 Strategic Flood Risk Assessment (SFRA2) as being at future risk of tidal flooding in 1 in 30-year (high risk) and 1 in 200-year (medium risk) events. It is also identified in the Environment Agency's National Flood Risk Assessment map as being at future risk. The SFRA2 maps indicate deep, and some fast-moving, water is anticipated around the application site with high hazard ratings. Many of the surrounding streets are also constrained, not just with tidal flood risk, but also the risk of fluvial and pluvial flooding. This would hinder safe egress by future occupants during a design flood event, as well as safe access/egress by the emergency services. Flood warnings cannot be fully relied on, and the applicant's identified escape route is some 0.6km long, which would cross land at risk of flooding and could lead to significant difficulty for those with limited mobility. The proposal therefore fails to demonstrate safe access and escape routes, in conflict with policies ENV5 and WEY1 of the West Dorset, Weymouth and Portland Local Plan (2015), paragraph 181 of the NPPF (2025 update) and ref. IDs 7-005-20220825, 7-044-20220825 and 7-047-20220825 of the Planning Practice Guidance.
2. The application site is located within the town centre conservation area. It has a dual frontage and it is highly prominent in the street scene, within the setting of several listed buildings, including the adjacent grade I listed St Mary's Church. A high-quality design is therefore required, but the poor materials and detailing fail to achieve this. The proposal is therefore in conflict with policies ENV4, ENV10, ENV12 and ENV15 of the of the West Dorset, Weymouth and Portland Local Plan (2015) and paragraphs 135, 139, 212 and 215 of the NPPF (2025 update). The development would lead to less than substantial harm to designated heritage assets, which would not be outweighed by public benefits.
3. The development would be in very close proximity to the sole kitchen window serving a residential property at 36a Maiden Street. The development would completely compromise the outlook and light entering this room, as well as result in an overbearing relationship. This would be detrimental to the living conditions of this neighbouring residential property. The proposal is therefore in conflict with Policy ENV16 of the West Dorset, Weymouth and Portland Local Plan (2015) and paragraph 135f of the NPPF (2025 update).
4. The proposed floorplans show bedrooms in flats 8, 9 and 18 would endure an unacceptably poor outlook with little natural light and an overbearing relationship from surrounding lightwell walls. Bedrooms in flats 8, 9, 14 and 15 would have a very close relationship to neighbouring third-party trees, which would compromise their natural light and outlook. The proposal is therefore in conflict with Policy ENV16 of the West Dorset, Weymouth and Portland Local Plan (2015) and paragraph 135f of the NPPF (2015 update).
5. There is a group of trees located to the immediate south of the building within third-party land. In order to facilitate the build, access to this land would be required, but there is no guarantee the landowner would agree. In addition, fairly extensive works would be required to cut back the trees to achieve a

maintainable clearance for the amenity of future occupants. This would require regular applications to undertake tree works, which again cannot be guaranteed because of the landownership issue. There is thus no certainty of an acceptable relationship with these trees during either the build or for the longer-term habitation of the flats. This places the proposal in conflict with Policy ENV10 of the West Dorset, Weymouth and Portland Local Plan (2015) and paragraph 136 of the NPPF (2025 update).