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[WP/19/00119/FUL](#)

34 and 35 Easton Square Portland DT5 1BU

Change the use of a building from an A2 (Bank) use to a C3 (dwellinghouse) use comprising one two bed dwelling and one three bed dwelling, construct a single storey rear extension and wall and alter fenestration. (Retrospective)

Applicant name: Operis Developments Ltd

Case Officer: Steven Banks

Ward Members: Cllr Cocking, Cllr Hughes and Cllr Kimber

This application is brought to committee at the request of the Nominated Officer in accordance with section 134 of the Officer Scheme of Delegation, following representation received from the Town Council contrary to the officer recommendation and consultation with the Chair, Vice Chair and Ward members.

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Summary of Recommendation:

GRANT subject to conditions

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Reason for the recommendation:

- The proposal enhances the appearance of the property and the character of the conservation area
- The proposal would not harm the residential amenity of the occupiers of nearby properties
- The proposal would not harm highway safety or efficiency
- As a result of the Council's failure to identify a five year housing supply, applications for residential development should be approved unless material considerations, namely impacts on conservation, landscape or flooding would indicate otherwise, as set out in the NPPF paragraph 11d.
- The proposal is in accordance with the priority of to the NPPF to boost housing supply and therefore the application should not be refused on the grounds of the lack of material evidence that successfully demonstrates sufficient efforts have been made to retain the former Bank and that opportunities for conversion to alternative community uses have been explored.

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Table of key planning issues

Issue	Conclusion
Principle of development	<ul style="list-style-type: none">• The principle of the development, by reason of its nature and location, accords with policy INT1 (sustainability) and SUS2 (within development boundary) in the Local Plan.• The principle of the development, by reason of its residential nature, accords with

	<p>the primary objective of the NPPF to boost housing supply.</p>
Visual amenity	<ul style="list-style-type: none"> • The reinstatement of part of the historic shopfront has enhanced the appearance of part of the building and character of the conservation area. • The extension, wall and other alterations are sympathetic to the appearance of the property and the character of the conservation area.
Living conditions	<ul style="list-style-type: none"> • The development does not and would not have a significant adverse effect on the living conditions of the occupiers of nearby properties.
Highway safety	<ul style="list-style-type: none"> • The public highway can accommodate any vehicles associated with the dwellings, which are the subject of this application, without causing harm to highway safety and efficiency.
Vitality and viability	<ul style="list-style-type: none"> • As a result of the Council's failure to identify a five year housing supply, applications for residential development should be approved unless they are contrary to the NPPF, which supersedes the Local Plan housing supply policies. The proposal accords with the need to boost housing supply set out in the NPPF. Residential use within the local centre provides vitality and is viability in preference to a vacant commercial property. Policy COM3 can only be afforded limited great weight in the planning balance when compared with the housing supply policies of the NPPF. The lack of marketing material that successfully demonstrates

	sufficient efforts have been made to retain the Bank or that opportunities for conversion to alternative community uses have been explored prior to marketing for residential use, can only be afforded limited weight in the planning balance.
Community Infrastructure Levy	<ul style="list-style-type: none"> The Council's CIL Officer, informally, confirmed that the proposed development, by reason of the increase in floor area, would attract a charge of an estimated £368.

5.0 Description of Site

The application site, 34 and 35 Easton Square, can be found on the north side of Easton Square, Portland and accommodates a two storey, white rendered and mid-terraced, building which was last used as a bank. The area is characterised by residential and commercial development and forms part of the Local Centre where retail and commercial uses are sought to be retained.

6.0 Description of Development

In this application it is proposed to change the use of the building from an A2 (Bank) use to C3 (dwelling house) use comprising one two bed dwelling and one three bed dwelling.

It is also proposed to construct a single storey rear extension and wall.

It is further proposed to make changes to the fenestration –

- replace a window with a door at ground floor level in the south east elevation,
- insert a window at first floor level in the north east elevation,
- remove one window at first floor level in the north elevation,
- remove one window at first floor level in the south west elevation,
- reduce the size of a window at first floor level in the north west elevation and
- insert three roof lights.

An area for the storage of bins is also proposed.

It should be noted that the proposed works have already taken place and therefore this application is made retrospectively.

7.0 Relevant Planning History

WP/17/00746/FUL – Division of building into two – Conditionally approved 07/12/2017

8.0 List of Constraints

- Within the Portland Defined Development Boundary
- Within the Easton Conservation Area (statutory duty to preserve or enhance the significance of heritage assets under the Planning (Listed Buildings & Conservation Areas) Act 1990)
- The building is identified as an important local building in the Appraisal of the Conservation Areas of Portland.

9.0 Consultations

DC Highway Authority

No objection.

DC Conservation

No objections.

Town Council

Object. Their comments are as follows:

Portland Town Council object to this planning application on the grounds that the Neighbourhood Plan seeks to retain commercial entities in this local shopping area. In addition it has seen no evidence of any attempt to retain its commercial identity prior to seeking to turn the buildings into residential dwellings.

All full consultee responses and representations can be viewed on www.dorsetforyou.com

Representations

None received.

10.0 Relevant Policies

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

INT1. Presumption In Favour Of Sustainable Development

ENV1. Landscape, Seascape and Sites Of Geological Interest

ENV4. Heritage Assets

ENV10. The Landscape and Townscape Setting

ENV11. The Pattern of Streets and Spaces

ENV12. The Design and Positioning Of Buildings

ENV16. Amenity

SUS1. The Level of Economic and Housing Growth

SUS2. Distribution of Development
COM3. The retention of Local Community Buildings and Structures
COM7. Creating a Safe and Efficient Transport Network
COM9. Parking standards in New Development
COM10. Utilities
ECON4. Retail and Town Centre Development

National Planning Policy Framework (NPPF) 2019

As far as this application is concerned the following sections of the NPPF are considered to be relevant:

2. Achieving sustainable development
4. Decision making
5. Delivering a sufficient supply of homes
7. Ensuring the vitality of town centres
12. Achieving well designed places
16. Conserving and enhancing the historic environment

Decision making:

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

Other material considerations

Appraisal of the Conservation Areas of Portland 2017
Weymouth and Portland Landscape Character Assessment 2013
The Bournemouth, Poole & Dorset Residential Car Parking Study 2011

11.0 Human rights (standard text)

Article 6 - Right to a fair trial.

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

The first protocol of Article 1 Protection of property

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

12.0 Public Sector Equalities Duty (standard text)

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

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

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

13.0 Financial benefits

Community Infrastructure Levy: Estimated at £368

14.0 Planning Assessment

The principle of development

14.1 A presumption in favour of sustainable development is identified in policy INT1. Policy SUS2 identifies locations where certain types of development are considered to be sustainable. It is identified in the policy SUS2 that residential development will normally be permitted within defined development boundaries. The residential development which is the subject of this application falls within a defined development boundary. The principle of the development, by reason of its nature and location, is therefore in accordance with policies INT1 and SUS2 in the Local Plan.

14.2 It is identified in paragraph 73 of the NPPF that local planning authorities should identify, annually, a supply of deliverable sites sufficient to provide a minimum of five years’ worth of housing against their housing requirement. It is identified in paragraph 11 of the NPPF and foot note 7 that where a supply is not demonstrated the most relevant policies of the local plan can be considered to be out of date and permission should be granted unless the proposal is contrary to the policies of the NPPF.

14.3 The local planning authority can demonstrate a supply for 4.8 years which is below the required five years. Consequently paragraph 11 of the NPPF is engaged. Therefore the most relevant policies such as SUS2 can be considered to be out of date and permission should be granted unless the proposal is contrary to the policies of the NPPF. The principle of the development, by reason of its residential nature, is clearly accepted by the NPPF.

Visual amenity

14.4 It is identified in policy ENV1 that development should not detract from and, where reasonable, enhance the local landscape character. Policy ENV4 requires development to conserve and where appropriate enhance the significance of heritage assets. It is expressed in policy ENV10 that development proposals

should contribute positively to the maintenance and enhancement of local identity and distinctiveness. Policy ENV11 requires the provision of facilities appropriate to the use and character of the area. Policy ENV12 requires development to respect the character of the surrounding area.

14.5 A window has been replaced with a door in the front elevation of the Locally Listed Building which is the subject of this application. This elevation forms a prominent part of the Portland Conservation Area. The replacement of the window with a door has reinstated the historic appearance of this part of the building and has enhanced the appearance of the building and character of the conservation area. One window has been inserted, two windows have been removed, one window has been reduced in size and three roof lights have been inserted on elevations which do not form prominent parts of the street scene. It is considered that the minor nature of these alterations does not harm the appearance of the elevations concerned.

14.6 There is an area for the storage of bins to the rear of the building. The bins would not form a prominent part of the street scene, in this location, and therefore would not harm its appearance. An extension and wall have been constructed on the rear elevation of the dwelling. The extension and wall, by reason of their design, size, materials and positioning, are sympathetic to the appearance of the host building and the character of the conservation area.

14.7 The proposal is therefore considered to be in accordance with policy ENV1, ENV4, ENV10, ENV11, ENV12 and section 72 (the desirability of preserving or enhancing the character or appearance of the conservation area) of the Planning (Listed Building and Conservation areas) Act 1990.

Living conditions

14.8 Policy ENV16 requires development to not harm the residential amenity of the occupiers of properties. The rear extension and wall, by reason of their size and positioning, do not result in a harmful loss of light. Direct, harmful, views of private habitable space outside of the application site would not be possible from the new openings.

14.9 The proposal complies with policy ENV16 because it does not and would not have a significant adverse effect on the living conditions of the occupiers of nearby properties.

Highway safety

14.10 Policy COM7 requires development to not harm highway safety and efficiency and it is identified in Policy COM9 that the location of residential development shall be considered when considering parking provision. It should be noted that the properties are currently unoccupied. Off street parking is not proposed within the application site. The Highway Authority did not object to the proposal on the grounds that the proposed development would result in traffic

movements and parking which would harm highway safety and efficiency. It is therefore considered that the public highway can accommodate any vehicles associated with the dwellings, which are the subject of this application, without causing harm to highway safety and efficiency. The proposal is therefore considered to be in accordance with policy COM7 and COM9.

Vitality and viability

14.11 Paragraph 4.4.4 of the Local Plan 2015, which provides the background to Policy ECON4, identifies that Easton is a Local Centre that has an important role in delivering small scale development to meet local need. It is identified in the NPPF 2019 that references to town centres apply to local centres. It is also identified in the NPPF 2019 that a Town Centre is an area defined on the local authority's policies map. However, although identified in the text of the Local Plan as a local centre, Easton is not defined as a local centre on the local authorities policies map and primary and secondary retail frontages have not been identified for Easton.

14.12 Easton is however defined as a local centre on the policies map of the emerging local plan and proposed neighbourhood plan. Whilst this direction of travel is noted, no weight can be given to the emerging plans as they have yet to be finally concluded or adopted.

14.14 Part iv) of policy ECON4 of the adopted Local Plan identifies that development likely to lead to significant adverse impacts on existing centres will be refused. However, the thrust of Government Policy is currently aimed at providing more residential accommodation, even in town centres. Given the Council's Housing Land Supply issue the support for residential development is more pronounced and the planning balance is tipped in favour of residential development.

14.15 Policy COM3 of the Local Plan (2015) permits the change of use of local community buildings, which includes banks, which would result in their loss, as is proposed, where it can be demonstrated that there is no local need for the facility or that such a facility is no longer likely to be viable and an appropriate alternative community use to meet local needs is not needed or likely to be viable.

14.16 A Marketing Statement has been submitted as part of the application. The following is identified in the statement:

- The Bank was closed due to a lack of demand
- Marketing of the property began on 14/05/2018
- The property was advertised on the internet and by an attached sign
- The guide price was £80,000
- Four parties viewed the property
- Three offers for residential development were received

- The property was sold on 27/07/2018
- An A1 use at 31 Easton Square which was advertised between 03/07/2017 and 04/02/2019 was viewed once and let as a shop to an acquaintance of the owner.
- Following the purchase of the bank an estate agent was asked to make those parties that had shown an interest in a shop use at 31 Easton Square aware of the potential availability of the property, and there were no viewings or offers following notification to those parties.
- There is a low demand for commercial property
- There is a high demand for residential property

14.17 Minimal material has been submitted as part of this application to demonstrate efforts have been made to retain the facility or market it directly as either a bank, or retail use, or that opportunities for conversion to alternative community uses have been explored, This should have been provided and the property marketed in this way in order to comply fully with policy COM3. However, it is considered that given the lack of take up following marketing of the neighbouring shop at 31 Easton for a long term lease, the applicants followed a shorter process with limited efforts to secure retail, bank or community use, and it is clear that market demand is low for such uses given the offers made all being for housing.

14.18 As identified above, as a result of the Council's lack of a five year housing supply, applications for residential development should be approved unless they are contrary to the NPPF which is a more recent document than the Local Plan and is therefore considered to be more relevant. The proposal is not contrary to the NPPF and therefore the application should not be refused on the grounds of the lack of material that successfully demonstrates efforts have been made to retain the facility and that opportunities for conversion to alternative community uses have been explored.

Community Infrastructure Levy

14.19 The adopted charging schedules only apply a CIL rate on new floor space of proposals that create a dwelling and/or a dwelling with restricted holiday use. All other development types are set at £0 per square metre CIL rate. The Council's CIL Officer, informally, confirmed that the proposed development, by reason of the increase in floor area, would attract a charge of an estimated £368.

15. Conclusion

It is considered that the proposed development causes no harm to visual amenity, residential amenity or highway safety. As a result of the Council's failure to identify a five year housing supply, applications for residential development should be approved unless they are contrary to the material considerations that may outweigh the need for housing identified in the NPPF.

The proposal complies with these material considerations within the NPPF in relation to great weight being afforded to the protection and enhancement this locally identified important building within the conservation area. Only limited weight can be afforded, in this context, to policy COM3 which aims to secure protection of community assets through marketing in a specified manner, prior to release for housing. The failure of the applicant to successfully demonstrate such marketing efforts to retain the facility or for alternative community uses can only be afforded limited weight in the planning balance. The marketing aspect of Policy COM3 is therefore considered to be outweighed by the merits of the scheme to bring forward housing which protects and enhances the Conservation Area such that approval is recommended.

16. RECOMMENDATION

GRANT, SUBJECT TO THE FOLLOWING CONDITION:

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

Location Plan received on 03/02/2019

Proposed elevations and floor plans - Drawing Number OP.18.03A received on 30/04/2019

Site Plan - Drawing Number OP.18.01 received on 03/02/2019

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