

**1.0 Application Number:** 3/20/2260/FUL

**Webpage:** <https://planning.dorsetcouncil.gov.uk/plandisp.aspx?recno=374210>

**Site address:** Smugglers Hyde, 47 Brook Lane, Corfe Mullen, BH21 3RD

**Proposal:** Sever Plot, Demolish Remaining Part of Existing Dwelling & Erect Replacement Dwelling

**Applicant name:** Mr N Briant

**Case Officer:** Kevin Riley

**Ward Members:** Cllr Barron and Cllr Harrison

**1.1** Reason application is being considered by the Committee:

The Parish Council has made a written representation relating to the application which contains a response that, in the opinion of the nominated Officer, is contrary to the Officer recommendation; The written representation has not been withdrawn and the application is therefore referred to Planning Committee for determination in accordance with section 134(vi)(a)(2) of Part 3 – Scheme of Delegation – Officer scheme of delegation for Dorset Council of the Dorset Council Constitution.

**2.0 Summary of recommendation:**

- A.** That the Committee would be minded to GRANT planning permission for the application subject to the conditions set out in the report and the completion of a legal agreement under section 106 of the Town and Country Planning Act 1990 (as amended) to secure the following:

An agreement not to build out the approved dwelling to the north of the site (3/19/0382/FUL)

and recommends that the Head of Planning or Service Manager for Development Management and Enforcement determines the application accordingly.

- B.** That the Committee would be minded to refuse planning permission for the reasons set out below if the legal agreement is not completed by 1st June 2022 or such extended time as agreed by the Head of Planning:

Reason: In the absence of a satisfactory and completed legal agreement not to build out the approved dwelling to the north of the site (3/19/0382/FUL), there would be an extant planning permission for a development considered to be incompatible with the proposal; due to the contrast in design style and close juxtaposition of the dwelling in this proposal and the approved dwelling to the north of the site these two dwellings would read as one disproportionately large building with a visually discordant relationship with each other and the

neighbouring development. As such the proposal would be contrary to policy HE2 and paragraph 134 of the NPPF 2021.

and recommends that the Head of Planning or Service Manager for Development Management and Enforcement determines the application accordingly.

### 3.0 Reason for the recommendation:

- The proposal is located within the boundary of the Corfe Mullen urban area and is considered to be sustainable and acceptable in its design and general visual impact.
- There is not considered to be any significant harm to neighbouring residential amenity.
- Highway safety is not harmed by the proposal.
- There are no material considerations which would warrant refusal of this application

### 4.0 Key planning issues

Issue	Conclusion
Principle of development	The development is in accordance with policy KS2 Settlement Hierarchy
Impacts on the character of the area & compatibility with extant planning permissions adjacent to the site	Acceptable subject to applicant entering into a S106 agreement with the Council not to build out an extant permission on the adjacent site.
Impacts on neighbouring amenity	No significant harm identified
Density of the development	The development is within the limitations set by policy LN2 <i>Design, Layout and Density of New Housing Development</i>
Amenity for future occupants	Satisfactory
Highways impacts	No objection from the Highway Authority
Impact on Dorset Heathlands	Acceptable subject to mitigation measures
Biodiversity impact	Acceptable subject to a condition to provide biodiversity enhancement measures at the site
Other issues raised by third parties:	
<ul style="list-style-type: none"> <li>• Surface water flooding and construction safety concerns</li> </ul>	Surface water flooding and construction are regulated by Building Control and other non-planning legislation.
<ul style="list-style-type: none"> <li>• Restrictive covenant binds the land</li> </ul>	This is not a planning matter

<ul style="list-style-type: none"><li>• Accuracy of plans</li></ul>	Plans are considered to be sufficiently accurate for the purposes of determining a planning application
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## 5.0 Description of Site

- 5.1 The site is formed from a subdivision of the land comprising 47 Brook Lane, also known as Smugglers Hyde, and is located in the south-west corner of that land. The remaining northern (side) and eastern (rear) parts of the Smugglers Hyde plot separate the site from neighbouring property to the north and east. The southern boundary of the site is a shared boundary with No 49 Brook Lane (also known as Kestor). There are two existing accesses serving Smugglers Hyde, located close to the northern and southern site boundaries. Smugglers Hyde was damaged by fire several years ago and has been partially demolished. Ground levels fall away across the site from north to south and rise from west to east. The applicant advises that a strip of land shown on plans hatched blue at the front of the site is part of the title for Smugglers Hyde but does not form part of the application site. The Smugglers Hyde plot is approx. 0.14ha (excluding the blue hatched land) of which the application site comprises approx. 0.057ha of land.
- 5.2 The site lies within the urban area of Corfe Mullen and close to the western periphery of the settlement. Land to the west of the application site is agricultural and lies within the South East Dorset Green Belt and within an Area of Great Landscape Value. Brook Lane is also a Bridleway. The unmade section of Brook Lane in the vicinity of the site is characterised by detached dwellings, relatively well spaced apart, in a mixture of architectural styles.
- 5.3 Across the Lane and opposite to the western boundary of the site is a line of Oak trees covered by a TPO. The Council's Tree Officer has advised that it is unlikely that any roots grow under Brook Lane and therefore those trees will not be affected by the proposed development.

## 6.0 Description of Development

- 6.1 It is proposed to sever the plot, erect a new dwelling facing Brook Lane with a detached car port at the front of the site and a garden store in the rear garden. The proposal will necessitate the demolition of the remaining southern part of Smugglers Hyde dwellinghouse (the central part of that dwelling has already been almost completely demolished).
- 6.2 Of relevance to this proposal, also being considered by the Council concurrently with this application are two alternative applications to develop the northern side of the site for one dwelling and an alternative proposal to develop the southern side of the site (the application site) for one dwelling. A parcel of land in the rear southeast corner of the Smugglers Hyde plot does not form a part of any of the current applications.
- 6.3 Amended plans have been received for this application in which the car port has been relocated further to the north and reduced to a single car port and the proposed dwelling relocated further back into the site (further to the east) by approx. 1.7 metres.

## 7.0 Relevant Planning History

- 7.1 The existing dwelling known as Smugglers Hyde was extensively damaged by fire in 2004. The site has since been the subject of a large number of planning applications. Those pertinent to this application are listed below (those that are believed to have lapsed or were refused are in grey):

<b>Planning application</b>	<b>Proposal</b>	<b>Decision</b>	<b>Comments</b>
3/21/0953	Sever plot, demolish remaining section of existing dwelling and garage and erect replacement dwelling on the northern side of the site.	Under consideration	Alternative proposal for the northern part of the plot  Note: An Appeal has been lodged with PINS – Reason given: the LPA has failed to give notice of its decision within the appropriate period
3/21/0603	Demolish remaining section of the existing dwelling & garage & erect a new dwelling on the northern side of the land	Under consideration	Alternative proposal for the northern part of the plot  Note: An Appeal has been lodged with PINS – Reason given: the LPA has failed to give notice of its decision within the appropriate period
3/21/0830	Sever plot, demolish remaining section of existing dwelling & erect a Replacement Dwelling.	Under consideration	Alternative proposal for the southern part of the plot  Note: An Appeal has been lodged with PINS – Reason given: the LPA has failed to give notice of its decision within the appropriate period

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3/19/0382	Erect replacement dwelling and garden studio after demolition of existing.	Granted 24/04/19	Detached dwelling on the northern part of the plot
3/18/2945	Demolish existing dwelling and garage- erect replacement dwelling	Refused; appeal dismissed	Detached dwelling on the northern part of the plot refused on design grounds.
3/18/2946	Erect a New Dwelling and Garage on the South Side of the Land	Granted 13/12/18	Detached dwelling on the southern part of the site.
3/18/2273	Demolish Existing Dwelling & Erect a New Dwelling.	Granted 19/10/18	An alternative two storey replacement dwelling at the front of the site
3/18/2054	Demolish existing dwelling & erect new dwelling	Granted 24/09/18	An alternative two storey design for a backland dwelling at rear of site
3/18/0883	Demolish existing garage and erect an additional dwelling at the rear of the site	Granted	An alternative 1 storey design for the backland dwelling
3/17/1556	Replacement dwelling and detached annex	Refused (appeal dismissed)	Two buildings, replacement dwelling including angled wing- issues of character & compatibility with rear plot
3/16/2307	Replacement 5-bedroom dwelling	Refused	5 bedroom dwelling parallel with Brook Lane with angled wing- issues of character and overlooking
3/16/2283	Replacement dwelling and attached garage	Refused	Dwelling parallel with Brook Lane with angled wing incorporating

			garaging- issue impact on character
3/16/2283	Replacement dwelling and garage	Refused	Dwelling with two storey wings- issue scale and bulk inc. garaging proximity to highway.
3/16/1856	Sever land and erection of 1 x 3 bed dwelling	Appeal upheld (8.3.18)	Two storey backland dwelling
3/15/1189	Replacement Dwelling	Granted (believed to be extant; applicant states development commenced)	4-bedroom dwelling facing Brook Lane
3/15/0348	Erection of three dwellings	Refused (appeal dismissed)	Issue- character (not prejudicial to living conditions)
3/13/1183	Replacement dwelling	Granted (lapsed)	The design and siting of the approved dwelling is the same as 3/11/0614
3/11/0911	Replacement dwelling on the northern part of the site	Granted (lapsed)	Subdivision of the plot and dwelling facing Brook Lane to north
3/11/0614	Replacement dwelling	Granted (lapsed)	Replacement for original
3/10/0939	Replacement dwelling	Refused (appeal dismissed)	Issue- out of keeping with character due to scale
3/09/0083/RM	Demolish existing dwelling and erect two dwellings	Granted (but lapsed)	Two dwellings facing Brook Lane

## 8.0 List of Constraints

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SSI Impact Risk Zone  
Groundwater Protection Zone  
Green Belt (adjacent)  
Heathland 5km Consultation Area  
Rights of Way  
Airport Safeguarding  
Main Urban Area  
Source Protection Zone  
Tree Preservation Order  
AGLV (adjacent)

## 9.0 Consultations

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

### Consultees

#### 1. County Rights Of Way Officer

No comments received

#### 2. DC Trees & Landscape

No comment received (no significant trees are affected by the proposal)

#### 3. Corfe Mullen Town Council

- Dangerous access.
- Unadopted lane unsuitable for additional traffic.
- Density of development contrary to policy LN2.
- Large size of dwelling contrary to character of area and policy HE2.
- Overdevelopment of plot.
- Street scene misrepresentative.
- Neighbours overlooked.

#### 4. Dorset Council Highways

No objection subject to conditions

### Representations received

Three letters of representation have been received objecting to the proposal for the following summaries reasons:

- Overdevelopment.
- Contrary to character of the area.
- Insufficient parking.

- Overbearing to occupants of No 49 Brook Lane.
- Loss of privacy of neighbours.
- Increased risk of flooding.
- Will harm protected species.
- Basement excavations may harm neighbouring property.
- Increased light pollution.
- Car port details inadequate.
- Garden too small for dwelling.
- Restrictive covenant on land prevents construction of additional dwellings.

Total - Objections	Total - No Objections	Total - Comments
3	0	0

## 10.0 Relevant Policies

### 10.1 Development Plan Policies:

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

The following policies are of particular relevance in this case:

KS1	Presumption in favour of sustainable development
KS2	Settlement Hierarchy
KS4	Housing Provision in Christchurch and East Dorset
KS12	Parking Provision
LN1	The Size and Type of New Dwellings
LN2	Design, Layout and Density of New Housing Development
HE2	Design of new development
HE3	Landscape Quality
ME1	Safeguarding biodiversity and geodiversity
ME2	Protection of the Dorset Heathlands
ME6	Flood Management, Mitigation and Defence

### Other material considerations

#### 10.2 The Dorset Heathlands Planning Framework 2020-2025 Supplementary Planning Document

### 10.3 National Planning Policy Framework:

Paragraph 11 sets out the presumption in favour of sustainable development. Development plan proposals that accord with the development plan should be approved without delay. Where the development plan is absent, silent or relevant



policies are out-of-date then permission should be granted unless any adverse impacts of approval would significantly and demonstrably outweigh the benefits when assessed against the NPPF or specific policies in the NPPF indicate development should be restricted.

NPPF sections of particular relevance include:

- Section 5 'Delivering a sufficient supply of homes' outlines the government's objective in respect of land supply with subsection 'Rural housing' at paragraphs 78-79 reflecting the requirement for development in rural areas.
- Section 11 'Making effective use of land'. Paragraph 120d advises that planning policies and decisions should promote and support the development of under-utilised land and buildings.
- Section 12 'Achieving well designed places proscribes that all development is to be of a high quality in design, and the relationship and visual impact of it is to be compatible with the surroundings. In particular, and amongst other things, Paragraphs 126 – 136 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, creates better places in which to live and work and helps make development acceptable to communities

Development that is not well designed should be refused, especially where it fails to reflect local design policies and government guidance on design.
- Section 15 'Conserving and Enhancing the Natural Environment'- Paragraphs 179-182 set out how biodiversity is to be protected and encourage net gains for biodiversity.

## 11.0 Human rights

Article 6 - Right to a fair trial.

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

The first protocol of Article 1 Protection of property.

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

## 12.0 Public Sector Equalities Duty

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

- Removing or minimising disadvantages suffered by people due to their protected characteristics

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

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

During the construction process the increase in traffic and noise is likely to have a greater impact on any neighbouring residents who, as a result of disability or age, are unable to leave their homes. The completed dwelling is not judged to result in any disadvantage to persons with protected characteristics.

### **13.0 Financial benefits**

#### Material considerations

None relevant

#### Non-material considerations

CIL contributions

### **14.0 Climate Implications**

The site is within the main urban area boundaries of Corfe Mullen. As such the location is considered to be sustainable and the proposal therefore has no significant climate implications.

### **15.0 Planning Assessment**

#### The principle of the development

- 15.01 The site lies within the urban area where the principle of additional development is acceptable under policy KS2. The proposed three-bedroom dwelling would make a modest contribution to housing provision in accordance with policies KS4 and LN1.

#### Impacts on the character of the area & compatibility with extant planning permissions adjacent to the site

- 15.02 The site lies adjacent to an un-made section of Brook Lane along which there are moderately sized detached dwellings in a mixture of architectural styles. The proposal would result in the subdivision of the Smugglers Hyde plot for the erection of a new dwelling on the southern side of the site, set towards its front, with the northern half of the plot held in reserve for the applicant’s other applications for a dwelling on that part of the site, either for the dwelling approved by 3/19/0382/FUL or the other applications currently under consideration.

- 15.03 There have been several applications to develop the western side (front) of the Smugglers Hyde site for one large dwelling, the more modest of which have been granted planning permission; in 2010 an appeal for a refused three storey replacement dwelling was dismissed because the Inspector judged that the proposed dwelling would increase the height, bulk, mass and scale such that it would be out of keeping. Subsequently, extant permission 3/15/1189/FUL granted a lower but 23m wide dwelling parallel with the highway and more recently permission 3/18/2273/FUL has granted an alternative design including a detached front garage. These extant permissions are material considerations which have been given some weight in the determination of this application. There have also been previous applications to develop the front of the site for two smaller dwellings, of which the most relevant are applications 3/09/0083/RM (lapsed) and the recently approved 3/18/2946/FUL (one dwelling, southern part of the site) in combination with 3/19/0382/FUL (one dwelling, northern part of the site).
- 15.04 This latest proposal to develop the southwestern part of Smugglers Hyde for one dwelling is broadly comparable to plot 2 of approval 3/09/0083/RM and also the dwelling approved by 3/18/2946/FUL in terms of its separation from Kestor; in the current proposal there would be approx. 12.5 metres between these two dwellings at the closest point, which compares favourably to the separation between the dwelling in approved application 3/18/2946/FUL and Kestor, of approx. 10.5 metres. The traditional design and scale of the latest proposal is considered to respect that of the neighbouring dwellings. Plans show the proposal would have a similar ridge height to Kestor and also the approved dwelling. In terms of its design, bulk and spacing from neighbouring dwellings, it is considered that the proposal would form a relatively harmonious visual grouping with neighbouring dwellings Kestor and Kimberly, further to the southwest, and would be compatible with the semi-rural character of that part of Brook Lane. The proposed carport lies forward of the building line but there is already precedent for outbuildings in the locality along the Brook Lane street frontage at no. 157, and also within the site itself. The modest size and position of the proposed car port relative to the proposed dwelling is such that it relates satisfactorily to the dwelling and street scene. There are double garages at the front of the site in approved applications 3/18/2273/FUL and 3/18/2946/FUL.
- 15.05 Notwithstanding the satisfactorily relationship that the proposal would have with the existing neighbouring development, for the proposal to successfully assimilate into the street scene in the longer term it must also be compatible with the other development proposals for the remaining land in the Smugglers Hyde plot, to the north and east of the site. The design style used for the approved dwelling to the north of the site (3/19/0382/FUL) is significantly different to the proposed dwelling in this application and, if built out, would be almost abutting the side of this proposed dwelling. Due to the contrast in design style and close juxtaposition of the dwelling in this proposal and the approved dwelling to the north of the site these two dwellings would read as one disproportionately large building with a visually discordant relationship. As such, if this proposal is approved, it will be necessary for the applicant to enter into a planning obligation not to build out the approved dwelling to the north of the site. The other two applications for a dwelling to the north of the site, currently under consideration, will be considered on their own merits and in the context of this application, if approved.

- 15.06 It is noted that the approved application for the current proposal site was itself accompanied by a unilateral undertaking dated 10 December 2018 which prevents the extant permissions for a dwelling to the rear of the plot from being implemented should permission be granted; in that case the planning obligations were necessary due to the considerable depth of the proposed dwelling (much greater than currently proposed).
- 15.07 It is further noted that the applicant has appealed to the Planning Inspectorate against the Council's failure to determine his two current applications for the north of the site and alternative application for this application site, within the appropriate period of time.
- 15.08 Overall, the proposal is judged to be compatible with its surroundings as required by policy HE2 and will not result harm to the landscape as required by policy HE3.

#### Density of development

- 15.09 The Parish stated a concern that the proposal would lead to a density of development that is contrary to policy LN2 and an overdevelopment of the plot. However, the density of the development would remain significantly below the 30 dwellings per hectare recommended by policy LN2 and the Council has previously approved applications to develop the Smugglers Hyde plot for two dwellings.

#### Impacts on neighbouring amenity

- 15.10 Adjoining neighbours have raised concerns about the impacts of the proposal on their amenity. As the application site is separated from properties to the north and east by the remaining land of the Smugglers Hyde plot, it is considered that the proposal will only have a significant effect on the dwelling known as Kestor, to the southwest of the site. The site is on higher ground than Kestor, which is also set forward of the proposed dwelling and angled towards the application site. Due to its orientation, the east side elevation of Kestor functions as a rear elevation and faces its main outdoor "rear" amenity space and also towards the application site.
- 15.11 Due to the generous 12.5 metre distance between Kestor and the proposed dwelling it is considered that the proposal will not cause significant harm to the amenity of Kestor in terms of overbearing or loss of outlook. In this regard the proposal would have less effect than the approved dwelling for the site (3/18/2946/FUL) which has a much greater front to rear depth at second storey level than currently proposed.
- 15.12 The proposal has no first-floor side facing windows. However, the front elevation of the proposal is set to the rear of Kestor which would allow limited overlooking of the "rear" of Kestor from the front windows of the proposal. Any overlooking of Kestor from the first-floor windows on the front elevation of the proposal would be from an oblique angle but also from a relatively close distance. However, the proposal's closest first floor room to Kestor is a bathroom and as such can be conditioned to be obscure glazed (proposed condition 7), the next closest is only to a hallway and furthest away and set further forward is a bedroom window from

where any overlooking of Kestor is prevented from being significantly harmful to the privacy of Kestor by the very oblique angle and increased distance. Due to the difference in levels between the proposed dwelling and Kestor it is considered a necessary precaution to remove Permitted Development rights (proposed condition 6) for additional windows in the front and side elevations of the proposal to ensure the development remains acceptable in terms of its impact on neighbour's privacy.

- 15.13 The proposed car port is located away from the boundary with Kestor where it will not have a significant effect on its amenity. Due to the relatively modest dimensions of the proposed garden store in the rear garden, it too will not have a significant effect on the amenity of Kestor.
- 15.14 Rear windows in the proposal will allow oblique overlooking of the eastern end of the garden of Kestor, which is not unusual in an urban area, and direct overlooking towards no. 153 to the rear but the 33m distance separating these dwellings ensures no significant overlooking will result.
- 15.15 For the above reasons, the proposal is not found to result in significant harm to neighbouring amenity and is compatible with neighbouring properties as required by policy HE2.

#### Amenity for future occupants

- 15.16 It is considered that the proposal would provide a satisfactory amount of indoor and outdoor amenity space and a reasonable level of privacy for future occupants.

#### Highways impacts

- 15.17 The vehicle access would be in a similar position to the existing access shown on plans and the site would provide off-street parking for two or more vehicles. As such the proposal is in accordance with the guidance set out in the Council's document *Residential Car Parking Provision Local Guidance for Dorset* and it will have a similar, acceptable impact on the highway as the approved application (3/18/2946/FUL).
- 15.18 The Highway's Authority has stated no objection subject to a condition regarding access construction standards. However, as the access leads onto an unmade road this condition is not considered to be reasonable or necessary.
- 15.19 It is noted that the Parish have objected due to concerns that the access would be dangerous, and the unmade road would be harmed by the additional traffic generated by the proposal. However, the proposed access is in a very similar position to the existing access and there is an extant permission to build a second dwelling on the site to which the Highways Authority also raised no objection. For these reasons it is considered that a refusal of the application on the grounds of harmful impacts to the highway could not be substantiated.

#### Impact on Dorset Heathlands

- 15.20 The application site lies within 5km but beyond 400m of Dorset Heathland which is designated as a Site of Special Scientific Interest and a European wildlife site. The proposal for a net increase of one residential unit (in addition to the approved dwelling to the north of the site), in combination with other plans and projects and in the absence of avoidance and mitigation measures, is likely to have a significant effect on the site. It has therefore been necessary for the Council, as the appropriate authority, to undertake an appropriate assessment of the implications for the protected site, in view of the site's conservation objectives.
- 15.21 The appropriate assessment (separate document to this report) has concluded that the likely significant effects arising from the proposal are wholly consistent with and inclusive of the effects detailed in the supporting policy documents, and that the proposal is wholly compliant with the necessary measures to prevent adverse effects on site integrity detailed within the Dorset Heathlands Planning Framework SPD.
- 15.22 The mitigation measures set out in the Dorset Heathlands 2020-2025 SPD can prevent adverse impacts on the integrity of the site. The SPD strategy includes Heathland Infrastructure Projects (HIPs) and Strategic Access Management and Monitoring (SAMM). In relation to this development the Council will fund the HIP and SAMM provision via the Community Infrastructure Levy. The strategic approach to access management is necessary to ensure that displacement does not occur across boundaries.
- 15.23 With the mitigation secured the development will not result in an adverse effect on the integrity of the designated site so in accordance with regulation 70 of the Habitats Regulations 2017 planning permission can be granted; the application accords with policy ME2.

#### Biodiversity

- 15.24 The application is accompanied by an ecological survey dated September 2020 which reported that no protected species were found on the site.
- 15.25 Paragraph 174d of the NPPF requires development to contribute to and enhance the natural and local environment by minimising impacts on and providing net gains for biodiversity. In order for the proposal to comply with para 174d it is considered necessary to add condition 9 to the planning permission so that, if granted, biodiversity enhancement measures are incorporated into the development.

#### Other issues raised by third parties

- 15.26 It is noted that an objection has been received stating concerns that the proposal would lead to increased flooding in the area. The provision of adequate surface water drainage arising from development would be regulated by Building Control. . It is noted that the Inspector for an appeal regarding an earlier application to develop the site (3/16/1856/FUL) found "There is no evidence that the addition of a dwelling would result in a significant increase in surface water runoff or result in increased flood risk".

- 15.27 It is noted that a neighbour has stated that there is a restrictive covenant on the land which prevents construction of additional dwellings and cites the applicant's refused application to an Upper Tribunal court to have the covenant modified. However, such matters lie outside the jurisdiction of the planning system and therefore cannot amount to a material consideration in the determination of this application.
- 15.28 The neighbour has also raised a concern that works to excavate the proposed basement may affect his property. Any safety/construction issues that may arise from the method of construction of the proposal is not a matter regulated by the planning system and as such this issue is not a material planning consideration.
- 15.29 Concerns have also been stated that the street scene drawing is misrepresentative. It is noted that there is a difficulty in representing perspective in scaled drawings which can make set back dwellings appear larger than they would when observed from the street. The case officer has visited the site and has assessed how the proposal will assimilate with the surrounding development.
- 15.30 It is considered that the proposal for a single dwelling would not significantly add to the light pollution created by the surrounding dwellings.
- 15.31 The proposal does not significantly affect the bridleway that passes along Brook Lane.

## **16.0 Conclusion**

- The proposal is located within the boundary of the Corfe Mullen Main Urban Area and is considered to be sustainable and acceptable in its design and general visual impact.
- There is not considered to be any significant harm to neighbouring residential amenity.
- Highway safety is not harmed by the proposal.
- There are no material considerations which would warrant refusal of this application

## **17.0 Recommendation**

- A.** That the Committee would be minded to GRANT planning permission for the application subject to the conditions set out below and the completion of a legal agreement under section 106 of the Town and Country Planning Act 1990 (as amended) to secure the following:

An agreement not to build out the approved dwelling to the north of the site (3/19/0382/FUL)

and recommends that the Head of Planning or Service Manager for Development Management and Enforcement determines the application accordingly.

**Recommendation to grant is subject to the following conditions:**

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

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

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

Drawing No Smh01 Location Plan

Drawing No Smh02 Garden/Cycle Store

Drawing No D8044-003 Rev C Proposed Site Plans received on 26.08.2021

Drawing No D8044-004 Proposed Plans

Drawing No D8044-005 Proposed Elevations

Drawing No D8044-006 Rev D Proposed Street Scene and Proposed Car Port Elevations

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

3. The external works for development hereby permitted shall be constructed of the materials indicated the plans hereby approved.

Reason: This is required to ensure the satisfactory visual relationship of the new development to the existing

4. Prior to the first occupation or use of the development, the on-site facilities for the parking and turning of vehicles shall be provided in accordance with Drawing No D8044-003 Rev C, received on 26.08.2021. These facilities shall be retained, maintained and kept free from obstruction for the lifetime of the development.

Reason: In the interests of road safety

5. Prior to first occupation or use of the development hereby approved a 2m close boarded fence shall be erected along the length of the southern boundary between points E and F shown on Drawing No D8044-003 Rev C received on 26.08.2021. The fence shall be retained and maintained for the lifetime of the development.

Reason: To protect the character and visual amenities of the area and neighbouring amenity.



6. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015 (or any order revoking, re-enacting, or modifying that Order), no further windows, dormer windows, or doors (other than those expressly authorised by this permission) shall be constructed in the front and south side elevations (such expression to include the roof and wall) of the extension/building hereby permitted, without express planning permission first being obtained.

Reason: To avoid loss of privacy to adjoining properties.

7. Both in the first instance and upon all subsequent occasions, the first-floor window serving a bathroom in the front elevation shall be glazed with obscure glass to a minimum Level 3 Obscurity. This window shall either be fixed closed or have a top opening fanlight with the sill of the opening part at least 1700mm above floor level and the lower section fixed shut.

Reason: To preserve the amenity and privacy of the occupants of the adjoining property at 49 Brook Lane.

8. The development hereby approved shall not be occupied or utilised unless and until 2 bird boxes have been installed at the site or other biodiversity enhancement measures, as have been first agreed in writing by the Local Planning Authority, have been completed in full. Thereafter the bird boxes or other approved biodiversity enhancement measures shall be permanently maintained and retained unless otherwise first agreed in writing by the local planning authority.

Reason: As set out in the National Planning Policy Framework (2019 as amended), paragraphs 8, 170 and 175 it is a requirement for all development to enhance the natural environment.

- B.** That the Committee would be minded to refuse planning permission for the reasons set out below if the legal agreement is not completed by 1st June 2022 or such extended time as agreed by the Head of Planning:

Reason: In the absence of a satisfactory and completed legal agreement not to build out the approved dwelling to the north of the site (3/19/0382/FUL), there would be an extant planning permission for a development considered to be incompatible with the proposal; due to the contrast in design style and close juxtaposition of the dwelling in this proposal and the approved dwelling to the north of the site these two dwellings would read as one disproportionately large building with a visually discordant relationship with each other and the neighbouring development. As such the proposal would be contrary to policy HE2 and paragraph 134 of the NPPF 2021.

and recommends that the Head of Planning or Service Manager for Development Management and Enforcement determines the application accordingly.

**Informative Notes on any approval:**

1. The applicant has/has not provided a unilateral undertaking dated **TBC** to prevent the implementation of application 3/19/0382/FUL if this permission is implemented.
  
2. The applicant needs to be aware that the Community Infrastructure Levy (CIL) will be applied to this development. The Council will shortly be issuing a CIL Liability Notice following the grant of this permission which will provide information on the applicant's obligations.
  
3. The applicant is advised that bats are protected in the UK by Schedule 5 of the Wildlife and Countryside Act 1981 and Part 3 of the Conservation of Natural Habitats and Species Regulations 2010 and they are also protected by European and International Law. Work should proceed with caution and if any bats are found, all work should cease, the area in which the bats have been found should be made secure and advice sought from Natural England (tel: 0300 060 2514). website [www.naturalengland.org.uk](http://www.naturalengland.org.uk).

4. Informative: National Planning Policy Framework Statement

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

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

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

In this case:

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