

<b>Application Number:</b>	WP/18/00662/FUL
<b>Webpage:</b>	<a href="https://planning.dorsetcouncil.gov.uk/">https://planning.dorsetcouncil.gov.uk/</a>
<b>Site address:</b>	LAND OFF OF VERNE COMMON ROAD & VENTNOR ROAD, PORTLAND
<b>Proposal:</b>	Develop vacant land by the demolition of garage, formation of vehicular access, erection of 25 dwellings & associated landscaping.
<b>Applicant name:</b>	Mr Laming
<b>Case Officer:</b>	Emma Telford
<b>Ward Member(s):</b>	Cllr R Hughes, Cllr P Kimber & Cllr S Cocking

**1.0** This application is on this planning committee agenda as the application has been the subject of a committee resolution in February 2020 and September 2021, but the decision has not yet been issued. Since the most recent Committee resolution the Council has published an updated five-year housing land supply statement for the West Dorset, Weymouth & Portland area, identifying a supply of 5.85 years. This means that the material considerations have changed since the previous resolution was made and it is therefore necessary for the application to be brought before Committee again for consideration.

**2.0 Summary of recommendation:**

Refuse, for the following reasons:

1) The proposal, by virtue of its location outside of a defined development boundary and being for open-market residential development would be contrary to policies SUS1 (the level of economic and housing growth) and SUS2 (distribution of development) of the West Dorset, Weymouth & Portland Local Plan 2015. The development plan forms the starting point for decision making and is considered to be up-to-date such that where a planning application conflicts with the development plan permission should not normally be granted. There are not considered to be any material considerations that in this particular case would indicate that the development plan should not be followed and as such the proposed development also conflicts with the National Planning Policy Framework. Furthermore, the proposal would result in the loss of an area of incidental open space recognised as a site of open space value within the residential area and therefore the proposal is contrary to policy Port/CR4 of the Portland Neighbourhood Plan. This along with the reasons for refusal set out below add weight to the approach of following the development plan, as there are no material considerations that are considered to outweigh the identified conflict with the spatial strategy.

2) The proposal due to its scale and location would result in less than substantial harm to the setting of the scheduled monument, the Verne Citadel that would not be outweighed by any public benefit. Therefore, the proposal is contrary to policy ENV4 of the West Dorset, Weymouth and Portland Local Plan (2015), policy Port/EN4 of the Portland Neighbourhood Plan and section 16 of the National Planning Policy Framework 2021.

3) In the absence of a satisfactory completed Section 106 agreement the scheme fails to ensure provision of the affordable housing on site and any necessary financial contribution for off-site provision. Hence the scheme is contrary to policy HOUS 1 of the West Dorset, Weymouth and Portland Local Plan 2015.

4) In the absence of a satisfactory completed Section 106 agreement the scheme fails to provide adequate compensatory biodiversity/nature conservation measures through the provision of a financial contribution for grassland compensation and management of the Local Nature Reserve. Hence the scheme is contrary to policy ENV 2 of the West Dorset, Weymouth and Portland Local Plan 2015 and Section 15 of the National Planning Policy Framework 2021.

### 3.0 Reason for the recommendation:

- The application site is located outside of a defined development boundary and would result in the loss of an area of incidental open space recognised as a site of open space value within the residential area.
- The development would result in less than substantial harm to the setting of a designed heritage asset with no public benefit outweighing that harm.
- The lack of a suitably worded S106 agreement to secure the affordable housing financial contribution.
- The lack of a suitable worded S106 agreement to secure compensatory biodiversity/nature conservation measures.

### 4.0 Key planning issues

Issue	Conclusion
Principle of development	The application site is located outside of the defined development boundary for Portland and therefore fails to comply with local plan policy SUS2 and neighbourhood plan policy Port/EN6.
Visual Amenity	Designed considered appropriate for the site.
Heritage Assets	It is considered that the scheme would result in less than substantial harm to the scheduled monument, the Verne Citadel and that on balance there are no public benefits which would outweigh that harm.

Incidental Open Space	The proposal would result in the loss of an area of incidental open space contrary to policy Port/CR4 of the Portland Neighbourhood Plan.
Residential Amenity	Not considered to result in a significant adverse effect on living conditions of either neighbouring properties or future occupiers of the proposed development.
Biodiversity	No S106 completed to secure the grassland compensation and LNR management financial contribution.
Land Instability	Acceptable, technical services raised no in principle objection.
Highway Safety	Acceptable, Highways raise no objections subject to conditions.
Drainage	Acceptable, Flood Risk Management raised no objection subject to conditions.
Affordable Housing	No S106 completed to secure the provision of 5 on site units and the remainder (1.25) by financial contribution.
Community Infrastructure Levy	CIL liable.

## 5.0 Description of Site

- 5.1 The application site is accessed off Verne Common Road with Ventnor Road to the western boundary. The site is surrounded by residential development to the west, north and east. From Verne Common Road the site levels slope downwards to the western boundary and the rear of the properties of Ventnor Road. A pathway runs through the north part of the site linking the lower part of Verne Common Road to the higher section of the road.
- 5.2 The site is greenfield and part of the site is used to graze horses. Planning permission was previously granted (WP/16/00286/FUL) for the erection of 8 dwellings on the site.
- 5.3 The application site is located outside of the defined development boundary (DDB) for Portland although it is positioned adjacent to the DDB. The site lies in close proximity to the Site of Special Scientific Interest (SSSI).

## 6.0 Description of Development

- 6.1 The proposed development involves the erection of 25 dwellings. The proposed 25 dwellings would include 2, 4 bedroom units, 14, 3 bed units, 4, 2 bed units and 5 affordable 3 bed units. The site would be accessed off Verne Common Road on the eastern boundary and the proposed layout of the scheme would provide three tiers

of housing. The sloping topography of the site means the proposed properties are stepped down the slope. The proposed materials include a mix of render, Portland Stone and grey multi brick. The proposed scheme would also include the provision of 59 parking spaces and 22 garage spaces to serve the proposed 25 dwellings.

## 7.0 Relevant Planning History

WP/16/00286/FUL – Erect 8 dwellings (resubmission) – Approved – 19/10/2016

WP/15/00533/FUL – Erection of 8 dwellings – Withdrawn

## 8.0 List of Constraints

Outside Development Boundary

Setting of the Underhill Conservation Area

Setting of a Scheduled Monument

Right of Way

Adjacent to Site of Special Scientific Interest (SSSI)

## 9.0 Consultations

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

### Consultees

1. **Natural England** - *No objection, subject to conditions.*

#### *Designated sites*

*The applications site is adjacent to land designated as the Isle of Portland SSSI and the Isle of Portland to Studland Cliffs SAC, part of which is also designated Verne Yeates Local Nature Reserve (LNR). Natural England have no concerns in regard to the impact of the development on the condition of the SSSI and SAC during operational phase, however the increase in residential units in close proximity to the LNR is likely to increase management costs for the reserve.*

*Without any additional measures to address the issues outlined above the proposals as they stand will not meet the aspiration for achieving sustainable development by, amongst other things, ensuring proposals achieve a biodiversity net gain as set out in NPPF paragraphs 7, 9, within the core planning principles in paragraph 17, paragraph 109 and 152. If your authority is minded to approve the application, we recommend the development support the ongoing management of the LNR, which could be by way of a contribution to the managing organisation, we would be happy to discuss this with the applicant.*

*Given the proximity of the development to the SSSI & SAC, we advise the below is secured via a condition to ensure no adverse impact on the designated site during the construction phase of the development;*

- *No disposal of materials, waste or debris is permitted within the SSSI.*
- *Temporary construction lighting is angled away from the SSSI to avoid light spill into the sensitive area.*
- *Workers are made aware of the SSSI and risks to the site.*

## **BMEP**

*Natural England welcomes the inclusion of a Biodiversity Mitigation and Enhancement Plan (BMEP), however this is not accompanied by a certificate of approval from the Dorset County Council Natural Environment Team (DCC NET). Natural England therefore recommends that permission is not granted until the BMEP has been approved by the DCC NET. Provided the BMEP and any agreed financial contributions has been approved by the DCC NET and its implementation in full is made a condition of any permission, then no further consultation with Natural England is required.*

**2. Natural England (Further Comments)** - *It is not clear if the applicant has refused to negotiate and acquire an approval certificate with the Natural Environment Team or if they intend to do so and resubmit an approved Biodiversity Mitigation and Enhancement Plan, incorporating our previous advice and the matters within this letter.*

*If the former is the case, please notify us and our advice is likely to change to an objection. If the latter is the case then Natural England do not require re-consulting on this matter unless a the application changes significantly.*

**3. Dorset Police Crime Prevention (Original Comments)** - *I have reviewed the plans for the above proposed development and wish to make the following comments:*

*I have concerns in relation to the layout and design of the play space and the open land behind houses 13 – 20.*

- *Communal areas such as playgrounds and seating areas have the potential to generate crime, the fear of crime and anti-social behaviour. They should be designed to allow visibility from nearby dwellings, which the current layout does not allow. They should also not immediately abut residential buildings (house 13). Also, by positioning amenity/play spaces to the rear of dwellings (open land behind houses 13 -20) can increase the potential for crime and complaints arising from increased noise and nuisance.*
- *I would also strongly recommend that the security of the dwellings meets the standards laid out in the Secured by Design Guidance: Homes 2016 – Section 2.*

*This is a minimum standard for security but would assist with the sustainability of the development.*

**4. Dorset Police Crime Prevention (Amendments)** - *I have reviewed the amended plans for the above proposed development and wish to make the following comments:*

- I am pleased to see that the play area that was next to house 13 has been moved.*
- I still, however, have concerns in relation to the open land behind houses 13 – 20 and will be speaking to the Architect to see what boundary fencing (if any) is proposed on this development.*
- I would also like to see that the security of the dwellings meets the standards laid out in the Secured By Design Guidance: Homes 2019 (supersedes Homes 2016). This is the minimum standard of security but would assist with the sustainability of the development.*

**5. Wessex Water** - *Please find attached an extract from our records showing the approximate location of our apparatus within the vicinity of the site.*

#### *Sewerage Infrastructure*

*Foul sewers from this area flow to the Victoria Square pumping station, from here flows are pumped onwards to the Weymouth Sewage Treatment Works.*

*The site shall be served by separate systems of drainage:*

#### *Foul Drainage*

*A connection to the public sewer network can be agreed for proposed foul flows.*

*To achieve a gravity connection, a Section 98 off-site sewer requisition may be required across third party land to connect the 225mm public combined sewer in Ventnor Road.*

#### *Surface Water Drainage*

- The drainage strategy by GAP Ltd (Oct 2018) indicates attenuated discharge in to the public combined sewer. Surface water discharge should be disposed of in accordance with Suds Hierarchy and NPPF Guidelines and disposal to local land drainage systems should be prioritised ahead of a connection to the public sewer. We will require the applicant to prove that other means of disposal are not viable, and this includes disposal of proposed highway runoff to any existing highway drain network.*
- We will consider a connection to the public combined system where it is proven that other options higher up the surface water hierarchy cannot be achieved.*

- *This is a full application and the proposed drainage layout should provide a true representation of the surface water system required to serve this development.*
- *The steep contours and elevation of this site is noted and we request that more detailed engineering drawings are submitted that provide an accurate representation of how the storm water attenuation features are to be constructed on the hillside, along with the proposed foul and surface water routes and any easement widths (3m either side of the adoptable sewers) where they run outside of public highway. This is required to confirm that it is feasible to accommodate the necessary sewers and surface water storage features within the proposed site layout.*
- *Land drainage run-off shall not be permitted to discharge either directly or indirectly to the public sewerage system*

*Development sewers can be offered for adoption under a formal S104 agreement, subject to satisfactory engineering proposals constructed to current adoptable standards. The developer should contact the local development team as early as possible to agree proposals for the Section 104 adoption and any off-site Section 98 sewer requisition works [development.south@wessexwater.co.uk](mailto:development.south@wessexwater.co.uk).*

*Additional development flows will cause capacity issues further downstream at the Victoria Square SPS. Under the new developer charging arrangements, Wessex Water will need to plan design and construct any necessary improvements to accommodate permitted development in compliance with regulatory requirements. Prioritising and programming these works will require consultation with all stakeholders to ensure that capacity improvements can be delivered to match the rate of development.*

### *Water Supply*

*The site is crossed by a 3" cast iron water main. The position of the water main must be accurately located and marked on site and on deposited plans. There must be no development within 3m either side of the water main and no tree planting within 6m. Ground levels above the water main must be maintained and the applicant should contact Wessex Water to agree protection works during the construction programme and thereafter. Subject to application and engineering agreement it may be possible to divert/lower the water main. Diversions of public apparatus are at the developer's cost and the applicant should refer to our guidance note DEV002G and our website <http://www.wessexwater.co.uk/Developers/Supply/Buildingnear-a-water-mains/> for further guidance and contacts.*

*A water supply can be made available from the local network with new water mains installed under a Section 41 requisition arrangement. The applicant is advised to contact Wessex Water as early as possible in the construction process to discuss a Section 41 application and to determine if a booster pump will be required.*

**6. Highways** - No objection subject to the following conditions:

*Before the development is occupied or utilised the access, geometric highway layout, turning and parking areas shown on the approved plans must be constructed, unless otherwise agreed in writing by the Local Planning Authority. Thereafter, these must be maintained, kept free from obstruction and available for the purposes specified.*

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

*Before the development hereby approved is occupied or utilised the turning and parking shown on the submitted plans must have been constructed. Thereafter, these areas must be permanently maintained, kept free from obstruction and available for the purposes specified.*

*Reason: To ensure the proper and appropriate development of the site and to ensure that highway safety is not adversely impacted upon.*

**7. Environmental Health** - No comments received at the time of report preparation.

**8. Trees Officer** - *There is an area of trees within neighbouring land that are adjacent to the western boundary of the site which are within a Conservation Area. It is quite possible that the layout of the proposed development could have implications on the long-term retention of these specimens.*

*Tree survey / report required for any trees within and adjacent to the site.*

In response to the original comments from the Tree Officer further information was submitted and the following further response was made.

**9. Trees Officer (Amended)** - *There are no trees of any significant consequence within the site or on neighbouring land that borders the western boundary of the site and therefore, I do not see the need for a full Tree Report.*

**10. Technical Services** - *With regards to this application I have no 'in principle' objection. Given the size of the development, the FRM team in their role as LLFA have provided comments regarding the management and discharging of surface water so I suggest you refer to their comments. The site is located in an area where we would not expect there to be land instability issues however, as with all development, particularly on sloping ground, the applicant will have to be satisfied that the proposals have been suitably designed and will not result in instability and approved construction practices should be followed in a responsible, safe manner. The applicant should seek appropriate technical advice and ensure the necessary geotechnical investigations are undertaken to confirm the construction methodology is sound. There should be continual monitoring of ground conditions during any*



*construction work and particularly during any earthwork operations with particular attention to any ground movement or groundwater conditions – although the site is not expected to have any prevailing issues with groundwater and collected surface water is to be drained off site to a piped system. Building Control will have to be satisfied with the foundation arrangements if/when an application is made for Building Regs approval.*

**11. Landscape Officer** - *The application site is located on steeply sloping ground with Verne Common Road to the east and rough ground leading to the rear gardens of Ventnor Road to the west.*

*The site is quite visible in views from more elevated streets to the east and south (for example, Clovens Road and New Road but is less visible from public footpaths and bridleways within the wider landscape, with the exception of views from New Ground, footpath S3/85 and footpath S3/3 immediately to the east of the application site. The site forms part of a wider area of open ground that encompasses Verne Hill but sits within the context of the Verne Common Road settlement.*

*A photomontage has been submitted with the application which illustrates how the development may look within views from the New Ground area. This shows proposed housing that does not appear out of place or out of scale to its location and does not appear to be a detrimental element within the highly valued views towards Wyke Regis. The existing tree planting that is located in the rough ground between the application site and the rear gardens of Ventnor Road will act as a visual screen between the two. It is proposed that this planting will be further supplemented by new planting along the western edge of the proposed development.*

*The proposed scheme is not located on a clifftop and does not broach the skyline in any views. Verne Hill has a distinct character that is different to much of the landscape within the Limestone Peninsula character area. Its steep slopes are covered in scrub, pasture or rank grassland with the Verne Citadel sat on top. The introduction of housing on the application site will see the spread of development along the lower parts of this slope, albeit on a small scale. My initial concerns that this application may start a pattern of development along this lower part of the Verne Hill were slightly alleviated when I reviewed the contour plan of the area and could see that the land becomes increasingly steeper the further one travels south and east towards Tillycombe Road.*

*I have no objection to this application on grounds of impact on landscape character or visual amenity.*

**12. Urban Design Officer** - *The proposed site plan incorporates numerous instances of dwellings fronting out facing the rear of neighbouring proposed new dwellings largely as a response to the topography of the site. The high quality architecture and use of side-on gardens for the detached units mitigate against the fact that there are front / rear issues within the site plan. The site sections drawings*

*show how the design and scale of the detached dwellings could function successfully on this site. However, there are urban design issues with the site layout detailed below.*

*The sweeping street pattern proposed in the site plan reflects the existing street pattern at Verne Common Road and facilitates a high level of on-plot parking. The application for 8 dwellings (WP/16/00286) included an access point which is further north than that of the proposal within this application (WP/18/00662). The approach to situate the access point further north would give a greater separation between the site access point and the sharp bend to the south east. The sense of arrival would be somewhat compromised by this access point as visitors would be greeted by the rear of plots 1 and 2 upon arrival to the site. The site layout currently misses the opportunity to create casual surveillance of the footpath. This could be achieved through either reorienting the dwellings close to the footpath or through appropriate fenestration on the relevant side elevations.*

*I agree with the aspiration to incorporate the northernmost parcel of land within the application area and to include built form on this area. However, under the current proposals to occupy this area with affordable units entirely, a severance is created. The division between the proposed open market and affordable units is most evident in 'drawing 3D view 13' which shows clear separation between the two parcels. The proposed orientation of the affordable units coupled with the topography of the surrounding area is likely to ensure that existing dwellings on Verne Common Road (82, 84, 86 and 88) will be imposing to the affordable units. The West Dorset and Weymouth and Portland Adopted Local Plan states that there is a requirement for 25% affordable housing on sites where open market housing is proposed on Portland. The Housing Enabling Team have highlighted that the five dwellings proposed to be affordable units do not meet the 25% required. The total number of affordable units required on this site, given the total proposed is 25, would be 6.25 units. This will have implications for a revision to the site layout with an additional affordable unit sought at the expense of an open market unit.*

*I disagree with the assertion made in the Design and Access Statement that 'All of the proposed homes will be provided with large gardens'. In many instances (plots 13-16 & 21-25) the plots proposed do not include gardens that match the ground floor footprint of their assigned dwelling. The remaining plots that do incorporate amenity space that match the GF footprint do not have gardens that could be considered large, with possibly the exception of plot 6. The use of gardens sitting side-on to their respective detached dwelling is generally shown to work well within the site layout with the exception of plot 12. The garden for this dwelling is proposed to sit on the corner of the street and as such, would adversely impact the public realm. In terms of public open space, the positioning of the 'garden' and its proposed proximity to the bin store reduces the amenity value of this space. I echo the comments made by the Crime Prevention Design Advisor with respect to the 'wild*

*landscaped buffer' to the rear of proposed units 13 – 20. This area should ideally be reconsidered within a revised site layout.*

*The parking arrangement proposed for the 2B terrace is well designed with street planting used to break up the hard surfacing. This approach should also be applied to the parking arrangement for the affordable units. Breaking up the single terrace of five would assist with this. The five parking spaces at the northernmost part of the site could be a potential source of conflict. Parking in this configuration on a gradient lends itself to car doors banging against neighbouring cars.*

*The play space could be repositioned to sit in the space currently proposed to be occupied by the 'garden'. This would still allow the play space to be easily accessed from the footpath and would present the chance for dwellings to be oriented to allow casual surveillance of the space. This would address concerns raised by the Crime Prevention Design Advisor regarding the potential to generate crime, fear of crime and anti-social behaviour. Furthermore, this could also ensure that residential buildings do not abut the play space, reducing potential for complaints arising from increase noise and nuisance.*

*The opportunity to provide a bathroom / en-suite window for all detached and end of terrace dwellings could be realised in order to aid ventilation. For the 3 bed detached dwellings, a bathroom window should be incorporated on the north elevation (south elevation for plot 2) which may involve slightly reconfiguring the floor plan. Under the current layout, for the 2B terraced units 13 – 16, an en-suite window should be incorporated in each dwelling on the SW elevation. For the end of terrace 2B units, unit 13 should be afforded a bathroom window on the NW elevation and likewise unit 16 on the SE elevation. In the current configuration for the 3B affordable units (plots 21-25) the floor plan for unit 21 should be mirrored to allow the bathroom to include an outer facing wall and therefore, incorporate a bathroom window. The floor plan for unit 25 would not need to be mirrored in order to afford a bathroom window under the current layout, one should be provided.*

*There is scope for a revised site layout to address the concerns outlined. Repositioning the play space as previously mentioned would force a re-routing of the road servicing the northern parcel and, in turn, would allow built form in this parcel to front west rather than east. It is imagined that the northern parcel could accommodate between two and three detached dwellings whilst offering some casual surveillance of the footpath and play space to the south. The issue of the side garden for plot 12 could potentially be addressed by positioning a terrace of three affordable units in this space, fronting north. This would allow these units to front onto the repositioned play space. The remaining three affordable units could be accommodated in the lower tier of the site in space vacated by the detached units moved to the northern parcel. Breaking the terrace of five affordable units would enable these dwellings to be better distributed across the site in a tenure blind approach. An added benefit to splitting up the affordable units into groups of two or*

*three adjoining units rather than a group of five is the reduction in mid terraced units which preclude the provision of a bathroom window on the side elevation.*

**14. Planning Obligations Manager** - *On the understanding that 20 of these 25 units will remain CIL liable I have no comments on this application from a S106/ CIL perspective.*

**15. Flood Risk Management Team (Original Comments)** - *The site is entirely within Flood Zone 1 (low risk / fluvial flooding), in accordance with indicative flood mapping provided by the Environment Agency's (EA). Equally, it is seen to be largely unaffected by indicative mapping of both surface and ground water flooding, other than the (theoretical) formation of an overland flow path during severe rainfall events (1:1000yr).*

*The site is understood to fall generally east - west / north-west, whilst prevailing ground conditions are understood from BGS mapping to comprise of Sedimentary Mudstone bedrock, of Kimmeridge Clay. Therefore, infiltration rates are anticipated to be low and unlikely to support the use of soakaways for the management of surface water.*

*Whilst we (DCC/FRM) do not hold specific flood records relevant to the site, it is appropriate that surface water management is adequately considered, and that the requirements of the National Planning Policy Framework (NPPF - Revised July 2018) are fully complied with to prevent both flood risk to the site / proposed development or any off site / downstream worsening.*

*The limited supporting information that has been supplied, namely Section 5 (Flood Risk Assessment) of the supporting Design & Access Statement does not provide sufficient clarification of the necessary management of surface water, although we note that the requirement for a conceptual strategy is acknowledged. Within Section 11 of the relevant Application Form, the proposed use of SuDS, an existing watercourse and soakaways are all identified, but have not been substantiated by supporting information. Indeed, it is not clear that the site has access to a receiving watercourse or that infiltration rates will support the use of soakaways, as suggested by the relevant Application Form.*

*Whilst we appreciate that this proposal relates to the (re)development of a largely Greenfield site, the applicant should supply a viable & deliverable scheme of surface water management, based upon adequate consideration of prevailing ground conditions, relevant constraints & the SuDS hierarchy.*

*On this basis, we (DCC FRM) recommend that a precautionary approach be adopted and request that a (Holding) Objection be applied to this proposal pending the supply and acceptance of a conceptual strategy for the management of surface water derived from the proposed development.*

**16. Flood Risk Management Team (Amendments)** - *The more recent submission of the following revised document;*

- *GAP Ltd compiled Drainage Strategy (DS) report ref: 18195 Rev 3 dated May 2019.*
- *GAP Ltd drawn Surface Water Drainage Strategy (SWDS) plan ref: 18195-900 P3 (Appendix E of DS report) dated May 2019.*

*On the basis of these revised documents and additional clarification provided we (DC/FRM) withdraw our previous (Holding) Objection in this matter.*

*We have No In-Principle Objection to the proposed development subject to attachment of the following (2) conditions to any planning approval granted and compliance with the (conceptual) drainage strategy that has been outlined.*

*No development shall take place until a detailed and finalised surface water management scheme for the site, based upon the hydrological and hydrogeological context of the development, and with due consideration of the construction phase, has been submitted to, and approved in writing by the local planning authority. The necessary detail design shall include all required clarification and substantiation of the proposed surface water management scheme and be implemented in accordance with the submitted details before the development is completed.*

*REASON: To prevent the increased risk of flooding, and to improve & protect water quality.*

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

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

**17. Countryside Access Team** - *The proposed works are in the vicinity of the above public right of way, as recorded on the County Definitive Map and Statement of rights of way (please see the attached plan). However, I am unaware of any unrecorded paths that may be affected.*

*I have no objection to the proposed development, as shown in the plans accompanying the application. However, throughout the duration of the development the full width of the public footpath must remain open and available to the public, with no materials or vehicles stored on the route.*

*The 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 the above path then a Temporary Path Closure Order must be obtained. This can be applied for through this office 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.*

**18. Housing Enabling Team** - *The Local Plan states that 25% of affordable housing is to be delivered on open market housing sites. Whilst it is welcomed that this proposal offers five 3 bedroom homes all for affordable rent, it should be noted that 25% of the total build is in fact 6.25 homes therefore Housing Enabling team would seek an additional affordable home and a financial contribution for the fraction.*

*Currently the affordable houses are considerably smaller than the market homes and are situated together in a terrace separated from the open market homes. Ideally, to ensure a balanced community, it would be preferable to offer affordable homes that are 'tenure blind' and 'pepper-potted' around the site.*

*There is a high level housing need in the Borough of Weymouth and Portland which these homes would assist in meeting. Ideally the affordable housing on this site would be a mix of two and three bedroom properties.*

**19. Portland Town Council** - *PTC declined to make a comment on the original planning application as the Builder was, at the time, the Prime Contractor for the PCV. Given that no comments were made on the initial application PTC do not feel that it is appropriate to make comment on the amendment.*

**20. Senior Archaeologist** - *An archaeological evaluation took place on the site in 2016 and found very little. Although I cannot immediately see the evaluation report among the application documentation, I think the reference is: Bellamy, P, 2016, Land at Verne Common Road, Fortuneswell, Portland, Dorset. Archaeological Field Evaluation. Based on the results of this report, I see no need for any further archaeological evaluation or mitigation.*

**21. Historic England** - *We note that this application area is located in proximity to a number of designated heritage assets. These include (but are not limited to) the following:*

- *The Scheduled Monument recorded as 'The Verne Citadel' (National Heritage List for England ref. 1002411); and*
- *The Underhill (Weymouth and Portland) Conservation Area, which encompasses a large number of listed buildings.*

*This application thus has the potential to impact on the significance of sensitive, designated heritage assets via a change in setting. The National Planning Policy Framework (NPPF) refers to the conservation and enhancement of the historic*

*environment in section 16. Paragraph 190 refers to the conservation of heritage assets and notes that effects can arise from both a physical change and a change in setting.*

*From the information given and a check of our records Historic England has formed the view that the proposals are unlikely to result in a loss of significance to the Conservation Area noted above. This because of the dispersed nature and relatively low height of the proposed new buildings, the screening of the application area by the existing terrace on Ventnor Road, and the local topography. With regard to the Scheduled Verne Citadel, we conclude that the application may result in a loss of significance via a change in setting. This applies to views of the Citadel from the south, particularly from New Road and New Ground, where the application area rises toward the green mass of the glacis which forms the primary western defence of the complex. However, it is our view that this loss of significance falls far short of that termed 'substantial' in the context of paragraphs 194 and 195 of the NPPF. It is therefore for the Council to determine the application based on the advice given in paragraph 196 of the NPPF, which refers to balancing harm against public benefit.*

*Historic England has no objection to the application on heritage grounds.*

### **Representations received**

Thirty-nine third party responses have been received in response to the application. The application was re-consulted on and therefore further responses have been received from the same people. One response was received in support of the application for the following reasons summarised below:

- Positive impact on the surrounding area.
- Separated from neighbouring properties.
- Sufficient parking provided.
- The development will create local employment whilst generating much needed income to the local economy.

Thirty-eight third party responses were received objecting to the application for the reasons summarised below:

Principle of Development:

- Application site is outside of the defined development boundary.
- Is there a need for the additional housing proposed.
- Brownfield sites should be considered first.
- Sufficient properties on Portland.

Highway Safety:

- Exacerbate existing highway safety issues.
- Already poor parking facilities.

- Increased volume of traffic and create issues with vehicles being able to turn.
- Access close to the corner of the existing road.
- Road is the main route to the Verne Prison with traffic constantly using it.
- No parking for visitors.
- Entry/Exit to the site is a very tight turning giving onto a hairpin bend.
- Constant risks in the access of emergency vehicles to this section of Portland.

#### Neighbouring Amenity:

- Overlooking of neighbouring properties removing the privacy of properties in Ventnor Road.
- Noise Impact – disturbance to back gardens of existing properties.
- Proposed dwellings with little or no gardens.
- Ongoing maintenance of proposed park could lead to anti-social behaviour.
- Loss of rear access to existing properties.
- Planning permission granted (WP/18/00662/FUL) for a single dwelling which would be located adjacent to the proposed site.
- Concerns regarding the height of trees proposed including safety concerns and loss of light.
- Proposed play area has been removed from the plans.
- Loss of green space/community, social space.
- Affordable units are in separate enclave which would not be conducive to inclusivity and community spirit.
- Sheer drop on the other side of the fence line concerns as to what would hold the properties up.
- Approved scheme (WP/16/00286/FUL) was positioned further away from the boundaries to protect privacy and amenity of existing homes and gardens.

#### Visual Amenity:

- Overdevelopment/ Overcrowded of the site.
- High visibility impact on the wider landscape from popular viewpoints.
- Does not offer any intrinsic architectural value to locality.
- Not in keeping with the characterful surrounding properties.
- Styles of the properties will not blend into the site.
- Proposed design seems very similar to the Officers Field and Osprey developments, suitable for those sites being nearer the sea, they would look out of place in this more rural setting.
- The layout is unacceptably rigid and regimented.
- Modern approach to the design of these dwellings will be out of keeping with the existing area.
- Loss of open and green space in wider views – also somewhere to appreciate nature, wildlife and for children to play.
- Increased pollution.



- Higher density development than the housing to the north.
- The original proposal for the site (WP/15/00533/FUL) was withdrawn because I believe the case officer at the time stated that detached properties were not in keeping with the area.
- Revised and subsequently approved application was also limited to 8 houses with no detached houses.
- Disproportionate number of proposed houses and their height together with the new roads will create a highly visible mass.

#### Heritage Assets:

- Impact on archaeological potential.
- Impact on the Conservation Area.
- Original ancient field boundary wall on the eastern side of the site has been removed and replaced with gabion wall.
- Loss of historical landscape.

#### Environmental/Biodiversity:

- Road could cause significant damage to the SSSI.
- Detrimental impact on biodiversity including a vast number of species (bats, badgers, birds, hedgehogs, reptiles) – no amount of mitigation will prevent the harm to the wildlife in this area.
- Loss of trees.
- Significant negative impact on air quality.
- Reduce the amenity and environmental value of Portland.
- Ongoing maintenance of the trees.
- Adjacent to the SSI and Local Nature Reserve.
- Proposed Nature Reserve Reptile habitat area is not enough to compensate for the loss of the whole site.
- Loss of wildlife corridor.
- Significant source of light pollution.
- No buffer between the planned development and the nature reserve.

#### Other Issues:

- Site used as play area as the landlocked site makes it safe for children will move children to play in roads.
- Illegal to obstruct a public footpath.
- Provide access to the affordable units over an existing public footpath.
- Further stretch services for example healthcare to the limit.
- Infrastructure within Fortuneswell is already stretched and this development will only add additional pressure.
- Danger of subsidence.
- Contribute to the dangers of run-off from heavy rains.

- Loss of natural soakaway.
- Large properties for a price range that will be far out of reach for the local area or become second homes/holiday lets.
- Substantial loss of grazing land.
- Many existing properties standing unoccupied for many years.

Comments were also received setting out that the application would result in the properties surrounding the site being devalued, that it would impact on the ability to resell and that the proposal and associated planting would impact on the views of the surrounding neighbouring properties. These issues raised are not material planning reasons and there will not be considered as part of the application.

A comment was also made that the proposal would involve the introduction of buildings and associated formal gardens in an area of outstanding natural beauty. To clarify this site is not within the Dorset AONB.

As part of the third-party responses questions were asked regarding the retention of access to the rear of the existing neighbouring properties which is currently gained over the application site. This is a civil issue between the owners of these properties and the land owner. However the agent for the application was asked to respond and set out that particular attention will be paid to the boundary arrangements at the lower (western) parts of the site in consultation with their Ecologists to ensure that legal rights are maintained and that landscaping and planting works enhance the existing vegetation and features to be retained.

Comments were received regarding the plans and the need for site sections to show the relationship of the proposed development with the neighbouring properties. Through the course of the application amended plans and further site sections were submitted and it is considered that sufficient information has been provided to complete a full assessment of the scheme. It was also raised that there was no certificate of approval from the Natural Environment Team for the BMEP, this was the case at the beginning of the application but a BMEP has been submitted alongside a NET certificate of approval.

## **10.0 Relevant Policies**

### Development Plan

#### West Dorset, Weymouth & Portland Local Plan

- INT 1 – Presumption in favour of Sustainable Development
- ENV 1 – Landscape, Seascape and Sites of Geological Interest
- ENV 2 – Wildlife and Habitats
- ENV 3 – Green Infrastructure Network
- ENV 4 – Heritage Assets
- ENV 5 – Flood Risk
- ENV 7 – Coastal Erosion and Land Instability
- ENV 10 – The Landscape and Townscape Setting
- ENV 11 – The Pattern of Streets and Spaces
- ENV 12 – The Design and Positioning of Buildings
- ENV 15 – Efficient and Appropriate Use of Land
- ENV 16 – Amenity

SUS 1 – The Level of Economic and Housing Growth  
SUS 2 – Distribution of Development  
HOUS 1 – Affordable Housing  
HOUS 3 – Open Market Housing Mix  
COM 7 – Creating a Safe and Efficient Transport Network  
COM 9 – Parking Standards in New Development  
COM 10 – The Provision of Utilities Service Infrastructure

#### Portland Neighbourhood Plan

Port/EN4 – Local Heritage Assets  
Port/EN6 – Defined Development Boundaries  
Port/EN7 – Design and Character  
Port/HS1 – Housing Mix  
Port/TR3 – Reducing Parking Problems  
Port/CR4 – Sites of Open Space Value

#### Material Considerations

##### National Planning Policy Framework

2. Achieving sustainable development  
4. Decision-making  
5. Delivering a sufficient supply of homes  
11. Making effective use of land  
12. Achieving well-designed places  
15. Conserving and enhancing the natural environment  
16. Conserving and enhancing the historic environment

#### **Other material considerations**

Urban Design SPG  
DCC Parking Standards Guidance  
Weymouth and Portland Landscape Character Assessment  
Appraisal of the Conservation Area of Portland (as amended 2017)

### **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.

In the context of the above PSED, the proposal would provide parking adjacent to the proposed dwellings. The proposed development would be located on the hill side and is therefore sloping in nature. Highways also made a note that the footway gradient exceeds the maximum of 1:23 specified by Inclusive Mobility and also gives cause for concern with regard to the Equalities Act 2010. However, on the basis the road isn't being offered for adoption (as per the application form) and that the site is vertically remote being half way up the scarp face of the highest part of Portland on a long zig-zag road; the Highway Authority considers it not unreasonable provided it remains private. The sloping nature of the footways is noted and the potential impacts of these on those with protected characteristics with mobility, however the scheme reflects the natural sloping topography and character of Portland and is not dissimilar to other neighbouring residential development on the hillside.

### **13.0 Financial benefits**

#### Material Considerations

Provision of affordable housing

Employment created during construction phase

Spending in local economy by residents of 25 dwellings

#### Non-Material Considerations

Contribution to Council Tax Revenue

New Homes Bonus

Community Infrastructure Levy

### **14.0 Climate Implications**

14.1 The construction phase would include the release of carbon monoxide from vehicles and emissions from the construction process. Energy would be used as a result of the production of the building materials and during the construction process. When occupied the development would generate vehicular movements releasing carbon monoxide. Heat escape from dwellings would contribute to greenhouse gases. However, it should be noted that modern building regulations would help minimise such heat release. A balance has to be struck between providing housing to meet needs (both open market and affordable) versus conserving natural resources and minimising energy use.

### **15.0 Planning Assessment**

#### Principle of development

15.1 The application site is accessed off Verne Common Road with Ventnor Road to the western boundary. The site is bounded by residential development to the west, north and east. The site is however located outside of the defined development boundary for Portland.

15.2 A previous application WP/16/00286/FUL was granted on the site for the erection of 8 dwellings but never implemented. As part of that application it was considered that although the site was located outside of the defined development boundary, the site was enclosed on 3 sides by existing urban development and that given the lack of a 5 year housing land supply relevant policies for the supply of housing, including SUS 2 were no longer be considered up-to date and the application was granted.

15.3 In February 2020, this current application was first brought to committee with a recommendation to delegate authority to grant, subject to a legal agreement to secure affordable housing and biodiversity related financial contributions. As the Council could not demonstrate a five year housing land supply the proposal was considered in relation to NPPF paragraph 11 d) which stated *where there are no relevant development plan policies, or the policies which are most important for determining the application are out-of-date, granting permission unless:*

- i) the application of policies in this Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed, or*
- ii) any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole.*

15.4 The committee at that time resolved to delegate authority to grant as per the officer's recommendation subject to the completion of a legal agreement.

15.5 In September 2021 the S106 had still not been completed and since the previous February 2020 resolution had been made the Portland Neighbourhood Plan had been made (adopted) by Dorset Council on 22 June 2021 which meant the Development Plan had changed since the resolution was made. The application was therefore brought back to committee with a recommendation that the committee be minded to grant the application subject to conditions and the completion of a legal agreement like before. Again, it was noted that the site lies outside of a defined development boundary but the Council's lack of five-year housing land supply, like before, meant NPPF para 11, d) was engaged. As the Portland Neighbourhood Plan had been made, NPPF para 14 was also considered the most important development plan policies remained out of date.

15.6 However, the Council has published an updated five-year housing land supply statement for the West Dorset, Weymouth and Portland area, identifying a supply of 5.85 years. The lack of a five-year housing land supply was a very significant factor for the previous consideration of this application (as set out above) and this position has now changed. It is therefore considered necessary that as a decision has not yet been issued for the application it shall be re-assessed in light of the updated five-year housing land supply.

15.7 As a result of this, and because there are no other reasons to consider the development plan out of date, the titled balance process (NPPF para 11, d) is not engaged. Policy SUS2 (distribution of development) is considered up-to-date and to carry full weight in the consideration of this application and can be fully relied upon in the determination process.

15.8 Paragraph 12 of the National Planning Policy Framework (2021) states that where a planning application conflicts with an up-to-date development plan (including any neighbourhood plans that form part of the development plan), permission should not usually be granted.

15.9 Consequently, the principle of development is considered unacceptable as the site lies outside of the defined development boundary, which is contrary to policy SUS2 of the local plan and Port/EN6 of the neighbourhood plan that both direct the provision of open market housing to sites located within a settlement boundary.

15.10 Paragraph 12 of the NPPF does say that local planning authorities may take decisions that depart from an up-to-date development plan, but only if material considerations in a particular case indicate that the plan should not be followed.

15.11 The site is considered to be in a sustainable location, however it is outside the defined development boundary and therefore in a location where new open market housing is not supported by Policy SUS2 of the local plan or by the neighbourhood plan. As detailed in the neighbourhood plan the boundaries of the DDBs on Portland were drawn in the local plan with regard to the island's unique physical and environmental characteristics and the separate identify of different communities. As part of the preparation of the Neighbourhood Plan the opportunity was taken to review the boundaries to ensure they remained fit for purpose. The Neighbourhood Plan details that the policy approach of defining the normally acceptable limits to development remained very relevant to Portland – helping to protect the unique and sensitive open landscape of the island and preventing the coalescence and loss of character of the separate settlement areas. The built-up area boundaries in the Neighbourhood Plan are different in parts to the DDBs in the local plan, but in respect of the application site it remains outside of the DDB in both the local plan and Neighbourhood Plan.

15.12 The agent has highlighted to officers that terms have been agreed with Aster to construct the 5 affordable homes that are proposed for the site. The development is for 25 homes in total and in the view of the agent will be deliverable within a 5 year period. The agent has also noted paragraphs 103 and 106 of the Inspector's report resulting from the Local Plan Examination into what became the 2015 adopted local plan. The Inspector indicated that the Council should take advantage of every reasonable opportunity to improve their short-term supply position as well as the overall amount of housing for the plan period and should not ignore the new opportunities which come forward in sustainable locations and are consistent with other policy provisions. This is noted by officers but with a current supply position of 5.85 years this is considered sufficient at this time this would not provide, in the officers view, justification for taking a view contrary to the spatial strategy of the local plan.

15.13 The S106 agreement to secure the affordable housing provision and biodiversity compensation has been drafted and it is understood that it is now ready for completion. It has however only been ready for signing since the Council has published its 5 year land supply statement and therefore it has not been signed and completed due to the conflict that now occurs between the location of the site and the policies of the development plan.

15.14 Whilst it is acknowledged that the proposed development would provide 25 dwellings, with 5 on-site affordable dwellings, in this particular case it is considered that the significance of that quantum and type of housing provision in this location, with no other public benefits, is such that there are no material considerations that indicate that the development plan should not be followed.

### Visual Amenity

15.15 The application involves the erection of 25 dwellings. A previous application (WP/16/00286/FUL) was approved on the site for the erection of 8 dwellings. The topography of the site means the proposed dwellings are built into the slope with the three tiers providing a steepening in the roof forms of the dwellings. The application site does currently provide an open gap between the properties of Ventnor Road and Verne Common Road. The Landscape Officer was consulted on the application and considered that the site is quite visible in views from more elevated streets to the east and south (for example, Clovens Road and New Road but is less visible from public footpaths and bridleways within the wider landscape, with the exception of views from New Ground, footpath S3/85 and footpath S3/3 immediately to the east of the application site. The site forms part of a wider area of open ground that encompasses Verne Hill but sits within the context of the Verne Common Road settlement. It is considered that the proposed dwellings would not appear out of place or out of scale to its location and does not appear to be a detrimental element within the highly valued views towards Wyke Regis. The existing tree planting will act as a visual screen between the two and will be further supplemented by the proposed additional planting. A condition would be required on any approval granted for the submission of a landscaping plan including its management. The Landscape Officer raised no objection to the application and considered the proposed scheme is not located on a clifftop and does not broach the skyline in any views. Verne Hill has a distinct character that is different to much of the landscape within the Limestone Peninsula character area. Its steep slopes are covered in scrub, pasture or rank grassland with the Verne Citadel sat on top.

15.16 Portland Neighbourhood Plan policy Port/EN7 expects development proposals to be of a design which complements the prevailing size, height, scale and mass, materials, layout, density and be of a high quality design and use locally appropriate materials and colours. The proposed development would include 16 detached dwellings, two pairs of semi-detached properties and a terrace of five dwellings. The terrace and semi-detached properties are located closer to the existing built development. The proposed properties comprise of traditional forms and materials with contemporary detailing for example large windows. The proposed materials include white render, grey brickwork and Portland Stone. The proposed properties are not considered to reflect the design of the adjoining neighbouring properties

however they are similar in design to those approved as part of the Officers Field development and are not therefore at odds with the character of a number of existing properties and developments on Portland satisfying policy Port/EN7.

### Heritage Assets

15.17 The application site is located just outside of the Underhill Conservation Area the boundary of which runs along the rear of the properties of Ventnor Road to the west of the site. The proposed development would therefore impact on the setting of the Conservation Area. A previous application was approved on the site under the reference (WP/16/00286/FUL) for the erection of 8 dwellings. The current application is for 25 dwellings, the style of the proposed dwellings would reflect its hillside location and they would be constructed of white render, Portland Stone and grey brick, reflective of the materials in the conservation area. Historic England were consulted on the application and considered that the proposals are unlikely to result in a loss of significance to the Conservation Area. Given the above the proposal is considered to preserve the setting of the conservation area because of the dispersed nature and relatively low height of the proposed new buildings, the screening of the application area by the existing terrace on Ventnor Road and the local topography. This conclusion has been reached having regard to: (1) section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 that requires special regard to be paid to the desirability of preserving or enhancing the character or appearance of a conservation area; and (2) Local Plan policy.

15.18 The application site is located within an area of archaeological potential and concerns have been raised by third parties that the application site has archaeological potential. The Senior Archaeologist was consulted on the application and indicated that an archaeological evaluation took place on the site in 2016 and found very little. Based on the results of this report the Senior Archaeologist considered there was no need for any further archaeological evaluation or mitigation.

15.19 The proposed development is also within the setting of the Scheduled Monument, The Verne Citadel. A previous application WP/16/00286/FUL was approved on the site for the erection of 8 dwellings. The current proposal is for the erection of 25 dwellings and therefore a larger part of the site would be developed. However, the topography of the local area means the proposed development would be set down from Verne Common Road which leads up to the scheduled monument and would be a continuation of the existing residential development. Historic England were consulted on the application and considered that the proposal may result in a loss of significance via a change in setting to the Verne Citadel. This applies to views of the Citadel from the south, particularly from New Road and New Ground, where the application area rises toward the green mass of the glacis which forms the primary western defence of the complex. However, Historic England concluded that this loss of significance falls far short of that termed 'substantial' in the context the NPPF and therefore it is for the Council to determine the application based on balancing harm against public interest. NPPF para 202 sets out that *where a development proposal 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 including, where appropriate, securing its optimum viable use.* It was



considered that the proposal would lead to less than substantial harm to the setting of the Verne Citadel.

15.20 When the public benefits of this application were previously weighed against the less than substantial harm to the setting of the Verne Citadel it was considered that the provision of 25 dwellings including the provision of 5 on-site affordable units were considered to outweigh the less than substantial harm, in the context of their not being a 5 year housing land supply. However, as the Council can now demonstrate a five year housing land supply significant weight can no longer be attached to the provision of this additional housing. Therefore, the public benefits of the scheme are no longer considered to outweigh the less than substantial harm to the scheduled monument, the Verne Citadel.

#### Incidental Open Space

15.21 Portland Neighbourhood Plan policy Port/CR4 is also applicable, the supporting text to this policy identifies open space at Verne Common as being an area of incidental open space of value. The proposed development would result in the loss of that open space. The policy reads as follows:

*Areas of incidental open space within residential areas that contribute to local amenity, character and/or green infrastructure should be protected from development except where:*

*i. new and appropriate alternative provision can be demonstrated to compensate for localised loss of public amenity and community wellbeing; or,*

*ii. it can be demonstrated that any damage to green infrastructure and/or local character can be rectified or the existing situation enhanced.*

15.22 When the application was previously considered it was noted that the proposed development would conflict with this policy however regard was given to the fact that the site is within private ownership and only a small part accessible by residents. A very large portion of the site is fenced and currently used for the grazing of horses. It was therefore considered to have limited public amenity value as there is no public access to a large portion of the site. A Biodiversity Plan was also agreed as part of the application and therefore the biodiversity aspect of green infrastructure has been considered and agreed with parts of the site left outside the development area for biodiversity interests.

15.23 However, the recently adopted Neighbourhood Plan sets out that these open spaces are part of the essential character of the residential areas and in many cases they form an important part of the green infrastructure by serving as green corridors through the built-up area. As the Council can now demonstrate a five year housing land supply significant weight can no longer be attached to the benefit of the provision of 25 homes on this site. This site is not put forward as an allocation in the recently adopted Neighbourhood Plan or as part of the West Dorset, Weymouth and Portland Local Plan review (the evidence generated is now feeding into the Dorset Council Local Plan). Therefore, the justification for the loss of incidental open space considered a site of open space value in the Portland Neighbourhood Plan can no

longer be assisted by the benefit of the provision of housing. Therefore, in line with Port/CR4 the site should be protected as the scheme does not provide new and appropriate alternative provision nor can it demonstrate that any damage to green infrastructure and/or local character can be rectified or the existing situation enhanced.

### Residential Amenity

15.24 The proposed development includes the erection of 25 dwellings. Portland Neighbourhood Plan policy Port/HS1 sets out that development proposals must contain an appropriate mixture of house types and sizes. The proposed development is for 25 dwellings, this would be comprised of 2, 4 bed dwellings, 14, 3 bed dwellings, 4, 2 bed dwellings and 5, 3 bed affordable dwellings which is considered to provide an appropriate mixture of housing.

15.25 The sloping topography of the site means the proposed layout for the scheme is set out with three tiers of dwellings going down the slope. The upper tier would be positioned to the east of the site closest to the proposed access off of Verne Common Road. The proposed upper tier properties would be set down from the existing properties of Verne Common Road. The proposed upper tier would also be located approximately 32m from the existing properties opposite and would be separated by Verne Common Road. Planning permission has been granted under the reference WP/18/00441/FUL for the erection of one dwelling adjacent to no. 92 Verne Common Road but the scheme has not yet implemented. There is no guarantee that the scheme will be implemented but it is the garage and parking bay of the approved dwelling that would be located to the rear of the proposed House 01 of the upper tier. The living space of the approved dwelling would overlook the shared space of the proposed development and therefore is not considered to result in a significant adverse impact.

15.26 The proposed middle tier due to its location within the middle of the application site would be positioned some distance from any existing neighbouring properties. There would be some degree of overlooking between the proposed dwellings due to the tiered approach however this is reflective of the character of hillside development due to the rise in levels. This is further mitigated against with the use of side-on gardens for the detached units.

15.27 The proposed lower tier (not including the proposed terrace) would back onto the properties of Ventnor Road to the west of the application site. However, the distance between the proposed dwellings and the rear of the dwellings of Ventnor is considered to be sufficient to not result in overlooking. The proposed terrace properties positioned to the north of the site are two storey in height and would be separated by the existing properties to the east by the garden of the existing property and the access road and parking of the proposed site. The existing properties located to the west of the proposed terrace would also be separated by both the gardens of the proposed dwellings and those of the existing.

15.28 Local Plan Policy ENV 12 sets out that new housing should meet and where possible exceed appropriate minimum space standards. The proposed dwellings are

considered to meet the space standards and each dwelling is considered to have sufficient outside amenity space with garden and roof terrace space.

### Biodiversity

15.29 The south-east boundary of the application site borders the Portland Site of Special Scientific Interest (SSSI), the Isle of Portland to Studland Cliffs Special Areas of Conservation (SACs), part of which is also designated Verne Yeates Local Nature Reserve (LNR). The application site is also approximately 390m from the Chesil & The Fleet SAC and SSSI.

15.30 In relation to the Chesil & The Fleet Natural England (NE) has adopted an Interim Strategy for mitigating the effects of recreational pressure on Chesil Beach and the Fleet SAC, SPA and Ramsar. NE has advised that a five-kilometre buffer zone should be applied to housing developments coming forward within this area based on an average of 2.4 residents per dwelling. NE has identified various sources of ecological impact relating to increased recreational use of the area and costed appropriate mitigation delivery measures. These total £191,673 per annum. Dorset Council Cabinet in July 2020 considered the Interim Strategy and required mitigation costs in respect of Chesil Beach and The Fleet where recent research and publication of updated Natural England advice demonstrated that new development in the vicinity would have an adverse impact on the integrity of the site. Using CIL as a mechanism for recovering the cost of this mitigation provides Dorset Council with an interim strategy that ensures that planning applications affecting this protected area can be appropriately assessed, in turn, helping to ensure the delivery of sustainable development. Dorset Council has committed to using CIL to fund the interim mitigation strategy agreed with Natural England. The likely annual cost of mitigating the protected area is approximately £192,000 per annum. Mitigation in respect of Chesil Beach and the Fleet will be addressed via the CIL payment. This approach was set out in the appropriate assessment and agreed by Natural England.

15.31 The proposed access road into the site would be positioned adjacent to this boundary. Concerns have been raised by third parties regarding the impact of the development on the adjacent SSSI but also the impact on the biodiversity of the application site. Natural England were consulted on the application and had no concerns in regards to the impact of the development on the condition of the SSSI and SAC during the operational phase, however the increase in residential units in close proximity to the LNR is likely to increase management costs for the reserve. Natural England recommended the development support the ongoing management of the LNR, a financial contribution of £15,638 has been agreed through the BMEP and would need to be secured as part of a Section 106 agreement. £10,138 of that contribution would be for grassland compensation and £5500 for LNR management. Natural England has also requested conditions for the protection of the SSSI and SAC during the construction phase and these would be included as part of a condition for a Construction Management Plan if the application were to be granted. This approach was set out in the appropriate assessment and agreed by Natural England. A condition would also be required for the development to be carried out in accordance with the NET agreed BMEP.

15.32 A S106 agreement has not been completed to secure the grassland compensation and LNR management financial contribution and therefore this would form a reason for refusal of the application.

#### Land Instability

15.33 The application site has a sloping topography, concerns have been raised by third parties regarding land instability. In response to the concerns Technical Services were consulted on the application and raised no in principle objection. They set out that the site is located in an area where land instability issues are not expected. As with all development particularly on sloping ground, the applicant will have to be satisfied that the proposals have been suitably designed and will not result in instability and approved construction practices should be followed in a responsible, safe manner. An informative would be required on any approval to set out the advice given by Technical Services.

#### Highway Safety

15.34 Portland Neighbourhood Plan Policy Port/TR3 sets out that all development proposals must make adequate provision for off-street parking. The proposed development is for the erection of 25 dwellings with 59 parking space and 22 garage spaces and the application site would be accessed off Verne Common Road. In response to initial concerns raised by Highways the proposed access to the site was moved further up Verne Common Road. Highways were then re-consulted on the application. Third party concerns have been raised regarding the proposed access and the impact of increased road users on Verne Common Road on highway safety. Highways have raised no objection subject to conditions for the estate road construction and for the turning and parking construction as submitted. A condition would also be required on any approval granted for the submission of a Construction Management Plan.

15.35 Highways also made a note that the footway gradient exceeds the maximum of 1:23 specified by Inclusive Mobility and also gives cause for concern with regard to the Equalities Act 2010. We note the maximum gradient appears to be 1:10. This is the former adoptable standard, and whilst this would be acceptable for the carriageway it wouldn't be accepted for adoptable footways and as such the whole development still cannot be adopted. However, on the basis the road isn't being offered for adoption (as per the application form) and that the site is vertically remote being half way up the scarp face of the highest part of Portland on a long zig-zag road; the Highway Authority considers it not unreasonable provided it remains private. The comments of Highways have been noted but the application site is situated on the hillside and it therefore both the site and the route to access the site has a sloping topography.

15.36 Concerns were raised by third parties that the proposed road within the site to provide access to the proposed units 21-25 would go over the existing right of way which would raise safety concerns. The footpath which links the lower part of Verne Common Road to the higher part. This footpath although well established in the local area is not a public right of way. The proposed plans retain the footpath through the

site, users of the footpath would have to cross the access road which would serve five residential properties.

### Drainage

15.37 The application site is located within flood zone 1 and is seen to be largely unaffected by indicative mapping of both surface and ground water flooding other than the (theoretical) formation of an overland flow path during severe rainfall events. The Flood Risk Management Team were consulted and recommended a holding objection be applied to the proposal pending the supply and acceptance of a conceptual strategy for the management of surface water derived from the proposed development. In response to the comments received a Drainage Strategy and plans were submitted which were considered acceptable and the Flood Risk Management Team withdrew their holding objection and raised no in principle objection to the proposed development subject to planning conditions. Therefore, conditions for a detailed and finalised surface water management scheme and details of responsibility, maintenance and management of the surface water sustainable drainage scheme would be required on any approval granted.

### Affordable Housing

15.38 Para 64 of the NPPF states that Provision of affordable housing should not be sought for residential developments that are not major developments, other than in designated rural areas (where policies may set out a lower threshold of 5 unit or fewer). Major development for housing is defined in the NPPF as development where 10 or more homes will be provided, or the site has an area of 0.5 hectares or more. The proposed development exceeds this threshold and therefore local plan policy HOUS 1, as the application site is in Portland it requires 25% of the development to be for affordable housing.

15.39 The provision of 5 affordable rented homes on site and a financial contribution equivalent to 1.25 units of £59,254 has been offered by the applicant. The on-site provision together with the financial contribution equate to a policy compliant affordable housing provision of 25%. The policy states that in most cases affordable housing should be provided on-site however in this case the Senior Housing Enabling Officer considers that the provision of 5 on-site and the remainder by financial contribution would be acceptable.

15.40 A S106 agreement has not been completed to secure the on-site affordable housing and the financial contribution and therefore this would form a reason for refusal of the application.

### Community Infrastructure Levy

15.41 The adopted charging schedule only applies a levy on proposals that create a dwelling and/or a dwelling with restricted holiday use. All other development types are therefore set a £0 per square metre CIL rate.

15.42 The development proposal is CIL liable. Confirmation of the final CIL charge will be included in a CIL liability notice issued prior to the commencement of the

development Index linking as required by the CIL Regulations - (Reg. 40) is applied to all liability notices issued, using the national All-In Tender Price Index of construction costs published by the Building Cost Information Service (BCIS) of the Royal Institution of Chartered Surveyors. CIL payments are index linked from the year that CIL was implemented (2016) to the year that planning permission is granted.

## **16.0 Conclusion**

16.1 The application site is located outside of a defined development boundary and is therefore contrary to local plan policies SUS1 and SUS2 and neighbourhood plan policy Port/EN6.

16.2 The proposed scheme would result in less than substantial harm to the scheduled monument, the Verne Citadel and there are no public benefits which would outweigh that harm.

16.3 The lack of a completed S106 agreement means the proposal fails to secure both the required affordable housing failing to comply with local plan policy HOUS 1 and adequate compensatory biodiversity/nature conservation measures through the provision of a financial contribution for grassland compensation and management of the Local Nature Reserve failing to comply with ENV 2.

## **17.0 Recommendation**

Refuse, for the following reasons:

1) The proposal, by virtue of its location outside of a defined development boundary and being for open-market residential development would be contrary to policies SUS1 (the level of economic and housing growth) and SUS2 (distribution of development) of the West Dorset, Weymouth & Portland Local Plan 2015. The development plan forms the starting point for decision making and is considered to be up-to-date such that where a planning application conflicts with the development plan permission should not normally be granted. There are not considered to be any material considerations that in this particular case would indicate that the development plan should not be followed and as such the proposed development also conflicts with the National Planning Policy Framework. Furthermore, the proposal would result in the loss of an area of incidental open space recognised as a site of open space value within the residential area and therefore the proposal is contrary to policy Port/CR4 of the Portland Neighbourhood Plan. This along with the reasons for refusal set out below add weight to the approach of following the development plan, as there are no material considerations that are considered to outweigh the identified conflict with the spatial strategy.

2) The proposal due to its scale and location would result in less than substantial harm to the setting of the scheduled monument, the Verne Citadel that would not be outweighed by any public benefit. Therefore, the proposal is contrary to policy ENV4 of the West Dorset, Weymouth and Portland Local Plan (2015), policy Port/EN4 of the Portland Neighbourhood Plan and section 16 of the National Planning Policy Framework 2021.

3) In the absence of a satisfactory completed Section 106 agreement the scheme fails to ensure provision of the affordable housing on site and any necessary financial contribution for off-site provision. Hence the scheme is contrary to policy HOUS 1 of the West Dorset, Weymouth and Portland Local Plan 2015.

4) In the absence of a satisfactory completed Section 106 agreement the scheme fails to provide adequate compensatory biodiversity/nature conservation measures through the provision of a financial contribution for grassland compensation and management of the Local Nature Reserve. Hence the scheme is contrary to policy ENV 2 of the West Dorset, Weymouth and Portland Local Plan 2015 and Section 15 of the National Planning Policy Framework 2021.