

<b>Application Number:</b>	P/HOU/2023/00174
<b>Webpage:</b>	<a href="https://planning.dorsetcouncil.gov.uk/plandisp.aspx?recno=393589">https://planning.dorsetcouncil.gov.uk/plandisp.aspx?recno=393589</a>
<b>Site address:</b>	5 Overton Close
<b>Proposal:</b>	Erect a first floor extension to include balcony, front porch and associated landscaping works
<b>Applicant name:</b>	Mr & Mrs Nokes
<b>Case Officer:</b>	Toby Hibbs
<b>Ward Member(s):</b>	Cllr Bawden

**1.0** This application has been brought to committee at the request of the Service Manager for Development Management and Enforcement following a Scheme of Delegation consultation.

**2.0 Summary of recommendation:** Grant subject to conditions.

**3.0 Reason for the recommendation:**

- The proposal is acceptable in its design and general visual impact.
- There is not considered to be any significant harm to neighbouring residential amenity.
- There are no material considerations which would warrant refusal of this application.

**4.0 Key planning issues**

<b>Issue</b>	<b>Conclusion</b>
Principle of development	The principle of development is supported. Initial concerns regarding design and neighbouring amenity are considered to be resolved.
Design (visual amenity)	The scale and design is considered to be a positive enhancement from the existing dwelling and compatible with the site and wider area.
Neighbour amenity	No adverse impact on neighbouring amenity

**5.0 Description of Site**

Overton Close is a collection of around five dwellings of varying design, scale and proportions within a cul-de-sac located on the outskirts of Lyme Regis approximately 0.7km northeast from Lyme Regis town centre. The cul-de-sac is nestled onto a hill side adjacent to the nearby Spittle's Woodland with clear views of Lyme Regis town and coastline. Overton Close was developed sometime in the 1970s evidenced by the architectural features on some of the buildings, notably the cluster of bungalow dwellings towards the south side of the cul-de-sac. The building in question is one of these bungalow dwellings and is adjacent to a two-storey dwelling behind (to the north west) and another to the west.

## 6.0 Description of Development

The proposed development is a remodel of the existing bungalow consisting of an approximate 1.3 metre upward extension forming an additional storey including a roofed balcony terrace feature to the first floor south east elevation and first floor gable extension serving the principle elevation with timber weatherboard and Juliette balcony. A stepped dual pitch porch with oak door and glazed balustrading is also proposed for this elevation. The proposed roof would be constructed with slate tiles and feature two timber casement gabled dormers to the front and one to the southeast (side) elevation. The existing stone and render walling is to be retained. Associated landscaping works to the existing garden are also proposed.

## 7.0 Relevant Planning History

- P/HOU/2021/04587 - Decision: REF - Decision Date: 12/04/2022  
Erect first floor extension to include dormer windows and balcony and erect double height porch and associated landscaping
- P/PAP/2022/00478 - Decision: RES - Decision Date: 13/09/2022  
First floor extension and associated landscaping. Pre-app to address issues raised in previous refused application: P/HOU/2021/04587

## 8.0 List of Constraints

Within Lyme Regis defined development boundary.

Potential cliff top recession 100yr (5% probability)

Potential cliff top recession 50yr (5% probability)

*Lyme Regis and Charmouth Slope Instability Zones; Zone 3*

*Area of Outstanding Natural Beauty (AONB)*

*Risk of Groundwater Emergence; Groundwater levels are at least 5m below the ground surface.; Flooding from groundwater is not likely.*

*Medium pressure gas pipeline 25m or less from Medium Pressure Pipelines (75mbar - 2 bar)*

## 9.0 Consultations

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

### Consultees

1. **Lyme Regis Council:** Objection – Overbearing nature/scale, significant impact to neighbouring amenity, out of keeping with character/scale of existing properties.
2. **Cllr Bawden:** Shared view with the Lyme Regis Town Council, objection.
3. **Highways:** No objection.
4. **Coastal Risk Management:** No objection subject to prior foundation assessment (during building regulations stage).

### Representations received

7 third party representations received. with the following concerns:

<p>Design/ visual amenity &amp; overbearing impact</p>	<p>Believe nothing has changed since last year's planning application - 0.3m in height is totally insignificant. It was 1.8m last time (not 2m) and this proposal is 1.5m.</p> <p>The scale is too big and will have a negative impact on the residential amenity of neighbouring properties.</p> <p>This application is very similar to the previous application which was refused on the grounds of being dominant and overbearing and not in keeping with the character of the area. This application has reduced the height of the roof by only a marginal amount so the original grounds for refusal will still apply.</p> <p>Having looked at both the last and this current application and discussed the issue with others, it appears that this proposal only reduces the height of the new roof by 300mm – less than one foot. This will make a very minor change and little difference to the overbearing and visually dominant nature of the proposed roof extension.</p> <p>The proposal, by reason of context, size and design, is an inappropriate and prominent addition which would be harmful to the character and appearance of the area. Its height and close</p>
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	<p>proximity to its boundaries would be overbearing for the property behind. Thus reducing amenity and privacy as a result.</p> <p>The scale of the proposed development would make no 5 dominant in the cul-de-sac.</p> <p>Will be faced with a dominant high roof, very close to the joint boundary, taking sunlight, affecting our outlook and amenity from the garden. The reduction in height proposed of just 300mm is simply a gesture that will have little meaningful result.</p>
Overshadowing (neighbouring amenity)	<p>Given the position of no 5 being the first property of the close it will dominate and overshadow the surrounding properties, the area including the entrance to the beautiful Spittles and Coast Path which we feel is also an important point.</p>
Overlooking (neighbouring amenity)	<p>There will still be the loss of privacy, houses being overlooked.</p> <p>The increase in height would mean that the house would damage the quality of life of the immediate neighbours living in Numbers 1, 2 and 4 Overton Close. Their outlook would be negatively affected and dominated by the proposal. They would be overshadowed and/or overlooked by the extensions to this property.</p> <p>It will overlook certain properties and is generally out of proportion and character.</p> <p>The new first floor would overlook our terrace area.</p> <p>Likelihood is that we will be overlooked and the reason we purchased our property was to secure a degree of privacy.</p> <p>The effect on our property and general quality of life, would be significant and as planned, the proposal will seriously and adversely affect our residential amenity.</p>
Outlook	<p>The outlook from 4 Overton Close will be badly affected by the bulky new roof close to their property. This will overshadow and dominate their garden and house.</p>

	<p>The new first floor would block our view of the Spittles woods.</p> <p>Significant negative change to our outlook, especially from one of the main sitting out area of our balcony, living room and dining room where we spend the majority of our time.</p>
Restrictive Covenant	<p>It will be devastating and set a precedent if this planning application is allowed. Anyone moving into this close could raise their roofs and totally spoil the amenity and landscape.</p> <p>As mentioned in my comments to the previous scheme there is a restrictive covenant that prevents extra height and another storey as now proposed.</p> <p>We bought our house in July '22 on the understanding there is a covenant in place to preserve the amenity of the cul-de-sac by preventing the upward extension of any of the five properties built around Treetops/Overton House. This proposal would breach that covenant and would set a precedent for further upward development in Overton Close.</p>

## 10.0 Relevant Policies

### Development Plan

#### West Dorset Weymouth and Portland Local Plan 2015

The following policies of the Local Plan are considered to be relevant:

- INT1 - Presumption in favour of Sustainable Development
- ENV1 – Landscape, seascape and sites of geological interest
- ENV2 - Wildlife and Habitats
- ENV7 - Coastal Erosion and Land Instability
- ENV10 - The landscape and townscape setting
- ENV 12 - The design and positioning of buildings
- ENV 16 - Amenity
- SUS2 - Distribution of development

### Material considerations

#### National Planning Policy Framework (2021)

The following polices of the National Planning Policy Framework (2021) are considered to be relevant for this proposal:

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.

Relevant NPPF sections include:

- Section 4. Decision taking: Para 38 - Local planning authorities should approach decisions on proposed development in a positive and creative way. They should use the full range of planning tools available...and work proactively with applicants to secure developments that will improve the economic, social and environmental conditions of the area. Decision-makers at every level should seek to approve applications for sustainable development where possible.
- Section 12 'Achieving well designed places indicates that all development to be of a high quality in design, and the relationship and visual impact of it to be compatible with the surroundings. In particular, and amongst other things, Paragraphs 126 – 136 advise that:

The Government attaches great importance to the design of the built environment. Good design is a key aspect of sustainable development, is indivisible from good planning, and should contribute positively to making places better for people.

It is important to plan positively for the achievement of high quality and inclusive design for all development, including individual buildings, public and private spaces and wider area development schemes.

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'- In Areas of Outstanding Natural Beauty great weight should be given to conserving and enhancing the landscape and scenic beauty (para 176). Decisions in Heritage Coast areas should be consistent with the special character of the area and the importance of its conservation (para 173). Paragraphs 179-182 set out how biodiversity is to be protected and encourage net gains for biodiversity.

National Planning Practice Guidance

Section 85 of the Countryside and Rights of Way Act 2000 places a duty on any relevant authority, in exercising or performing any functions in relation to, or so as to affect, land in an AONB, to have regard to the purpose of conserving and enhancing the natural beauty of the AONB.

## **11.0 Human rights**

Article 6 - Right to a fair trial.

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

The first protocol of Article 1 Protection of property.

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

## **12.0 Public Sector Equalities Duty**

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

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

Whilst there is no absolute requirement to fully remove any disadvantage the Duty is to have “regard to” and remove or minimise disadvantage and in considering the merits of this planning application the planning authority has taken into consideration the requirements of the Public Sector Equalities Duty. It is considered that given the type and nature of the development proposed it would have no adverse impact on people with protected characteristics.

Construction of the proposed extension would be subject to Building Control legislation which sets standards for the design and construction of buildings addressing various matters including accessibility and which help ensure that new buildings are safe, healthy and high-performing.

Having regard to the information provided in the current application, as well as policy requirements, consultation responses received, the regulatory requirements of the building regulations and the recommended conditions; it is satisfied that the proposed development:

- (i) would help to advance equality of opportunity;
- (ii) would assist in fostering good relations; and
- (iii) would have no material adverse impact on individuals or identifiable groups with protected characteristics.

## **13.0 Financial benefits**

Material considerations:  
Employment created during the construction phase.

## **14.0 Planning Assessment**

Principle of development

14.1 A proposed remodel of a dated bungalow is supported in principle as it is considered that the resultant development would positively contribute to the immediate site and locality). It is considered that the proportions would correspond with the varying sizes and material composition of buildings within the close and appropriate measures have been undertaken to rectify the neighbouring amenity issues resulting in the refusal of the previous scheme (P/HOU/2021/04587). For these reasons the principle of development is accepted.

Design - impact on visual amenity, the street scene and natural beauty of the AONB:

14.2 In terms of design this resubmission has embraced a more understated approach in comparison to the previously refused proposal. Fundamentally this revised scheme responds better to the traditional setting of the site and has proposed suitable revisions. This includes a significant alteration of replacing a formerly proposed zinc standing seam roof with a more traditional slate tile counterpart to correspond with nearby properties. This revised scheme also uses timberwork by way of the southwest and southeast elevations and associated dormer units. These changes are positive and would sympathise with the woodland setting, AONB and elements of timberwork used within the locality. A condition will be applied to ensure the external surface of the weatherboarding is implemented with an appropriate finish that will blend in with the surroundings. Similarly further detail will be conditioned regarding the proposed slate tile roofing.

14.3 Consequently, the resultant build would be considered a positive addition within the locality and AONB. This scheme also proposes to preserve some of the existing dwelling by maintaining the rendered stonework walling. This is supported and would retain some of the original buildings character and would have regard to the neighbouring dwellings to the southwest which have been constructed with the same stonework.

14.4 It is noted that the proposed porch has also been adequately reduced in height compared to the previously refused scheme and is now considered subservient.

14.5 The resultant 1.3 metre increase in height to form a two-storey dwelling would not adversely impact the visual amenity of the close or wider views. Some properties within the close, namely to the north and west, are of a two-storey design and as such the scope of this scheme is within reason and would fit proportionately within the locality whilst still appearing modest.

14.6 Although a proposed vertical extension would effectively eradicate any subservient trait from the original bungalow dwelling, the proposed remodel is considered a visual improvement to the development site and surrounding area and has also retained remnants of the previous bungalow structure respecting some elements of the original building.

14.7 Overall, by reason of its design and scale, the proposals would conform with the pattern of development within the close, by way of the development's proportions,

material composition and style. The Close has evidently undergone a modern transition from its 1970 origin and as such the scope for this revised scheme's design is justified and would therefore accord with Policies ENV10 and ENV12 of the West Dorset, Weymouth & Portland Local Plan (2015) and sections 12 and 15 of the National Planning Policy Framework (2021).

### Amenity

14.8 The second reason for the previous refusal was based on potential impact on neighbouring amenity, particularly to the adjacent neighbour to the northeast. Previously, two rear dormer windows were proposed serving the rear elevation of the proposed build. This was considered harmful and likely to overlook the garden of the adjacent neighbour, greatly diminishing their privacy and amenity. Following pre-application advice this feature has been removed.

14.9 Following a site visit last year it was concluded that the previous height of 1.8 metres for the increase in ridge height was considered overbearing on the adjacent neighbours front garden.

14.10 On balance, the pre-application discussions suggested that a reduction of at least 500mm could be supported and would alleviate the adverse impact of the previously proposed roof height. This has resulted in a revised roof height of approximately 1.3 metres. This revised roof height is now considered acceptable and would not be significantly detrimental to the neighbouring occupants amenity.

14.11 The justification why a 500mm reduction is considered sufficient in resolving the overbearing concern is supported by the sloping topography of the site. 5 Overton Close sits noticeably lower than the neighbour to the northeast. In effect the adjacent ground level of the neighbour sits around level with the roof of the existing bungalow. With this in mind, a reduced 1.3-metre-high extension would be acceptable and would no longer be considered overbearing as shown on the submitted section plans.

14.12 It is considered that this revised scheme would preserve the neighbouring property's natural light, into both their property and garden and would be comparable with the present situation. Whilst the impact on the rear neighbour's view/outlook from their property has been raised, the section plans clearly show that the new roof will not extinguish the neighbour's views over Lyme Regis nor present significant overbearing loss of outlook. There is no right to a view and even though overbearing loss of outlook can be considered as a planning matter, that is not thought to be the case in this instance.

14.13 For these reasons it is considered this application is in accordance with Policy ENV16 of the adopted West Dorset, Weymouth & Portland Local Plan (2015).

### Restrictive Covenant

14.14 There are several references to a restrictive covenant put in place on Overton Close preventing upward extensions of the dwellings. However, upon reviewing the planning history, this is not a planning related restriction. As such, the covenant is a private matter for the applicant to consider/address if required.

#### Land Stability

14.15 Land stability implications are also highlighted as a concern among third party representatives given the additional massing on the development site. However, the coastal risk management team has assessed this scheme and raised no objection. Although, it is recommended that an appropriate site inspection and assessment of the existing foundations are to be carried out during building regulations stage. It is noted that this proposed development may coincide with an approved planning application of a nearby building within the Close. However, the applicant has evidenced that the scheme will overall not have a significant impact on ground stability of the site or surrounding area subject to construction monitoring. The scheme therefore complies with policy ENV7 of the West Dorset, Weymouth & Portland Local Plan (2015).

#### Ecological Impact

14.16 A Preliminary Roost Appraisal has been conducted by 'ArbTech Ecology Ltd'. It was concluded that there was negligible potential for bat/bird roosting within the building. Therefore, in principle there are no significant concerns regarding ecological impact on protected species in this instance. However, Biodiversity enhancements are recommended to be implemented in conjunction with the proposed development in line with the NPPF (2021) requirements for biodiversity enhancements. Due to the site being located near the West Bay SAC and the Sidmouth to West Dorset Coast SSSI, it has been recommended that a low impact strategy should be considered for the site during construction and post development to mitigate potential light pollution for bats that may utilise this area. The applicant will be advised of this through an informative if planning permission is granted. A single bat box is also recommended to be integrated in conjunction with the proposed development which shall be conditioned if planning permission is granted.

### **15.0 Conclusion**

15.1 The development has been assessed with regard to the policies within the adopted West Dorset, Weymouth & Portland Local Plan (2015), the NPPF (2021) and all other relevant material considerations. It has been concluded that the proposed development would pose no harm to local amenity and would preserve the natural beauty of the Dorset Area of Outstanding Natural Beauty. Furthermore, the development would have an acceptable impact on the residential amenity of neighbouring properties.

### **16.0 Recommendation**

Grant subject to conditions:

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

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

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

119 STEP2\_01 Rev E Proposed ground, basement and first floor plan and roof plan

119 STEP2\_02 Rev E Elevations proposed

119 STEP2\_03 Rev C proposed site section

119 STEP2\_04 Rev C Proposed site section

119 STEP2\_05 Proposed site Plan

119 STEP2\_06 The location Plan

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

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

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

4. A single bat box or integrated bat box as detailed in the Arbtech Preliminary Roost Assessment submitted 6 December 2021 shall be erected prior to first occupation or use of the extension hereby approved and thereafter maintained and retained for the lifetime of the development.

Reason: To enhance or protect biodiversity

### Informative

Informative- Geo technical information/condition

It is noted that this development may coincide with a scheme at 1 Overton Close. It is recommended that any ground related issues which emerge during the groundwork site assessment stage, for which ever development is first carried

out, should be communicated to the Peter Chapman Ltd and the Local Planning Authority to ensure risk of instability to the wider area is minimised.

#### Informative- Ecological impact mitigation

The applicant is recommended to have due regard to the conclusions, impacts and recommendations (section 4.0) of the Arbtech report dated 06/12/2021 in regards to external lighting.

#### 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.
- The applicant was provided with pre-application advice.