

Application Number:	P/FUL/2023/01702		
Webpage:	Planning application: P/FUL/2023/01702 - dorsetforyou.com (dorsetcouncil.gov.uk)		
Site address:	Land to the East of 27 Sherford Drive, Wareham, BH20 4EN		
Proposal:	Installation of a Telecommunications Cabin in a 5m-by-5m compound, which will also house a power unit, air conditioning unit and a Footway 10 chamber		
Applicant name:	Jurassic Fibre		
Case Officer:	Cari Wooldridge		
Ward Member(s):	Cllr Ezzard, Cllr Holloway		
Publicity expiry date:	04 August 2023	Officer site visit date:	28 April 2023
Decision due date:	28 July 2023	Ext(s) of time:	28 July 2023

1.0 This planning application is required to be considered by the Planning Committee as Dorset Council is the freeholder of the land within the red line site boundary.

2.0 Summary of recommendation:

The committee be minded GRANT planning permission subject to the conditions set out in section 18 of this report.

3.0 **Reason for the recommendation:** as set out in paras 16 – 17 of this report and summarised as follows:

- Section 38(6) of the Planning and Compensation Act 2004 provides that determinations must be made in accordance with the development plan unless material considerations indicate otherwise.
- Paragraph 11 of the National Planning Policy Framework (NPPF) sets out that decisions should apply a presumption in favour of sustainable development where it accords with an up to date development plan.
- The provision of high-speed broadband infrastructure is supported by paragraph 114 of the NPPF.
- The appearance of the development, although functional in character, would not result in harm to the general character and appearance of the area.
- Although located in an area of groundwater flood risk, the nature of the development is 'less vulnerable' and would not result in increased risk to life or safety.
- The proposal would deliver wider sustainability benefits.

- 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

Issue	Conclusion
Principle of development	Acceptable in principle within the settlement boundary. Proposal would support the provision of high-speed internet access in accordance with policies SD and LD of the Purbeck Local Plan 2012 and paragraph 114 of the NPPF. Whilst contrary to Policy GS1 of the Wareham Neighbourhood Plan, the benefits of the proposed high quality and reliable communications infrastructure necessary for full fibre broadband connections is considered to outweigh the level of harm that would be caused and is therefore acceptable in accordance with Paragraph 114 of the NPPF.
Scale, design, impact on character and appearance of area	The kiosk would have a functional appearance with a green powder coated external finish and enclosed in a compound by timber fencing with planting around the perimeter to soften and screen the impact. Acceptable in accordance with Policy D of the Purbeck Local Plan 2012.
Impact on neighbouring amenity	No harmful impact on neighbouring amenity.
Flood Risk	The site is in Flood Zone 1 (low risk) but an area of groundwater flood risk. Due to the less vulnerable nature of the development, it would not give rise to increased risk and would deliver wider sustainability benefits.

5.0 Description of Site

- 5.1 The application site is located on an area of grassland that provides an open buffer between residential development on Northmoor Park to the west and the A351 to the east. Whilst open in character to the north, west and south, vegetation screens the site to the east along the boundary with the A351.

6.0 Description of Development

- 6.1 The proposal is for the siting of a metal kiosk which will house equipment for data exchange necessary for high-speed fibre broadband provision. The kiosk will be constructed of steel and finished externally in powder coated moss green. It will be sat on a concrete slab and will measure 3.2m wide x 2.2m deep with a flat roof

height of 2.35m. The total height of the kiosk and concrete slab will be approx. 2.5m above ground level.

- 6.2 The kiosk will be sited with a telecom underground chamber and air conditioning condenser unit within a compound of 5m x 5m. A 1.8m feather edged timber fence will secure the compound with planting around the exterior to provide screening and soften the functional appearance of the structures. The submitted planning statement advises that on completion, access to the site will be on an ad hoc basis for maintenance.

7.0 Relevant Planning History

None.

8.0 List of Constraints

Statutory Settlement Boundary: Wareham

Wareham Neighbourhood Plan - Status 'Made' 08/11/2021

Right of Way: Footpath SE2/6 - Distance: 10.38

Poole Harbour Nutrient Catchment Area

Poole Harbour Recreation Zone

Site of Special Scientific Interest (SSSI) impact risk zone

Dorset Heathlands - 5km Heathland Buffer

Poole Harbour Catchment Area

Risk of Groundwater Emergence; Groundwater levels are between 0.025m and 0.5m below the ground surface.; Within this zone there is a risk of groundwater flooding to both surface and subsurface assets. There is the possibility of groundwater emerging at the surface locally.

Dorset Council Land (Freehold): Land for Wareham Bypass (06292 06329 06342 06343 06361-06374 08688) - Reference 09665

9.0 Consultations

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

Consultees

DC - Highways (received 12/04/23)

If the applicant intends to park on the proposed site, then a suitable scaled drawing must be submitted showing precise details of the means of vehicular access to the site to conform with accepted design criteria and be constructed to the specification of the Highway Authority together with geometric turning and parking arrangements and appropriate visibility splays as per Manual for Streets.

The red line should be extended to include the proposed site access to the boundary of the adopted maintainable public highway.

Wareham Town Council (received 14/04/23)

No objection.

Representations received

The application was advertised by means of a site notice. A single third-party representation has been received in support of the proposal but noting that planting around the fence would help it to merge into the surroundings.

10.0 Duties

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

11.0 Relevant Policies

Development Plan

Adopted Purbeck Local Plan 2012

Policy SD: Presumption in favour of sustainable development

Policy LD: General location of development

Policy CF: Community facilities and services

Policy FR: Flood Risk

Policy D: Design

Wareham Neighbourhood Plan

Policy GS1: Protection of Local Green Spaces

Material considerations

Emerging Dorset Council Local Plan

Paragraph 48 of the NPPF provides that local planning authorities may give weight to relevant policies in emerging plans according to:

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

The Dorset Council Local Plan Options Consultation took place between January and March 2021.

Being at a very early stage of preparation, the Draft Dorset Council Local Plan should be accorded very limited weight in decision making.

The Purbeck Local Plan (2018-2034) Submission January 2019

The Submitted Draft Purbeck Local Plan was submitted for examination in January 2019. At the point of assessing this application, examination of the Submitted Draft Purbeck Local Plan is ongoing, hearing sessions and consultation on Proposed Main Modifications and additional consultation on Further Proposed Main Modifications having been undertaken and a further public hearing session held on 19 July 2022. Updates on the latest position on the plan's examination and related documents (including correspondence from the Planning Inspector, Dorset Council and other interested parties) are published on Dorset Council website (<https://www.dorsetcouncil.gov.uk/planning-buildings-land/planning-policy/purbeck-local-plan/purbeck-local-plan-latest-news>).

Having regard to the plan's progress through the examination and Dorset Council's position following consultation on the Proposed Main Modifications and the Further Proposed Main Modifications, at this stage only limited weight should be given to the Emerging Draft Purbeck Local Plan.

In the preparation of this report, account has been taken of the following draft policies of the Emerging Draft Purbeck Local Plan, but for the reasons set out above these policies should be accorded little weight in the determination of the application:

Policy E4: Assessing flood risk
Policy E12: Design
Policy I7: Community facilities and services.

National Planning Policy Framework

Section 2: Achieving sustainable development

Section 4: Decision-making

Section 10: Supporting high quality communications

Section 12: Achieving well-designed places

Section 14: Meeting climate change, flooding, and coastal change

Other material considerations

Purbeck Design Guide SPD

Wareham Townscape Character Appraisal

Purbeck Strategic Flood Risk Assessment 2018

12.0 Human rights

Article 6 - Right to a fair trial.

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

The first protocol of Article 1 Protection of property.

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

13.0 Public Sector Equalities Duty

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 the proposed development would not disadvantage persons with protected characteristics. The proposed development has the potential to enhance outcomes for all, including persons of protected characteristics, by way of improved high speed internet access.

14.0 Financial benefits

The proposal would not deliver any direct financial benefits to the local economy. However, indirectly the proposal would provide enhanced internet access to local business and services with potential local economic and community benefits.

15.0 Environmental Implications

The proposal may lead to increased CO2 emissions through the equipment operation. However, provision of high-speed internet access may reduce the requirement for unnecessary journeys by way of private transport.

16.0 Planning Assessment

Principle of development

- 16.1 The application site is located within Wareham settlement boundary where the siting of new development is supported in accordance with policies SD and LD of the Purbeck Local Plan 2012. The provision of telecommunications infrastructure to support communications is not subject of a policy in the Local Plan or Neighbourhood Plan. However, policy 114 of the NPPF advises that:

Advanced, high quality and reliable communications infrastructure is essential for economic growth and social well-being. Planning policies and decisions should support the expansion of electronic communications networks, including next generation mobile technology (such as 5G) and full fibre broadband connections.

The general principle of the proposed development is therefore considered to be acceptable.

- 16.2 However, the made Wareham Neighbourhood Plan (NP) includes policy GS1 – Protection of Local Green Spaces. This states that development will only be considered in line with national planning policy on Green Belts on identified local green spaces. The land on which the kiosk and compound are proposed to be located are identified on the policies map as ‘Area C – Various green spaces on Northmoor Park and Northport’.



- 16.3 In order to understand NP policy GS1 it is necessary to consider the National Planning Policy Framework which provides national policy on development affecting the Green Belt. Paragraph 147 notes that *‘inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances.’* Paragraph 148 advises that *‘Very special circumstances will not exist unless the potential harm to the Green Belt by reason of inappropriateness, and any other harm resulting from the proposal, is clearly outweighed by other considerations.’* Whilst paragraph 149 advises that *‘A local planning authority should regard the construction of new buildings as inappropriate in the Green Belt.’*
- 16.4 The proposed development does not fall within any of the exceptions listed in paragraphs 149 and 150 of the NPPF. As such, the construction of the proposed kiosk and associated compound must therefore – in line with Neighbourhood Plan Policy GS1 and the above NPPF paragraphs – be considered inappropriate development.
- 16.5 It must therefore be considered whether the potential harm to the Green Space by reason of the proposed inappropriate development together with any other harm (see below), is clearly outweighed by other considerations.
- 16.6 In the absence of Local and Neighbourhood Plan policies in respect of communications infrastructure, officers must refer to the NPPF. As advised above, paragraph 114 advises that planning decisions should support the expansion of electronic communications networks, including full fibre broadband connections. It is noted that the proposal will enable the operator to introduce ultrafast fibre broadband with Fibre to the Premises (FTTP) connections to the community of Wareham, offering higher download speeds and faster connections by delivering fibre straight to the home/business. Given the extent of green space within Northmoor that is subject of Policy GS1 of the Neighbourhood Plan, it is considered that it would be difficult to find an alternative site located outside the policy areas which would be suitable to provide the kiosk and compound. Officers therefore consider that the potential harm to the Green Space, by reason of the inappropriate development together with any other harm (see below), is clearly outweighed by the benefits of the provision of

advanced, high quality and reliable communications infrastructure necessary for full fibre broadband connections in Wareham.

- 16.7 In summary, whilst contrary to Policy GS1 of the Wareham Neighbourhood Plan, the benefit of the proposed communications infrastructure development is considered to outweigh the level of harm caused to the green space together with any other harm (see below) and is therefore considered acceptable. A condition can be imposed to require removal of the compound and structure if its use ceases.

Scale, design and impact on the character and appearance of the area

- 16.8 The proposed kiosk is functional in appearance being a metal structure sited on a concrete base with a timber boarded compound fence for security and screening. The kiosk would be finished in powder coated green with a similar external finish to other telecommunication kiosks and cabins across the Council area. The green finish will enable the cabin to recede into the greenery of the surrounding area which consist of grassland between the residential development of Northmoor and the road. The kiosk and supporting infrastructure will be enclosed by 1.8m high timber fencing which will be finished in a dark colour with planting around the exterior to screen.
- 16.9 The area of green space on which the compound and cabin will be located is maintained but does not provide any particular use forming a buffer between the residential development of Northmoor and the A351. There is no other infrastructure sited on the green space in this location.
- 16.10 Wareham Town Council has raised no objection to the proposal. A single representation of support has been received from a neighbour but requesting that some screen planting is provided. This has been agreed by the planning agent to be in the form of planting such as Red Robin shrubs. A condition can be included on the consent requiring the full approval of a planting plan.
- 16.11 In summary, the proposed development is not considered to result in demonstrable harm to the character and appearance of the area and is considered to accord with Policy D of the Purbeck Local Plan.

Impact on neighbouring amenity

- 16.12 The kiosk and compound are single storey in nature and are located a sufficient distance from nearby residential dwellings to have minimal impact, being limited to visual only. There is no demonstrable harm to neighbouring amenity.

Flood risk

- 16.13 The site is in Flood Zone 1 (low risk) but an area of groundwater flood risk. Due to the less vulnerable nature of the development, and the siting on grassland away from neighbouring residential properties, the proposed development would not give rise to increased flood risk to the site or neighbouring areas. The proposal is considered to accord with Policy FR of the PLP 2012.

17.0 Conclusion

17.1 Whilst contrary to Policy GS1 of the Wareham Neighbourhood Plan, the benefits of the proposed high quality and reliable communications infrastructure necessary for full fibre broadband connections is considered to outweigh the level of harm that would be caused to the Northmoor Green Space and the very limited identified harm to the character and appearance of the area. The proposal is therefore acceptable in accordance with Paragraph 114 of the NPPF.

18.0 Recommendation

Delegated authority be given to officers to issue the decision following the expiry date of local publicity advising that the proposed development does not accord with the provisions of Policy GS1 of the made Wareham Neighbourhood Plan (Development Plan), and subject to no representations being received that raise new material planning considerations and are contrary to the recommendation of approval.

Approve subject to the following conditions:

1. The development hereby permitted shall be carried out in accordance with the following approved plans:
A Block Plan
A Location Plan
JFL.115.103 P2 Compound Elevations

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

2. 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).

3. Prior to development above ground level, precise details of the colour and finish of the kiosk and compound fencing shall be submitted to, and approved in writing by, the Local Planning Authority, Thereafter, the development shall proceed in accordance with such details as have been agreed and shall be retained and maintained as such.

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

4. Prior to completion of the development hereby approved, a soft landscaping / planting scheme for the perimeter of the compound shall be submitted to, and approved in writing, by the Local Planning Authority. The approved scheme shall be implemented in full during the planting season November - March following commencement of the development or within a timescale to be agreed in writing with the Local Planning Authority. The scheme shall include provision for the maintenance and replacement as necessary of the trees and shrubs for a period of not less than 5 years.

Reason: In the interest of visual amenity.

5. The telecommunication cabin and compound shall be removed from the site and the land reinstated to grassland upon cessation of the use of the structures for telecommunication purposes.

Reason: To protect the long-term openness of the green space.

Informative Notes:

1. 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.