

Application number:	P/VOC/2024/02912
Webpage:	https://planning.dorsetcouncil.gov.uk/
Site address:	Lyme Regis Industrial Estate Uplyme Road Lyme Regis
Proposal:	Construction of 13 Storage Units (with variation of condition 2 of Planning permission P/FUL/2023/06865 - amended plan to reposition footprint of storage units).
Applicant name:	Mr Tony Pudner
Case officer:	Steve Tapscott
Ward member(s):	Cllr Bawden

1. In accordance with the Council's scheme of delegation this application is brought to committee for determination as Dorset Council owns the access to the application site.

2. Summary of recommendation

2.1 GRANT, subject to conditions.

3. Reason for the recommendation:

- Paragraph 11 of the National Planning Policy Framework (NPPF) sets out that permission should be granted for sustainable development unless specific policies in the NPPF indicate otherwise.
- The principle of the development is already established through a recently granted and implemented permission. The proposed amendments would have no adverse impact on the character of the area, residential amenity, highway safety, trees, flood risk or land instability.
- There are no material considerations that would warrant refusal of this application.

4. Key planning issues

Issue	Conclusion
Principle of development	Already established through an extant permission ref. P/FUL/2023/06865. The site is within a well-established business park, which is designated as a Key Employment Site.
Scale, design and impact on local character, including the National Landscape	The proposal is consistent with the scale and design of development already approved. Its minor repositioning has no material impact on local character or the National Landscape. A pre-occupation planning condition to secure soft landscaping can be rolled forward.

Issue	Conclusion
Impact on amenity	The scale of development remains consistent with the extant scheme and the proposed use is the same. Planning conditions relating to opening hours and lighting can be rolled forward.
Highway impacts, safety, access and parking	The access is well established and the proposal would result in no materially different impacts on the local network or highway safety.
Flood risk and drainage	As per the extant scheme, the development would utilise the existing piped system for surface water drainage.
Coastal erosion and land stability	Proposed minor amendments would be unlikely to cause a risk of instability to this site or its surroundings. The proposal has been evaluated by the applicant's structural engineer and the foundation/slab arrangements can carry the amendments.
Ecology and biodiversity net gain	There is no material difference in ecological terms compared with the extant permission. BNG is not applicable where it was not a requirement of the original planning permission.
Impact on trees	Although development would be sited slightly closer to retained trees, the relationship is acceptable.

5. Description of site

- 5.1 The site is within the defined development boundary of Lyme Regis and is situated within a commercial area known as Uplyme Road Business Park, to the east of Uplyme Road. Access is established via this highway, which also leads to a medical centre and other business premises.
- 5.2 The land is fenced off from the medical centre car park to the northwest. To the northeast are the rear gardens of properties along Haye Close, while to the southeast, there are further commercial units. The site is within a designated key employment site, safeguarded under Policy ECON2 of the West Dorset, Weymouth & Portland Local Plan 2015.
- 5.3 Until recently, the site comprised a vacant, undeveloped, relatively flat area of land. Further to planning permission ref. P/FUL/2023/06865 being granted in February 2024 for 13 storage and distribution units, development is well underway.

6. Description of Development

- 6.1 This application seeks to vary the extant planning permission ref. P/FUL/2023/06865. The submitted application form confirms that further to

clearing the site in preparation for commencing works, the footprints of the buildings needed to change slightly. This application seeks to regularise the changes.

6.2 The key differences are summarised as follows:

	Extant	Proposed
Approximate distance from northwest boundary	2.1m	1.05m.
Approximate distance from southeast boundary	0.5m	0.8m
Unit 8 approximate distance from existing vegetation	2.25m	1.6m
Unit 4 approximate distance from existing vegetation	1.3m	0.5m
Units 1-5	Slightly staggered	Flush
Units 1-8 approximate footprint	317sqm	385sqm
Units 9-13 approximate footprint	140sqm	150sqm

6.3 There are no differences to the access, parking arrangements, cycle parking or bin stores. The ridge heights of all units remain the same, as do the materials and colours.

7. Relevant planning history

7.1 Most recently, planning permission ref. P/FUL/2023/06865 was granted on 9th February 2024 for the 'construction of 13 storage units.' This is the extant permission that the applicant is now seeking to amend.

8. List of key constraints

- Key Employment Site: Uplyme Road Business Park, Lyme Regis
- Defined Development Boundary: Lyme Regis
- Lyme Regis and Charmouth Slope Instability Zones: Zone 2
- Risk of Surface Water Flooding Extent 1 in 1000
- Dorset Council Land (Freehold): DT235974 - Reference 50031
- Radon: Class: Class 1: Less than 1%
- National Landscapes (Areas of Outstanding Natural Beauty): (statutory protection in order to conserve and enhance the natural beauty of their landscapes – National Parks and Access to the Countryside Act of 1949 & Countryside and Rights of Way Act, 2000)

9. Consultations

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

Consultees

Dorset Council – Highways: no objection.

Dorset Council – Trees: comment that *'as the development [is] well underway any tree protection is probably not going to do a great deal.'*

Dorset Council - Coastal Risk Management: support.

Lyme Regis Town Council: *'recommends approval of the application because it is in accordance with the approved development plan and does not involve unacceptable or material harm to the Conservation Area or heritage assets.'*

Bournemouth Water Ltd (South West Water): initial comments in respect of a lack of drainage information revised to 'no additional comments', further to the receipt of a drainage survey and drainage plan.

Representations received - None.

10. Duties

- 10.1 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.
- 10.2 Clause 85 of the Countryside and Rights of Way Act (2000) requires Local Planning Authorities to seek to further the purposes of conserving and enhancing the natural beauty of National Landscape (AONB).

11. Relevant policies

Development Plan

West Dorset, Weymouth and Portland Local Plan (2015)

- INT1: Presumption in Favour of Sustainable Development
- ENV1: Landscape, Seascape and Sites of Other Geological Interest
- ENV2: Wildlife and Habitats
- ENV5: Flood Risk
- ENV7: Coastal Erosion and Land Instability
- ENV10: The Landscape and Townscape Setting
- ENV12: The Design and Positioning of Buildings
- ENV13: Achieving High Levels of Environmental Performance
- ENV15: Efficient and Appropriate Use of Land
- ENV16: Amenity
- SUS2: Distribution of Development

- COM7: Creating a Safe and Efficient Transport Network
- COM9: Parking Provision
- ECON1: Provision of Employment
- ECON2: Protection of Key Employment Sites

Material considerations

Emerging Dorset Local Plan

- 11.1 In accordance with paragraph 48 of the NPPF, this emerging plan is at too early a stage to carry any weight in decision making.

National Planning Policy Framework

- 11.2 Paragraph 11 sets out the presumption in favour of sustainable development. Development plan proposals that accord with the development plan should be approved without delay. Where the development plan is absent, silent or relevant policies are out-of-date then permission should be granted unless any adverse impacts of approval would significantly and demonstrably outweigh the benefits when assessed against the NPPF or specific policies in the NPPF indicate development should be restricted.
- 11.3 Other relevant NPPF sections include:
- Section 4: 'Decision making': paragraph 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 6: 'building a strong, competitive economy': paragraph 85 places 'significant weight' on supporting economic growth and productivity.
 - Section 11: 'making effective use of land.'
 - Section 12: 'achieving well designed and beautiful places': indicates that all development should 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 131 – 141 advise that:
 'The creation of high quality, beautiful and sustainable buildings and places is fundamental to what the planning and development process should achieve. Good design is a key aspect of sustainable development.
 'Development that is not well designed should be refused, especially where it fails to reflect local design policies and government guidance on design.'
 - Section 14: 'meeting the challenges of climate change, flooding and coastal change.'
 - Section 15: 'Conserving and Enhancing the Natural Environment': in Areas of Outstanding Natural Beauty (National Landscapes), great weight should be

given to conserving and enhancing the landscape and scenic beauty (paragraph 182). Decisions in Heritage Coast areas should be consistent with the special character of the area and the importance of its conservation (paragraph 184).

- Paragraphs 185-188 set out how biodiversity is to be protected and net gains for biodiversity are encouraged.

Other material considerations

- Dorset Council Interim Guidance and Position Statement Appendix B: Adopted Local Plan policies and objectives relating to climate change, renewable energy, and sustainable design and construction. December 2023.

12. 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. Public Sector Equalities Duty

13.1 As set out in the Equalities Act 2010, all public bodies, in discharging their functions must have 'due regard' to this duty. There are three 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.

13.2 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. One parking space for disabled provision is included in the parking layout. It is considered that the proposed development would not affect anyone with protected characteristics.

14. Financial benefits

14.1 None that are relevant material considerations.

15. Environmental implications

- 15.1 The Design and Access Statement accompanying the extant consent confirms that:

'The storage units will not be heated. PV panels will be installed on one roof face of each unit providing 2.5 kW of power. The walls and roof will be constructed of aluminium insulated panels to maintain temperature, reduce condensation, and minimise noise impact.'

16. Planning assessment

Principle of development

- 16.1 The principle of development is already established through the extant consent. The variation of an extant planning permission is possible under Section 73 of Town and Country Planning Act 1990 (as amended). Planning Practice Guidance¹ confirms that any change(s) sought under a Section 73 application *'must only relate to the conditions and not to the operative part of the permission.'* In this case, the operative part of the permission – the 13 x B8 storage units – would remain unchanged, and the proposed amendments to the layout are minor. As such, the proposals are considered to be acceptable, subject to detail and material planning considerations

Scale, design and impact on local character, including the National Landscape

- 16.2 Although the footprints and positioning of the units are proposed to alter, the difference would be barely discernible. The ridge heights of all units would remain as per the extant scheme, as would their materials, design and colours. A previous condition prohibiting external storage should be repeated, as should a condition requiring a soft landscaping/planting scheme. Taking these factors into consideration, there would be no material change to visual amenity compared with the fallback position, and no material impacts on the National Landscape would arise.

Impact on amenity

- 16.3 Given the extant position in terms of the established B8 use; the similarities in the scale of development; and the adequate separation distances from neighbouring dwellings and businesses that remain, the proposed amendments to the scheme would not materially affect relationships beyond the extant position when considering loss of privacy, overshadowing, overbearing impact and disturbance from general activity and noise.
- 16.4 The extant permission includes a condition to control external lighting, which it would be appropriate to re-attach. A further condition to restrict opening times to 7am - 10pm weekdays and 8am - 8pm Saturdays, Sundays and bank holidays would also be appropriate to repeat. As such, the scheme remains acceptable in terms of policy ENV16 (Amenity) of the West Dorset, Weymouth & Portland Local Plan (2015).

¹ Ref. ID: 17a-013-20230726

Highway impacts, safety, access and parking

- 16.5 The small increase in footprints would not reduce the amount of turning/manoeuvring space to a harmful degree, such that sufficient space would be retained. The same number of carparking and cycle parking spaces are proposed. No objections are raised by Highways and the scheme is in accordance with policies COM7 & COM9 of the West Dorset, Weymouth & Portland Local Plan (2015).

Flood risk and drainage

- 16.6 A small section adjacent to one side of the access is within an area of risk of surface water flooding (a 1 in 1,000 years event). The applicant has supplied a drainage survey and drainage plan, and Bournemouth Water Ltd (South West Water) raises no objections. As per the extant scheme, surface water would be drained via existing storm drains, not a combined sewer and not via a soakaway. A planning condition attached to the previous permission would be rolled forward, requiring all surface water to be discharged to the piped drainage system, rather than a soakaway. As such, the scheme complies with policy ENV5 of the West Dorset, Weymouth & Portland Local Plan (2015).

Coastal erosion and land stability

- 16.7 The site is located within zone 2 of the Slope Instability Guidance Map for Lyme Regis. The original application included a Ground Stability Assessment, which the Coastal Risk Management team concluded was acceptable.
- 16.8 This revised application is accompanied by an updated report and email prepared by the applicant's chartered structural engineer, which states that *'the increase in the footprint can be carried by the original designed foundations/slab as the load increase is marginal and [the] applied bearing pressure relatively low.'*
- 16.9 Coastal Risk Management raises no objections to the proposal, and the updated report can be conditioned to any grant of planning permission. As such, the scheme complies with policy ENV7 of the West Dorset, Weymouth & Portland Local Plan (2015).

Ecology and biodiversity net gain

- 16.10 The committee report in respect of the extant scheme set out that because the storage units and the parking area did not exceed 0.1ha in size, and that any biodiversity impacts would be limited to retained and protected boundary planting, no significant impacts would arise. There is no material difference with the varied scheme.
- 16.11 Having regard to biodiversity net gain (BNG), this was not in force at the time the original permission was granted. The regulations set out that BNG is not applicable to Section 73 applications where it was not a requirement of the original planning permission.

Impact on trees

- 16.12 Condition 7 of the original planning permission pertains that all existing trees and hedges must be protected and safeguarded, as per BS 5837:2005 (Trees

in Relation to Construction - Recommendations) standards. The Council's tree officer notes that the development is underway and no protective fencing has ever been put in place, thereby placing the development in breach of this condition.

- 16.13 Given the advanced stage of the build, there would be no merit in enforcing against this breach, and a fresh condition requiring further protection measures would be superfluous. However, further soft landscaping and planting is still required by condition and can help mitigate the loss of previous planting (although none of any particular merit previously). As such, the scheme complies with policy ENV10 of the West Dorset, Weymouth & Portland Local Plan (2015).

17. Conclusion

- 17.1 The proposal is considered acceptable as the principle of the development is already established through a recent implemented permission. The proposed amendments would have no adverse impact on the character of the area, residential amenity, highway safety, trees, flood risk or land instability and the development is considered to accord with the policies of the development plan and the NPPF (2023).

18. Recommendation

- 18.1 Grant, subject to the following conditions:

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

C2344.01B: location and block plan

C2344.02C: storage buildings A and B floorplan, roof plan and elevations.

C2344.03B: storage building C floorplan, roof plan and elevations (version received 25/07/24).

C2344.04A: proposed site plan.

C2344.05C: proposed sections 1.

C2344.06B: proposed sections 2.

C2344.07B: proposed sections 3.

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

2. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 as amended, and the Town & Country Planning Use Classes Order 1987 as amended (or any order revoking and re-enacting those Orders with or without modification) the premises the subject of this permission shall not be used other than for storage uses falling within Use Class B8 and shall not be used for distribution.

Reason: In the interests of amenity and to ensure that the use remains compatible with surrounding land uses in the area.

3. The premises shall not be accessed for storage use and no vehicle movements shall be permitted on the site outside the hours of 0700 to 2200 on Mondays to Fridays and 0800 to 2000 on Saturdays, Sundays and Public Holidays.

Reason: To safeguard the character and amenity of the area and living conditions of any surrounding residential properties.

4. There shall be no external storage of items or materials at the site.

Reason: In the interests of residential and visual amenity.

5. There shall be no external lighting at the site, including security lighting, without details of the proposed lighting scheme, including details of the number of lights, location, design and luminance having first been submitted to and approved in writing by the Local Planning Authority. Thereafter, the lighting shall be installed in accordance with the approved scheme.

Reason: In the interests of visual and residential amenity.

6. Prior to the units hereby approved being first brought into use, a soft landscaping and planting scheme shall be submitted to, and approved in writing, by the Local Planning Authority. The approved scheme shall be implemented in full during the first 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 five years and shall thereafter be carried out in accordance with it.

Reason: In the interest of visual amenity.

7. Before the development hereby approved is occupied or utilised the turning/manoeuvring and parking shown on the approved site plan 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.

8. Prior to first use of the development hereby approved, the cycle parking facilities shown on the approved site plan shall be constructed and made available. Thereafter, these shall be maintained, kept free from obstruction and available for the purposes specified.

Reason: To ensure provision of adequate cycle parking to support sustainable transport.

9. All surface water from the development hereby approved shall be discharged to a piped drainage system and not to a soakaway.

Reason: in the interests of ground stability and flood risk.

Informatives

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 applicants/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.

2. Informative: Statutory Exemptions and Transitional Arrangements in respect of the Biodiversity Gain Plan

The planning permission was granted on an application made under section 73 of the Town and Country Planning Act 1990 and the original planning permission to which the section 73 planning permission relates* was granted before 12 February 2024

* "original planning permission means the permission to which the section 73 planning permission relates" means a planning permission which is the first in a sequence of two or more planning permissions, where the second and any subsequent planning permissions are section 73 planning permissions.