

<b>Application Number:</b>	P/FUL/2024/01817
<b>Webpage:</b>	<a href="https://planning.dorsetcouncil.gov.uk/">https://planning.dorsetcouncil.gov.uk/</a>
<b>Site address:</b>	Mobile Home Watery Lane From Tincleton Cross To Junction Woodsford Road Tincleton Dorset
<b>Proposal:</b>	Replacement of mobile home (former railway carriage) with new dwelling with a detached double garage. Install ground mounted PV panels and ground source heat pump.
<b>Applicant name:</b>	Mr and Mrs Franklin
<b>Case Officer:</b>	Thomas Whild
<b>Ward Member(s):</b>	Cllr Tarr

**1.0** The application is brought to Committee at the request of the chair of the committee in accordance with the scheme of delegation.

**2.0 Summary of recommendation:**

Recommendation A: Delegate authority to the Head of Planning and the Service Manager for Development Management and Enforcement to grant planning permission subject to the completion of a S106 agreement to restrict land within the applicant's ownership, and subject to planning conditions set out at section 18 of this report.

Recommendation B: Refuse permission for the reason set out at section 18 of this report, if the legal agreement is not completed by 6 months from the date of committee or such extended time as agreed by the Head of Planning or Service Manager for Development Management and Enforcement:

**3.0 Reason for the recommendation:**

- The planning history of the site establishes a material fall back position which justifies the grant of planning permission in a location where new housing would not normally be supported.
- The design of the proposal would be acceptable and would not harm neighbouring amenity.
- Flood risk from ground water would be appropriately managed and the site is not at risk of flooding from rivers or the sea.
- The site would avoid harm to habitats sites and would ensure the protection of trees.

**4.0 Key planning issues**

Issue	Conclusion
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Principle of development	Although the site is located where new housing development would not normally be supported there is a material fall back position which justifies the development in this instance.
Amenity	There would not be any harmful impacts upon amenity.
Character and appearance	The building is modest in scale and unassuming in its design and would be appropriate to the locality.
Flood risk and drainage	The site is within flood zone 1 and not at risk of flooding from rivers or the sea. Risk of groundwater flooding would be appropriately managed through the development.
Highways	The proposal would not have an unacceptable impact on highway safety.
Habitats	There would not be any net increase in dwellings meaning effects on habitats sites would be avoided.
Impact on trees	The scheme includes appropriate measures which would ensure that harm to trees on the site boundary would not be harmed.

## 5.0 Description of Site

- 5.1 The site comprises a field to the western side of Watery Lane to the south of Tingleton. The site is bounded to the east by a hedgerow with interspersed trees while land to the immediate north south and east is open to the site being agricultural land within the applicant's ownership. The site is generally level and sits on a broad plan before ground levels rise to the north.
- 5.2 The site is generally rural in character with limited development in the immediate vicinity. The surrounding land is all agricultural in character.
- 5.3 The site is currently occupied by 'the caravan' which is a former railway carriage with several lean-to structures which have been clad in timber and corrugated metal. The structure has lawful use for residential occupation.

## 6.0 Description of Development

- 6.1 The proposal comprises the removal of the existing mobile home/railway carriage and the replacement with a new permanent dwelling, a double garage, and solar array. The dwelling has a gross internal area of 79 square metres and provides a pair of double bedrooms, an open plan kitchen living and dining area and separate bathroom, utility room and storage.
- 6.2 The dwelling is oriented and designed to present the main outlook westwards across the applicant's land holding, with the main openings in this elevation. The main entrance is in the southern elevation and the northern and eastern elevations are relatively simple in their appearance. The building is proposed to be constructed of stone beneath a standing seam metal roof.

- 6.3 The proposed garage is a single storey double garage constructed from timber. It sits beneath a simple pitched roof with gables.
- 6.4 The solar array is proposed to be located to the north of the dwelling and would comprise four groups of five panels each. The panels are to be mounted on a 'cornish rocker' system which is a framework which allows the angle of the panels to be adjusted to maximise their efficiency throughout the year. The system is based on a ground mounted framework of galvanized steel poles.
- 6.5 The proposal includes the creation of a new driveway within the site and the resurfacing of the existing access.

## 7.0 Relevant Planning History

WD/D/15/000273 - Decision: Refused - Decision Date: 12/05/2015

Use of land for siting of railway carriage for residential purposes.

WD/D/17/000656 - Decision: Granted - Decision Date: 15/05/2017

Mixed Use of the land for agriculture and for the stationing of a caravan for residential use.

P/PAP/2023/00584 - Decision: Responded given - Decision Date:  
06/11/2023

Replacement of mobile home with new dwelling

## 8.0 List of Constraints

Dorset Heath Designation Buffer 5km; Dorset Heath

Poole Harbour Nutrient Catchment Area; Poole Harbour

Landscape Character; Valley Pasture; Frome and Piddle Valley Pasture

Groundwater Source Protection Areas; LOWER MAGISTON

Land Outside DDBs

Nutrient Catchment Areas

Right of Way: Footpath S43/7; - Distance: 10.96

Groundwater – Susceptibility to flooding

Higher Potential ecological network

Natural England Designation - RAMSAR: Dorset Heathlands (UK11021); - Distance:  
4832.96

Wildlife Present: bird; - Distance: 4.51m

## 9.0 Consultations

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

### Consultees

1. **DC - Rights of Way Officer** – No comments received.
2. **DC - Highways** – There is no unacceptable impact on highway safety identified and the highway authority has no objection to the proposal subject to conditions.
3. **DC - Minerals & Waste Policy** - The MPA can confirm that in this case, on the site identified for this proposal, the mineral safeguarding requirement is waived and no objection will be raised to this proposal on mineral safeguarding grounds.
4. **DC - Dorset Waste Team** – Waste and recycling materials will have to be presented for collection at the adopted highway.
5. **DC - Trees** – Should the tree protective fencing be installed as detailed in the submitted documents then the trees will be suitably protected throughout the course of the development.
6. **DC - Environmental Assessment** – Habitat Regulations Assessment Screening completed, confirming that an Appropriate Assessment is not required as there would be no net increase in the number of dwellings on the site.
7. **Environment Agency** – No comments received.
8. **DC - Env. Services – Protection** – No comment.
9. **Ward Councillor - Winterborne and Broadmayne Ward** - No comments received.
10. **DC - Building Control West Team** – No comment at this stage.
11. **Tincleton Parish Council** – Object. The previous certificate of lawful use granted a mixed use for agriculture and the stationing of a caravan, this application seeks a permanent residence and change of use of the land. No development is permitted in Tincleton in accordance with policy SUS2 of the Local Plan. There is no defined development boundary within the parish, therefore by implication no further development is permitted. Several applications over recent years have either been refused or withdrawn on council advice. The parish has published a draft neighbourhood plan which rejects any further development in Tincleton. There is a stream to the north of the plot which emerges from the watercress beds – concern that the proposed water treatment plant could conflict with this. The site is bounded on two sides by rivers and has a highwater table, leading to flood risk.

**12. Dorset Wildlife Trust** – no comments received.

**13. Ramblers Association** - Whilst it may not be available for use at present, the planning officer and applicant should be aware that FP S43/8 is shown on Dorset Explorer as being in the vicinity of (or possibly even crossing) the site proposed for development. The advice of the Senior Ranger for the area should be sought.

**14. Natural England** – Initial comment – objection due to requirement for further information in respect of impacts on protected habitats.

Following confirmation that HRA Screening has been completed, natural England concurs and raises no objection.

**Representations received**

Total - Objections	Total - No Objections	Total - Comments
9	0	0

Petitions Objecting	Petitions Supporting
0	0
0 Signatures	0 Signatures

**Summary of comments of objections:**

- There is no development plan in place for Tincleton. The draft neighbourhood plan consultation indicates that residents of Tincleton did not feel that further development in the parish was appropriate.
- Lack of infrastructure including mains drainage, public transport, community facilities and road access.
- The development is visible from the road running west-east through the village and would have a detrimental impact on the rural views and character of the village.
- The mobile home was sited without planning consent and the previous owner resisted moving it.
- The size of the proposed dwelling is greater than the current footprint of the mobile home.
- Development of this nature in this location could create a precedent for future development in the area.
- The proposal would be contrary to the objective of the emerging neighbourhood plan *'to maintain the rural and historic character and tranquillity of the village and its open spaces'*

- Lack of information in respect of the solar array and it is questionable whether this would be sufficient for the dwelling.
- The design and materials of the bungalow are not in keeping with the village as recorded in the draft neighbourhood plan. The design would be harmful to the character of the village.

## **10.0 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.

## **11.0 Relevant Policies**

### Development Plan

#### **Adopted West Dorset and Weymouth & Portland Local Plan (2015):**

11.1 The following policies are considered to be relevant to this proposal:

- INT1 - Presumption in favour of Sustainable Development
- ENV2 - Wildlife and habitats
- ENV5 - Flood risk
- ENV9 - Pollution and contaminated land
- ENV10 - The landscape and townscape setting
- ENV11 - The pattern of streets and spaces
- 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
- SUS4 - The replacement of buildings outside defined development boundaries
- HOUS6 - Other residential development outside DDB's
- COM7 - Creating a safe & efficient transport network
- COM9 - Parking provision

## Material Considerations

### **Neighbourhood Plans**

11.2 Knightsford (West Knighton, West Stafford Tingleton, Woodsford) – In preparation – limited weight applied to decision making.

### **The Dorset Council Local Plan**

11.3 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).

11.4 The Dorset Council Local Plan Options Consultation took place between January and March 2021. Being at a very early stage of preparation, the relevant policies in the Draft Dorset Council Local Plan should be accorded very limited weight in decision making.

### **National Planning Policy Framework**

11.6 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.

Other relevant NPPF sections include:

- Section 4 'Decision making': 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 5 'Delivering a sufficient supply of homes' outlines the government's objective in respect of land supply with subsection 'Rural housing' at paragraphs 82-84 reflecting the requirement for development in rural areas.
- Section 6 'Building a strong, competitive economy', paragraphs 88 and 89 'Supporting a prosperous rural economy' promotes the sustainable growth and expansion of all types of business and enterprise in rural areas, through conversion of existing buildings, the erection of well-designed beautiful new buildings, and supports sustainable tourism and leisure developments where identified needs are not met by existing rural service centres.
- Section 11 'Making effective use of land'
- Section 12 'Achieving well designed and beautiful 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 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'

#### Other material considerations

- Nitrogen Reduction in Poole Harbour SPD Adopted
- Consultation Report - Nitrogen Reduction in Poole Harbour SPD
- Consultation Statement - Nitrogen Reduction in Poole Harbour SPD
- Dorset Heathlands Planning Framework 2020-2025 Supplementary Planning Document
- 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.
- WDDC Design & Sustainable Development Planning Guidelines (2009)
- Landscape Character Assessment February 2009 (West Dorset)

## **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.

12.1 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**

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 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.

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. The proposal comprises a single storey building which would lend itself to adaptations for people with disabilities or mobility impairments.

### **14.0 Financial benefits**

Material considerations:

Employment created during the construction phase.

Increased spending in local shops and facilities.

Non material considerations:

CIL contributions.

New homes bonus.

### **15.0 Environmental Implications**

15.1 The proposal would involve the construction of a new dwelling which would have embodied CO2 and which would result in energy use while occupied. The applicant has however indicated their intention that the dwelling operates ‘off grid’ with a proportionately substantial provision of Solar PV on site. The dwelling would be built to modern building regulations, including energy efficiency requirements, and would replace an aged and poorly insulated structure which could otherwise be occupied as a dwelling.

### **16.0 Planning Assessment**

#### Principle of development

16.1 The site is located in the open countryside outside of any defined development boundary. The site is also somewhat separate from Tingleton which is itself a small

settlement, without a defined development boundary and is not identified as one of the settlements of 200+ population. The site is therefore not considered to be a sustainable location for new development, and the construction of a new dwelling on the site conflicts with policy SUS2 of the West Dorset, Weymouth & Portland Local Plan (2015).

- 16.2 Several of the comments from third parties have also highlighted that the emerging Knightsford Neighbourhood Plan takes a similar stance, confirming that Tincton is not considered to be a suitable location for new development. As the neighbourhood plan has not been through examination or been 'made' it does not yet form part of the development plan and can only be afforded limited weight in decision making. Notwithstanding this, the plan's position with regard to the suitability of Tincton as a location for development is consistent with that of the Local Plan which continues to apply to the site. As noted above, it is acknowledged that the site's location is such that new housing development would not normally be supported.
- 16.3 Policies SUS2 and HOUS6 of the West Dorset, Weymouth & Portland Local Plan (2015) do however allow for the provision of new housing in rural areas in certain defined circumstances. These include where the proposal is for the replacement of an existing lawful dwellinghouse. Where replacement dwellings are proposed, policy HOUS6 indicates that the building should be accommodated within the existing residential curtilage and should not be significantly larger than the original and should not detract from the character and appearance of the locality and its landscape setting.
- 16.4 In this instance the planning history of the site is of particular relevance as a material consideration. In 2017, a certificate under section 191 of the Town and Country Planning Act 1990 was issued in respect of the site, confirming as lawful the mixed use of the site for agriculture and the stationing of a caravan for residential purposes. The certificate confirms the status of the site following an earlier enforcement appeal where the inspector concluded that the appellant had demonstrated firstly that they had commenced the change of use of the land more than 10 years before the enforcement notice was issued, and that the lawful use had been established and not lost by abandonment or being superseded by a further change of use.
- 16.5 Although the certificate was granted on the basis of the railway carriage which currently remains on the site the lawful development certificate refers to 'the stationing of a caravan for residential use'. There are no other restrictions meaning that any structure which fulfils the legal definition of a caravan may be sited and occupied permanently. Therefore, although the current structure is relatively small, being based upon a railway carriage, the applicant would be able to replace it with a much larger twin unit caravan without further reference to the Council. Any caravan could be retained on site and occupied for residential purposes in perpetuity.
- 16.6 The proposal does not fall within the strict definition of a replacement dwellinghouse as would ordinarily be supported by policies SUS2 and HOUS6 as the structure being replaced is not a dwellinghouse but a caravan, and therefore is

not a building. However, the fall back position established by the lawful development certificate means that the permanent residential occupation of the site may continue. Therefore, the proposal to replace the caravan with a permanent dwelling would not undermine the objectives of the development plan or the national planning policy framework with regard to the location of development or the protection of the countryside. Given that the justification for the proposal is reliant on the specific circumstances established by the lawful development certificate, no precedent would be established.

- 16.7 Several representations have raised concern that the proposed dwelling would be significantly larger than the existing structure. It is correct that the proposed dwelling would be larger than the railway carriage that it would replace. Policy HOUS6 establishes a general expectation that a new dwelling should not be significantly larger than the dwelling that it replaces. This is explained in paragraph 5.7.2 of the supporting text as being within 10% by volume. Although, in the absence of detailed existing elevations a precise comparison cannot be completed, it is clear from the site plan that the footprint represents approximately a 90% increase so the dwelling would be significantly larger than might normally be allowed.
- 16.8 In this case the material fall back position established by the lawful development certificate remains relevant as a material consideration to which substantial weight may be afforded. As noted above, the lawful development certificate allows for the stationing of a twin unit caravan on the site. The maximum dimensions of twin unit caravans are defined within the Caravan Sites Act 1968 as a length of 20m, width of 6.8m and internal height of 3.05m. This equates to a gross external area of 136 square metres. Although the new dwelling would be physically larger than the railway carriage it is replacing it would be considerably smaller than could be established under the lawful development certificate.
- 16.9 Although the lawful development certificate for the mobile home provides a fall back position which justifies the development of a new dwelling on the site, the certificate applies to a much larger area than the current planning application boundary. The boundary for the certificate essentially follows the blue line, denoting land within the applicant's ownership, for this application.
- 16.10 The siting of the dwelling means that the removal of the existing mobile home would be necessary to deliver the approved development. The effect of granting planning consent for the permanent dwelling proposed would also be to establish a new residential curtilage which coincides with the planning application boundary, as opposed to the current mixed use which washes over the application site as a result of the lawful development certificate. Although the lawful development certificate doesn't establish a dedicated residential curtilage, it is evident that the area immediately surrounding the mobile home has not been directly used for agricultural purposes with evidence of these areas having been fenced off to separate them from the wider agricultural field in the past. The overall size of the plot to be created is not considered to be disproportionate in its context. While the development would lead to a permanent loss of that area from agriculture, evidence indicates that the area around the mobile home has not been used directly for agriculture for some time. Therefore, in view of the fall back position, the curtilage to be created is considered to be appropriate.

- 16.11 The size of the red line boundary for the lawful development certificate is such that the applicant would still be entitled to site a caravan elsewhere on the land. This would result in a net increase in dwellings in an unsustainable location, which would not be supported by policy. It is therefore necessary to impose a restriction through a planning obligation which would ensure that, notwithstanding the lawful development certificate, no caravans may be sited on any part of the land within the applicant's ownership, preventing the applicant or any future owners of the site from benefitting from the lawful development certificate for the siting of a caravan.
- 16.12 For the remainder of the land within the applicant's ownership, its use for agricultural purposes would be able to continue unaffected. Although the lawful development certificate refers to a mixed use for agriculture and the siting of a residential caravan, the use of land for agriculture is specifically excluded from the meaning of 'development' by section 55(2)(e) of the Town and Country Planning Act 1990. Therefore, the use of the remainder of the site for agriculture could continue unaffected by the creation of a residential curtilage in the eastern part of the field.
- 16.13 The proposals also include the provision of an array of solar panels to provide electricity for the new dwelling. Within policy SUS2 of the West Dorset, Weymouth & Portland Local Plan (2015), the provision of renewable energy infrastructure is one of the forms of development that is acceptable in rural areas. Therefore, particularly given that the solar panels are proposed in conjunction with a new dwelling for which an exceptional justification exists, the principle of their inclusion is acceptable.

#### Amenity

- 16.14 The proposed dwelling is located a significant distance from the nearest residential property which is located around 260 metres to the northwest of the site, with a considerable tree belt between the properties at the northern edge of the site. The building would be modest in scale and given the relative remoteness of the site, there would not be any harmful impacts upon the amenity of neighbours.
- 16.15 The dwelling itself would provide for a good level of amenity for future residents. The dwelling meets relevant nationally described space standards for single storey dwellings and provides sufficient external space to form an appropriate residential curtilage while retaining the bulk of the associated land in agricultural usage. It is therefore considered that the proposal complies with the requirements of policy ENV16 of the West Dorset, Weymouth & Portland Local Plan (2015).

#### Character and appearance

- 16.16 The proposed dwelling would be relatively modest in scale, being a single storey structure, beneath a low roof. The design is unassuming with relatively simple detailing. The materials comprise stone walls and a standing seam metal roof. Given the site's isolation it would not relate directly to any neighbouring properties and would stand somewhat separate from the housing within Tincton.
- 16.17 Comments received have criticised the design, indicating that the design and use of materials does not reflect the character of the area as described in the draft

neighbourhood plan. The consultation version of the Knightsford Neighbourhood Plan describes a range of materials used across the area including red and buff brick, cob/render, rubble stone, Portland and Purbeck limestone and with roofs including thatch and clay tiles. The draft neighbourhood plan also shows a colour palette for Tincton which includes creams, beige, greys and blue/grey.

- 16.18 Beyond the statements within the neighbourhood plan, observations of the local area indicate a great deal of variety locally both in terms of the use of materials and in terms of housing typologies. There is a mix of older traditional cottages and later twentieth century housing which comprises both 1 and 2 storey units and a considerable variety in the type and usage of materials.
- 16.19 The use of stone for the walls is considered to be entirely appropriate to the local character and would be reflective of numerous local buildings. Although standing seam metal roofing is not a common feature in the area its use in this instance would be appropriate to the design of the dwelling. The building would not be widely visible as it is screened from the road by existing hedgerows which are to be retained, and in longer range views, by existing landscape features. The associated detached garage structure would be similarly modest in scale and would not have a harmful impact upon local character. The solar panels would be modest in their scale and appearance and would clearly appear as a subservient element which would not be harmful to local character and which would not be widely visible in the landscape.
- 16.20 Taking the above into consideration, it is considered that the proposals are acceptable in their design and relationship with the character of the area. As such the scheme is considered to comply with policies ENV10, ENV11 and ENV12 of the West Dorset, Weymouth & Portland Local Plan (2015).

#### Flood risk and drainage

- 16.21 Several comments have raised concern in respect of flood risk issues at the site, including submission of photographs showing winter flooding. While those concerns are acknowledged, the site is located wholly within flood zone 1, indicating that it is at low risk of flooding from rivers or the sea. The photograph of winter flooding which has been submitted was taken from a vantage point some distance to the south of the site, close to a bridge over the River Piddle. The location of that vantage point has been confirmed as falling within flood zone 3. Therefore, while it is clear evidence of flooding having taken place where the photo was taken it does not demonstrate any additional risk of flooding at the site.
- 16.22 Notwithstanding the site's location within flood zone 1, it is identified as falling within an area at risk of flooding from groundwater. The applicant has provided a flood risk assessment which confirms that the site has not flooded in the past, noting that the area where the house is to be sited is elevated above the immediate surrounding areas. This can be seen on the existing site plan which shows the footprint of the existing structure within the 35m contour when surrounding areas to the south and east are at a lower level. The proposals do not involve any alterations to ground levels in the area, and it is therefore considered that, subject to agreement of finished floor levels of the new building, to ensure that they are set

at an appropriate level, the risk of flooding from ground water would be appropriately mitigated.

- 16.23 Several comments have also raised concerns about the suitability of drainage arrangements for the site. The applicant notes that the existing building drains to the ground without issue. Although the proposals would result in an increased footprint of the development this increase would not be significant in the context of the site and the landholding available. Drainage outflows from the proposed package treatment plant would be to an existing watercourse. While precise details have not been provided, the formation of the outfall would be subject to permitting by the Environment Agency.
- 16.24 Taking the above into consideration, the proposal is assessed as complying with policies ENV5 and ENV9 of the West Dorset, Weymouth & Portland Local Plan (2015).

#### Highways

- 16.25 The site is accessed from an existing access which is already established to serve the lawful residential use of the site. There would be no intensification of that use as a result of the proposals.
- 16.26 The application has been considered by the Highway Authority which considers that the proposals would not result in unacceptable impacts upon the highway, subject to conditions requiring construction of the first 6m of the vehicle access in an appropriate hard surfaced material to the satisfaction of the highway authority, the provision and maintenance of the visibility splays that have been indicated, the provision and retention of the turning and manoeuvring space indicated and the setting back of the gates by a minimum of 6m from the rear edge of the highway.
- 16.27 Subject to the imposition of the recommended conditions it is considered that the proposal would not result in unacceptable impacts on highway safety and would therefore comply with policies COM7 and COM9 of the West Dorset, Weymouth & Portland Local Plan (2015).

#### Habitats

- 16.28 The site is within the hydrological catchment of the Poole Harbour SAC and Ramsar Site where new dwellings must demonstrate that they would be nutrient neutral to avoid likely significant effects from nutrient deposition. The site is also within the 5km recreational catchment area of the Dorset Heathlands SPA, SAC and Ramsar Sites where additional residential development is assessed as contributing to likely significant effects through additional recreational pressures (these being capable of mitigation through the Dorset Heathlands Planning Framework SPD). In this instance, the site would not result in a net increase in dwellings, as the new dwelling would replace the existing residential caravan. As such an HRA screening has been completed which confirms that likely significant effects will be avoided, and an Appropriate Assessment is not required. The proposal therefore complies with policy ENV2 of the West Dorset, Weymouth & Portland Local Plan (2015).

#### Trees

16.29 There is an existing hedgerow which includes a number of trees, on the eastern boundary of the site. The applicant has provided an arboricultural report and tree protection plan which the council's tree officer has confirmed would ensure the appropriate protection of these trees, subject to a condition requiring its implementation.

#### Public rights of way

16.30 The ramblers' association has commented to note the proximity of the site to right of way, footpath S43/8, which they describe as being in the vicinity of or possibly crossing the application site. The definitive map shows the route of that footpath to be in the field to the south and is approximately 150m away at its closest. There is also a footpath in closer proximity (S43/7) which runs north eastwards across the field to the east of the site.

16.31 There are no public rights of way crossing the site. While no comments have been received from the council's rights of way officer, based on the definitive map no public rights of way would be directly affected by the proposals.

### **17.0 Conclusion**

17.1 Although the site is located in a relatively remote rural area, where new housing development would not normally supported, in this instance there is a material fall back position in the form of a lawful development certificate which allows for the siting of a caravan on the site for residential use. This is a material consideration of sufficient weight to justify granting planning permission for residential development in a location which would otherwise conflict with the development plan.

17.2 The proposed dwelling is modest in its scale and its design, while utilising a contemporary palette of materials it is considered to be appropriate to the area. The dwelling would not cause harm to residential amenity and would provide an appropriate level of amenity for its occupants.

17.3 Notwithstanding comments received from third parties the site is located within flood zone 1 and is not therefore considered to be at risk of flooding from rivers or the sea. The site is in an identified area at risk of groundwater flood risk. However, this would be appropriately managed through the development.

17.4 The proposal would ensure the retention of trees and the hedgerow on the site boundary, would avoid harmful impacts upon the highway and, as there would not be any net increase in dwellings there would not result in harm to the Poole Harbour or Dorset Heathlands habitats sites through additional nutrient enrichment or recreational pressure, respectively.

17.5 The proposal is therefore assessed to comply with relevant policies of the development plan, with there being a material consideration of sufficient weight to justify the grant of planning permission in a location where a new dwelling would not normally be supported.

17.6 It is therefore recommended that planning permission is granted subject to appropriate conditions and the completion of a legal agreement to prevent the siting of a residential caravan on the site or other land within the applicant's ownership.

## 18.0 Recommendation

### Recommendation A:

Delegate authority to the Head of Planning and the Service Manager for Development Management and Enforcement to grant planning permission subject to the completion of a legal agreement under section 106 of the Town and Country Planning Act 1990 (as amended) in a form to be agreed by the legal services manager to secure the following:

- No residential caravans to be sited anywhere within the land owned by the applicant and subject of the lawful development certificate (which would otherwise be allowed by the lawful development certificate)

And subject to the following planning 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:  
PL-1684-200 Existing Location and Proposed Block Plan  
PL-1684-201 A Proposed Site plan  
PL-1684-202 A Proposed Floor plan  
PL-1684-203 Proposed Elevations  
PL-1684-204 Proposed Garage floor plans & elevations

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

3. Prior to commencement of the development approved details of the finished floor level(s) of all the building(s) hereby approved shall have been submitted to and approved in writing by the Local Planning Authority. Such levels shall be relative to an ordnance datum or such other fixed feature as may be agreed in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved details.

Reason: In the interests of visual amenity and flood risk.

4. Prior to the commencement of development details of proposed flood mitigation measures as included in the Flood Risk Assessment reference 1684-70 FRA shall be submitted to and approved in writing by the Local Planning Authority. The development shall not be occupied until such measures have been completed in accordance with the agreed details.



Reason: In order to safeguard the accommodation from unnecessary flood risk.

5. Prior to commencement of works (including site clearance and any other preparatory works) the scheme for the protection of trees in accordance with the submitted RNapc method statement and tree protection plan RNapc/605/TPP/1 and RNapc/605/1 shall be implemented and at least 5 working day's notice shall be given to the Local Planning Authority that it has been installed. Thereafter, tree protection measures shall be retained throughout the course of the development and only removed once construction works have been fully completed.

Reason: To safeguard trees and natural features which are important to the visual amenities of the area.

6. Within 2 months of the first occupation of the dwelling hereby approved, the existing mobile home (former railway carriage) and structures and materials arising from demolition shall be permanently removed from the site.

Reason: To safeguard against otherwise inappropriate additional residential development and in the interests of visual amenity.

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

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

8. Before the development hereby approved is first occupied the first 6.0 metres of the vehicular access whether it be concrete, block paving or tarmac, measured from the nearside edge of the highway (see informative note below), shall have been laid out, constructed, and surfaced, to a specification which shall have first been submitted to, and agreed in writing by, the Local Planning Authority.

Reason: In the interests of highway safety.

9. Before the development hereby approved is occupied or utilised, the visibility splay must have 43 metres of clear and unobstructed line of sight in both directions. Any obstruction on the verge both sides of the access must be cleared/excavated to a level not exceeding 0.6 metres above the relative level of the adjacent carriageway. The splay areas must thereafter be maintained and kept free from all obstructions.

Reason: To ensure that a vehicle can see or be seen when exiting the access.

10. Before the development hereby approved is first occupied or utilised the turning and parking shall be constructed in accordance with the details shown on drawing number PL-1684-201-A. 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 in the interest of highway safety.

11. Prior to the development being first brought into use any entrance gates shall be set back a minimum distance of 6.0 m from the edge of the carriageway and hung so that the gates can open inwards only.

Reason: To enable a vehicle to be parked clear of the public highway whilst the gates are opened or closed, preventing possible interruption to the flow of traffic.

12. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any Order revoking and re-enacting that Order) (with or without modification) no garages, sheds or other outbuildings permitted by Class E of Schedule 2 Part 1 of the 2015 Order shall be erected or constructed.

Reason: To protect amenity and the character of the area.

13. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any Order revoking and re-enacting that Order) (with or without modification) no enlargement(s) of the dwellinghouse hereby approved, permitted by Class A and Class B of Schedule 2 Part 1 of the 2015 Order, shall be erected or constructed.

Reason: To protect amenity and the character of the area.

### **Informative Notes:**

1. Informative: This permission is subject to an agreement made pursuant to Section 106 of the Town and Country Planning Act 1990 dated (date to be completed prior to issuing of decision).
2. Informative: This development constitutes Community Infrastructure Levy 'CIL' liable development. CIL is a mandatory financial charge on development, and you will be notified of the amount of CIL being charged on this development in a CIL Liability Notice. To avoid additional financial penalties, it is important that you notify us of the date you plan to commence development before any work takes place and follow the correct CIL payment procedure.
3. 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.
- The applicant was provided with pre-application advice.

#### 4. Street Naming and Numbering

The Council is responsible for street naming and numbering within our area. This helps to effectively locate property to deliver post and for access by emergency services. New or changed addresses must be registered with the Council. This link has more information.

<https://www.dorsetcouncil.gov.uk/planning-buildings-land/street-naming-and-numbering/street-naming-and-numbering>

5. Please check that any plans approved under the building regulations match the plans approved in this planning permission or listed building consent. Do not start work until revisions are secured to either of the two approvals to ensure that the development has the required planning permission or listed building consent.

#### 6. Biodiversity Net Gain

The effect of paragraph 13 of Schedule 7A to the Town and Country Planning Act 1990 is that planning permission granted for development of land in England is deemed to have been granted subject to the condition (biodiversity gain condition) that development may not begin unless:

- (a) a Biodiversity Gain Plan has been submitted to the planning authority, and
- (b) the planning authority has approved the plan.

The planning authority, for the purposes of determining whether to approve a Biodiversity Gain Plan, if one is required in respect of this permission would be Dorset Council.

There are statutory exemptions and transitional arrangements which mean that the biodiversity gain condition does not always apply. These are listed below.

Based on the information available this permission is considered to be one which will not require the approval of a biodiversity gain plan before development is begun because one or more of the statutory exemptions or transitional arrangements in the list below is/are considered to apply.

- Development which is not 'major development' (within the meaning of article 2(1) of the Town and Country Planning (Development Management Procedure) (England) Order 2015) where:

- i) the application for planning permission was made before 2 April 2024.

Read more about Biodiversity Net Gain at

<https://www.dorsetcouncil.gov.uk/w/biodiversity-net-gain>

**Recommendation B:**

Refuse permission for the reason set out below if the legal agreement is not completed by 6 months from the date of committee or such extended time as agreed by the Head of Planning or Service Manager for Development Management and Enforcement:

1. In the absence of a S106 agreement to ensure a mobile home could not be sited on the land now or in the future, in accordance with lawful development certificate, the proposed development would result in an additional dwelling at the site in an unsustainable location where the future occupier would be reliant on a car to access services and facilities. Hence the development would be contrary to Policies INT1 and SUS2 of the West Dorset, Weymouth and Portland Local Plan (2015) and the National Planning Policy Framework (2023).