

Application Number:	P/FUL/2024/06334
Webpage:	https://planning.dorsetcouncil.gov.uk/
Site address:	Abbotswell Lyme Road Uplyme DT7 3TJ
Proposal:	Retention of Shepherds Hut
Applicant name:	S Weldin
Case Officer:	Robert Parr
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 part of the land on the application site.

2. Summary of recommendation:

Refuse:

The access to the site lacks adequate visibility onto Uplyme Road the B3165. The application has failed to demonstrate that the intensification of the use of the access would avoid a severe detrimental effect on road safety. As such, the application does not accord with Policy COM7 of the West Dorset and Weymouth & Portland Local Plan (2015) and paragraph 115b of the National Planning Policy Framework (2025 as amended) and therefore in accordance with paragraph 116 of the NPPF planning permission is refused.

3. Key planning issues

Issue	Conclusion
Principle of development	Within Defined Development Boundary and as such principle accepted under Local Plan Policy SUS2. Proposal is for new built tourist accommodation and as such principle accepted under Local Plan Policy ECON6.
Scale, design, impact on character and appearance	The design would be in keeping with the character of the area.
Impact on the living conditions of the occupants and neighbouring properties	Acceptable impact.
Flood risk and drainage	Acceptable subject to condition.
Economic benefits	Small contribution to local economy from tourism related spending.
Highway impacts, safety, access and parking	Development considered an intensification of use of a site with inadequate visibility onto the highway and the intensification of use would likely cause additional danger to road users and as such is unacceptable.
Impact on trees	Acceptable subject to condition.

Issue	Conclusion
Contaminated land	Acceptable.
Biodiversity	Biodiversity Net Gain exempt as development completed prior to 12 February 2024.
Environmental Implications	None.

4. Description of site

- 4.1 The application site is located within the curtilage of a detached property known as Abbotswell, which is situated on the border between Dorset and Devon County/East Devon District. Abbotswell is a generous sized detached property within its own grounds which includes part of the line of the former Axminster to Lyme Regis railway line at the south east end of the property. The existing Shepherds Hut is set down at a much lower level than the main garden areas of the property, especially in the vicinity close to the site entrance where the Shepherd's Hut is located. Access to the site is off the B3165 Uplyme Road, which leads to a driveway and parking area serving the existing property and the proposed development. A timber fence is located at the top of the embankment, following the line of the driveway and this acts as a boundary to the area containing the Shepards Hut, which is accessed by a pedestrian gate and steps. The Shepherds Hut sits on a levelled area of gravel, in a sunken wooded setting.

5. Description of development

- 5.1 The proposal is to retain the existing Shepherds Hut for use as a holiday let. The Shepherds Hut is approximately 6.4 metres long, 2.4 metres wide and 3.2 metres in height from ground level, has a rectangular plan form, is raised off the ground on four wheels, has timber external walls in natural finish and a curved corrugated metal roof. On the north west elevation is a window and steps leading to French doors 2/3 glazed.

6. Background and relevant planning history

None

7. List of constraints

Dorset Area of Outstanding Natural Beauty (AONB) (National Landscape)

Lyme Regis Defined Development Boundary

East Devon Area of Outstanding Natural Beauty (AONB) (National Landscape) - Distance: 10m

Devon County - Distance: 11m

Dorset Council Land

Risk of Surface Water Flooding Extent 1 in 30

Risk of Surface Water Flooding Extent 1 in 100

Surface water flooding - 1 in 100 year event plus 20% allowance

Surface water flooding - 1 in 100 year event plus 40% allowance

Radon: Class: Class 1: Less than 1%

RAD - Radon: Class: Class 4: 5 - 10%

Contaminated Land

8. Consultations

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

Consultees

1. East Devon District Council

No objections.

2. Forestry Commission

No comment.

2. Dorset Wildlife Trust

No response received.

3. Bournemouth Water Ltd (South West Water)

No comment.

4. Highways

Response 12 December 2024

- This application would mean an intensification of use at a site with substandard visibility onto a main road.
- The Highway Authority recommends that permission be REFUSED for the following reason:

The existing access lacks adequate visibility onto The B3165 Lyme Road, and its increased use would be likely to cause additional danger to road users.

Response 24 January 2025 (Following additional information and plan from applicant)

- Inadequate plan to show the visibility splay.
- Would expect a detailed Ordnance Survey drawing showing all key parts, such as the bridge railings and wall, hedge and telegraph pole.
- Need to show that the land was in the applicant's control.
- Cut vegetation can grow back.
- Replacing the hedge with a fence sounds like the visibility would not be opened up further.
- There is no information regarding the ownership of the hedge and believe that it is in the ownership of Dorset Council, but the applicant would need to show that they have control or ownership of land in which a visibility splay is shown.
- Cutting down vegetation may cause a hazard as a disused railway cutting is behind it.
- How would this area be made safe?
- If the area was open for visibility, then access to the public at this location may occur.
- It appears that even if the hedge and vegetation was removed the railings and bridge wall would obstruct visibility.

Response 31 March 2025 (Following plan showing visibility splays)

- Nothing further to add to its previous observation dated 24 January 2025.

5. Env. Services – Protection

- Recommended that, should consent be granted, a suitable condition is applied which requires the applicant, in the event that ground contamination is encountered during any groundworks related to this development, to cease operations and seek specialist advice; operations should not recommence without the written consent of the planning authority.

6. Dorset Waste Team

No response received.

7. Building Control West Team

No comment.

8. Asset & Property

No response received.

9. Trees

No response received.

10. Lyme and Charmouth Ward Member

No response received.

11. Lyme Regis Town Council

No response received.

Representations received.

No representations received.

8. 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.

Section 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 (formerly known as Areas of Outstanding Natural Beauty)

9. Relevant policies

Development plan

In this case the development plan comprises:

Local Plan Adopted West Dorset and Weymouth & Portland Local Plan:

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

INT1	- Presumption in favour of Sustainable Development
ENV1	- Landscape, seascape & sites of other geological interest
ENV5	- Flood Risk
ENV9	- Pollution and contaminated land
ENV10	- The landscape and townscape setting
ENV12	- The design and positioning of buildings
ENV16	- Amenity

SUS2	- Distribution Of Development
ECON6	- Built tourist accommodation
COM7	- Creating a safe & efficient transport network

Material considerations

The Dorset Council Local Plan

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 plan should be accorded very limited weight in decision making.

National Planning Policy Framework 2024 (2025 as amended)

Paragraph 11 sets out the presumption in favour of sustainable development. 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 specific NPPF policies protecting areas or assets provide a strong reason for refusal and/or any adverse impacts of approval would significantly and demonstrably outweigh the benefits when assessed against the NPPF as a whole, with particular regard to key policies for directing development to sustainable locations, making effective use of land, securing well designed places and providing affordable homes.

Other relevant NPPF sections include:

- Section 4 'Decision making': Para 39 - 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', 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 new buildings, and supports sustainable tourism and leisure developments where identified needs are not met by existing rural service centres.
- Section 9 'Promoting sustainable transport'
- Section 11 'Making effective use of land'
- Section 12 'Achieving well designed places' This 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'
- Section 15 'Conserving and Enhancing the Natural Environment'- In National Landscapes (formerly known as Areas of Outstanding Natural Beauty), paragraph 189 requires great weight to be given to conserving and enhancing the landscape and scenic beauty. Decisions in Heritage Coast areas should be consistent with the special character of the area and the importance of its conservation (para 191). Paragraphs 192-195 set out how biodiversity is to be protected and encourage net gains for biodiversity.

Other material considerations

National Planning Practice Guidance

All of Dorset:

Dorset AONB Landscape Character Assessment

Dorset AONB Management Plan 2019-2024 (extended to end of 2025 with the agreement of Dorset Council Cabinet 17/12/2024)

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.

Supplementary Planning Documents/Guidance For West Dorset area:

WDDC Design & Sustainable Development Planning Guidelines (2009)

Landscape Character Assessment February 2009 (West Dorset)

10. 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.

11. 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.

- Access - The Shepards Hut proposed for retention is accessed by steps from the driveway/car parking area and then steps provide access into the Shepards Hut. Therefore, it would appear that access for people with disabilities such as mobility impairments or for people pushing buggies has not been accommodated in the design of the development.

12. Planning Assessment

Principle of development

- 12.1 Local Plan Policy SUS2 sets out that amongst other towns Lyme Regis will be a focus for future development and that within defined development boundaries (DDB) residential, employment and other development that meets the needs of the local area will normally be permitted. Furthermore, Local Plan Policy ECON6 sets out that new built tourist accommodation will be supported within an established settlement of more than 200 population. As the proposed site is in Lyme Regis DDB (which has greater than 200 population) and is proposed development in relation to new built tourist accommodation, the principle of development is accepted in this instance.

Scale, design, impact on character and appearance

- 12.2 The existing Shepherds Hut proposed to be retained is in a discrete location being set down in the landscape, being in a wooded setting and having a timber boundary fence approximately 1.8 high on top of the embankment on the north east side of the Shepherds Hut. As such the development is considered to have minimal impact on the landscape surrounding the site. Furthermore, the traditional form and materials are considered to be in keeping with the character of the site and the area. Lyme Regis is a tourist destination, with existing tourist accommodation within close proximity of the site and as such the provision of holiday accommodation at this location is considered to be in keeping with the character of the area. Therefore, it is considered that the appearance of the development in the site and its use as holiday accommodation would be in keeping with the site and the area and would not harm the character of the National Landscape.

Impact on the living conditions of the occupants and neighbouring properties

- 12.3 The proposed Shepherds Hut is set down in the landscape in a secluded location, with a generous amount of separation from adjacent dwellings. As such it is considered the proposal would not result in a significant adverse impact on amenity as a result of loss of privacy, overbearing, overshadowing or noise impact. Therefore, it is considered the proposal is acceptable in terms of amenity impact.

Flood risk

- 12.4 The application site is in an area recorded as being at a 1:30 and 1:100-year risk of surface water flooding in the Council's Strategic Flood Risk Assessment (SFRA) level 1. In the Environment Agency's recently published new National Flood Risk Assessment (NaFRA2) the site is at 1:1000 year risk of surface water flooding. As such the application is supported by a Flood Risk Assessment (FRA). The FRA has identified the surface water flood risk and sets out mitigation measures to address this including, the ground level having been raised by more than 900mm (the expected flood risk depth for a 1 in 100-year event) and the area covered with a water permeable layer of granite chippings. Furthermore, the FRA sets out that the Shepherds Hut sits on spoked steel wheels which raises the floor level a further 900mm above ground level and allows any surface water to run beneath it. The FRA does not include any information of how potential flood events would be monitored and no emergency plan details are provided.

- 12.5 Paragraph 175 of the NPPF (2025 as amended) sets out that the sequential test should be used in areas known to be at risk now or in the future from any form of flooding. However, Planning Practice Guidance Reference ID: 7-027-20220825 Paragraph: 027 sets out the following guidance in regard to the need for a sequential test to be applied to planning applications.

"In applying paragraph 175 a proportionate approach should be taken. Where a site-specific flood risk assessment demonstrates clearly that the proposed layout, design, and mitigation measures would ensure that occupiers and users would remain safe from current and future surface water flood risk for the lifetime of the development (therefore addressing the risks identified e.g. by Environment Agency flood risk mapping), without increasing flood risk elsewhere, then the sequential test need not be applied".

- 12.6 Given the flood risk mitigation measures set out in the FRA and the minor scale of the development, it is considered that the occupiers of the Shepherds Hut would remain safe for

the lifetime of the development, without increasing flood risk elsewhere. As such it is considered the requirement for a sequential test is not triggered in this instance.

- 12.7 Therefore, it is considered that the scheme would be acceptable in terms of flood risk subject to details being submitted and approved in regard to flood warning and emergency procedures.

Economic benefits

- 12.8 It is considered that the retention of the Shepards Hut as tourist accommodation would make a small contribution to the local economy through the likely spend of guests, which would support retail, food and drink and travel services in the area.

Highways

- 12.9 Local Plan Policy COM7 sets out that development will not be permitted unless it can be demonstrated that it would not have a severe detrimental effect on road safety, or measures can be introduced to reasonably mitigate potentially dangerous conditions.
- 12.10 The Highway Authority recommends the application is refused given the proposal is considered to result in an intensification of use of the site where the existing access onto the Lyme Road (B3165) has substandard visibility and this lack of adequate visibility onto the highway and the intensification of use would likely cause additional danger to road users.
- 12.11 The applicant has set out that given the size of the existing dwelling there is already potential for a 'high access' credit to be attributable to the site and given the size of the Shepherds Hut it would only generate traffic from one extra vehicle. The applicant has also suggested to the Highway Authority the potential use of a double mirror on the opposite side of the road to enable traffic to be seen from both directions. The Highway Authority has responded to the suggested mitigation having visited the site and consider that the access to be severely sub-standard when considering the available visibility to the south. The Highway Authority sets out that it has considered the proposed development, rather than the existing use which is not part of this application. Furthermore, the Highway Authority has set out that Dorset Highways do not condone mirrors on the highway and although they maintain a set number of historical ones at road junctions, they do not put up new mirrors. The Highway Authority has confirmed they would not accept a mirror to mitigate a substandard access due to visibility.
- 12.12 The applicant has set out that they would be willing to accept a planning condition which stipulates no parking for the Shepherd's Hut will be permitted on site and consider there is more than adequate unrestricted parking in the road for the likely number of visitors to the Shepards Hut. It is considered that such a condition would not be enforceable as the monitoring of vehicles accessing the site would not be reasonably practical. Therefore, as the suggested condition is not considered to be enforceable it would fail the requirements for planning conditions as required by paragraph 57 of the NPPF (2025 as amended).
- 12.13 Through the course of the application and in response to concerns raised by the Highway Authority, the applicant submitted a Visibility Splay drawing no.1576.005. The Visibility Splay drawing sets out proposed alterations to the boundary fence to the north of the site access and removal of a hedge to the south of the site access. The hedge proposed to be removed is on Dorset Council land and the applicant has provided an email from the Dorset Council

Arboricultural Officer in which they raise no objection to the applicant removing the hedge, subject to the removal taking place outside of bird nesting season (1st March to August 31st). Prior to the Visibility Splay drawing being submitted the Highway Authority set out that even if the hedge and vegetation was removed it would appear the railings and bridge wall would obstruct visibility. Furthermore, when the Highway Authority was re-consulted on the Visibility Splay drawing, they set out that they had nothing further to add to their previous observations.

- 12.14 Therefore, given the proposed intensification of use of the site for holiday accommodation, the substandard visibility of the access to the site, which it has not been demonstrated can be reasonably mitigated for, the proposed development is considered to have a severe detrimental effect on road safety and as such fails to accord with Policy COM7 of the West Dorset, Weymouth & Portland Local Plan 2015 and paragraphs 115b and 116 of the NPPF (2025 as amended).

Impact on trees

- 12.15 There are numerous mature trees on the application site, however the development has already taken place, and no response has been received from the Tree Officer. The proposal includes the removal of a boundary hedge, and correspondence with the Dorset Council Arboricultural Officer has raised no objection to this subject to its removal taking place outside of the bird nesting period. It is therefore considered that subject to a condition restricting the timing of hedge removal the proposal is acceptable in terms of impact on trees.

Contaminated land

- 12.16 The application site sits on land which previously formed a section of the Lyme Regis branch line to Axminster and is recorded as potentially contaminated. The Environmental Protection officer recommends that should planning permission be granted a precautionary condition is required, which sets out that in the event that ground contamination is encountered during any groundworks related to this development, to cease operations and seek specialist advice; operations should not recommence without the written consent of the planning authority. However, it is considered that as the proposal is to retain the existing development and no further groundworks are proposed, such a condition is not necessary.

Biodiversity

- 12.17 The proposed development has already been carried out and according to the application the scheme has been in place since June 2023. As the development was carried out prior to 12 February 2024, the scheme is considered to be exempt from the requirements of Biodiversity Net Gain. Furthermore, as the development is in place it is not possible to assess what ecology has been impacted by the development. However, given the modest scale of the application site, which is not a designated habitat, it is considered the impact on biodiversity is likely to be acceptable.

Environmental implications

- 12.18 None

13. Conclusion

- 13.1 The proposed development is considered acceptable in regard to its scale, design, impact on character and appearance, amenity impact, flood risk, impact on trees, contamination and biodiversity, subject to conditions. However it is considered the proposed intensification of

the use of the vehicular access through the use of the Shepherds Hut as holiday accommodation would have a severe detrimental effect on road safety and as such fails to accord with Policy COM7 of the West Dorset, Weymouth & Portland Local Plan (2015), and paragraphs 115b and 116 of the National Planning Policy Framework (2025 as amended). Therefore, the application is not considered acceptable in planning terms and is recommended for refusal.

14. Recommendation

Refuse for the following reason:

The access to the site lacks adequate visibility onto Uplyme Road the B3165. The application has failed to demonstrate that the intensification of the use of the access would avoid a severe detrimental effect on road safety. As such, the application does not accord with Policy COM7 of the West Dorset and Weymouth & Portland Local Plan (2015) and paragraph 115b of the National Planning Policy Framework (2025 as amended) and therefore in accordance with paragraph 116 of the NPPF planning permission is refused.