

Officer Report

Reference No: P/VOC/2024/02287
Proposal: Change of use from a former scout hut to 1 no.dwelling. Create new vehicular and pedestrian access and 2 no. additional parking spaces. (With removal of Condition No. 8 from Planning Permission P/FUL/2021/02056 to allow permitted development rights permitted by Class E).
Address: Scout Association Lubbecke Way Dorchester Dorset DT1 1QL
Recommendation: Refuse
Case Officer: Jamie Francis
Ward Members: Cllr Jones and Cllr Major
CIL Liable: N

Fee Paid:	£293.00		
Publicity expiry date:	6 June 2024	Officer site visit date:	7 th May 2024
Decision due date:	20 June 2024	Ext(s) of time:	N/A
No. of Site Notices:	2		
SN displayed reasoning:	<ul style="list-style-type: none">- On North-east boundary fence visible to 1-16 Lubbecke Way- On South-east boundary fence visible to passers-by to 17-60 Lubbecke Way		

Relevant Planning History

P/FUL/2021/02056 - Decision: GRA - Decision Date: 21/12/2021
Change of use from a former scout hut to 1 No. dwelling. Create new vehicular and pedestrian access and 2 No. additional parking spaces.

Condition 8 of P/FUL/2021/02056 is: 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.

P/NMA/2023/04883 - Decision: Granted - Decision Date: 20/09/2023
Non material amendment - to change some of the timber fence boundary treatment to a brickwork wall to planning permission P/FUL/2021/02056. (Change of use from

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a former scout hut to 1 No. dwelling. Create new vehicular and pedestrian access and 2 No. additional parking spaces).

Constraints

Groundwater – Susceptibility to flooding.

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.

Development Plan Policies

Adopted West Dorset and Weymouth & Portland Local Plan:

The following policies are considered relevant to the proposal to vary condition 8:

INT1	-	Presumption in favour of Sustainable Development
ENV10	-	The landscape and townscape setting
ENV12	-	The design and positioning of buildings
ENV15	-	Efficient and Appropriate Use of Land
ENV16	-	Amenity
SUS2	-	Distribution of development

Other Material Considerations

Emerging 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 Dorset Council Local Plan should be accorded very limited weight in decision making.

National Planning Policy Framework:

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.

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- Section 4 'Decision making': Para 54 – 'planning conditions should not be used to restrict national permitted development rights unless there is clear justification to do so'.
- Section 4 'Decision making': Para 55 – 'Local planning authorities should consider whether otherwise unacceptable development could be made acceptable through the use of conditions'.
- Section 4 'Decision making': Para 56 - 'Planning conditions should be kept to a minimum and only imposed where they are necessary, relevant to planning and to the development to be permitted, enforceable, precise and reasonable in all other respects'.
- 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.

Planning Practice Guidance

Use of planning conditions: Explains how conditions attached to a planning permission should be used and discharged effectively.

Consultation Responses

Consultation Responses	No Objection	Object	Brief Summary of Comments
Town Council	X		No objection
Ward Member			No comments received
Third Parties		X	<p>The narrow footpath connecting the site to Little Britain has been converted into a long driveway. The site has been listed for sale with the address and postcode changed from Lubbecke Way to the new address, 11 Little Britain.</p> <p>I believe this is impactable for access from Little Britain which is a narrow, no through road, and dangerous for emergency services.</p>

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Officer Assessment

Neighbour Objection:

The neighbour's objection in relation to use of an access from Little Britain is not capable of being re-assessed as part of this application to vary conditions, as it does not relate to the application to vary condition 8 from Planning Permission P/FUL/2021/02056. As explained under section 73 of the Town and Country Planning Act 1990, 'the local planning authority must only consider the disputed condition/s that are the subject of the application – it is not a complete re-consideration of the application.'

The Condition:

Condition 8 of P/FUL/2021/02056: 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.

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

The case officer provided the above reason for the condition and elaborated further in their Officer Report.

Character of the Area

The Officer report explains that the conditions restricting permitted development rights are necessary and reasonable to ensure that the architectural flair and the legibility of the building's former use (and its architectural and historical qualities) are not diluted by post occupation alterations and additions. Upon review, this is considered necessary, as it remains important to ensure the development is of a high-quality design and has a positive relationship and visual impact that is compatible with the surroundings.

As the building is not located within a conservation area, utilising Class E permitted development rights would allow outbuildings to be erected at both sides and rear of the building. Introducing an outbuilding at for example the south-east side of the building may have a detrimental effect on the street scene, dilute the quality of the design, and reading of the building's historic qualities. Lubbecke Way is characterised by open frontages, as the houses are laid out around open green space, facing towards the former Scout hut. Introducing further buildings at the side of the scout hut may further diminish the openness of the area.

Policy ENV10 of the Local Plan explains that 'Development should be informed by the character of the site and its surroundings', and Policy ENV12 states that 'any alterations to or extensions of buildings should be well related to, and not overpower, the original building or neighbouring properties, unless they achieve significant visual enhancement to both the building and surrounding area'. Whilst it is considered that the approved permission complied with these policies, the limitation of permitted development rights ensures that it remains as such.

Amenity

The Officer Report explained that the separation from the nearest dwellings is 11m and that through re-using a building it means greater separation distances from

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neighbours cannot be achieved. The report also explains that additions to the building could erode the level of residential amenity to unacceptable levels. The design and access statement also recognised the importance of protecting neighbouring amenity given the close relationship to properties at the rear, stating that 'the layout of the proposal has been designed to ensure that it is respectful to the close relationship to the properties to rear and ensure that neighbouring amenity is not compromised'.

Whilst the case officer was satisfied that the layout did not result in compromised neighbouring amenity, it was considered that unrestricted permitted development rights may lead to a demonstrably harmful impact, that may conflict with Policy 16 (Amenity) of the Local Plan. Upon review, it is considered that this is still the case, and the condition should be retained as such.

Should Class E permitted development rights be unincumbered, it would allow for outbuildings close to surrounding residential properties. Given that the rear garden area is on an elevated bank where it shares a border with 19-22 Lubbecke Way, this may cumulatively result in unacceptable impacts on amenity. Therefore, the conditions are considered necessary for the application to be acceptable regarding impact on neighbours' amenity.

The report also elaborates that whilst the proposal to convert the scout hut allowed for appropriate level of outdoor space for future occupiers, it is necessary and reasonable to restrict the erection of incidental outbuildings as this could decrease the outdoor space to an unacceptable level.

Summary

An outbuilding such as a shed is not necessarily unacceptable at the site, and would be considered a reasonable request, however through condition 8, the Council can retain control over the scale, design and siting of such structures to ensure the character of the area is protected, and there is not unacceptable harm to neighbouring amenity.

In this instance, NPPF Para 54 is met, because there is clear justification to restrict national permitted development rights. Para 55 is complied with, as the condition seeks to minimise impacts on amenity and the street scene. The condition is considered to meet the '6 tests' of Para 56.

Conclusions

	Yes	No
Having regard to your answers to all the preceding questions, is the application considered to be acceptable?		X

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Recommendation: Refuse for the following reasons:

1. The retention of Condition 8 of P/FUL/2021/02056 is considered necessary for the Council to retain oversight of the scale, design and siting of outbuildings to ensure the character of the area is protected and ensure there will not be unacceptable harm to neighbouring amenity. Therefore the condition is considered necessary to ensure future development otherwise permitted by Class E, Schedule 2, Part 1 will comply with Policies ENV10, ENV12, ENV16 of the Adopted West Dorset, Weymouth and Portland Local Plan 2015. The condition is considered to have been utilised in accordance with NPPF Para 55, and meets the tests of NPPF Para 56, in that the condition is necessary, relevant to planning and to the development to be permitted, enforceable, precise and reasonable in all other respects. Therefore, the application to vary conditions is refused, as the condition ensures the development is in accordance with the development plan with no material considerations to suggest otherwise.

Informative Notes:

1. National Planning Policy Framework

In accordance with paragraph 38 of the NPPF the council, as local planning authority, takes a positive approach to development proposals and is focused on providing sustainable development. The council works with applicants/agents in a positive and proactive manner by:

- offering a pre-application advice service, and –
- as appropriate updating applications/agents of any issues that may arise in the processing of their application and where possible suggesting solutions.

In this case:

- The applicant/ agent did not take the opportunity to enter into pre-application discussions.
- The applicant was advised that the proposal did not accord with the development plan and that there were no material planning considerations to outweigh these concerns.

Case Officer Signature:	J Francis	Authorising Officer Signature:	Andrew Collins
Date:	27 th June 2024	Date:	27 June 2027