

Planning Committee

Application Address	Land at 40 Dorset Lake Avenue
Proposal	Erection of a 5-bedroom house, pool and boathouse
Application Number	APP/20/01135/F
Applicant	Mr R Heffer
Agent	Anders Roberts & Assoc
Ward and Ward Member(s)	Canford Cliffs Cllr John Challinor Cllr May Haines
Report Status	Public
Meeting Date	15 February 2024
Summary of Recommendation	Grant in accordance with the details set out below for the reasons as set out in the report.
Reason for Referral to Planning Committee	Call-In from former Cllr Iyengar for the following reasons: 1. The design includes a garden raised to the height of the neighbour's wall and much closer to that wall, for a length which stretches half-way down the neighbour's garden. It's an out-of-character design. 2. The proposal for high obscured glass to reduce overlooking is intended for only a portion of the raised level and makes the scheme more incongruous with its surroundings.
Case Officer	Yole Medeiros
Is the proposal EIA Development?	No

Background

1. There is a history of applications for residential development on the site, the most relevant relate to the permissions granted in February 2011 and in May 2019. The first permission was granted for the demolition of the existing house, and erection of a contemporary residential dwelling with additional detached boat store (ref. APP/10/01557/F). The permission was altered through the approval of non-material amendments in February 2013 (APP/13/00071/F), for changes relating to the size of the building, in part due to the form of construction proposed and the desire of the applicant to change elements of the internal layout and arrangement of balconies. The house has been demolished but the replacement house has not been built. In September 2019, a Certificate of Lawful Use for an Existing Use or Development (CLUED, ref. 18/00961/J) was issued confirming that the development approved in 2011 by the planning permission ref. APP/10/01557/F had been lawfully commenced and the planning permission remained valid and capable of implementation.

2. The planning permission granted in May 2019 (ref.: APP/19/00124/F) was for the erection of a 5-bedroom house with pool, garage and boat house on the site. During the assessment of the application, revised plans were submitted following objections raised by neighbouring interested parties. These were aimed at avoiding changing the building line and the risk of impacting on the privacy or views enjoyed by neighbouring properties. Following the grant of planning permission, a commencement notice was served by the landowner, stating that the development commencement date would be 1 July 2019. Further site visits carried out by planning enforcement officers in March 2022 confirmed the start of this development with initial works for the foundation of the house, and thereby implementation of the 2019 permission.
3. The current application was submitted in October 2020, and has previously been approved under delegated authority. However, in September 2021 the matter was subject to Judicial Review (JR) and that decision quashed for the reasons as set out as follows:

“The Defendant agrees to the quashing of its decision dated 14 May 2021 to grant planning permission (Ref: APP/20/01135/F) for a development comprising the erection of a new dwelling on land at 40 Dorset Lake Avenue, Poole, Dorset for the following reasons:

- 1. The Defendant determined the application Ref: [20]20/01135/F on the basis of allegedly materially erroneous, incorrect and misleading information (contrary to the requirements of the DMPO 2015) provided by the Interested Parties, in particular the application was assessed against allegedly incorrect ground levels and allegedly incorrect and materially misleading information in relation to the location and the significant implications of the permitted development at 38 Dorset Lake Avenue.*
 - 2. The Defendant's to the determination of the application Ref: [20]20/01135/F was inconsistent to that which it adopted when determining the previous application in 2019 (Ref.: APP/19/00124/F). Specifically, the Defendant ignored its previous (2019) decision when considering the parameters of acceptability of development at no. 40 in terms of location and impact on the amenity of neighbouring properties in respect of the same site, for the same purposes and in the same development plan context but failed to provide any explanation for the inconsistency of its approach.*
 - 3. The Defendant failed to disclose the consultation responses to the application. The consultation responses contained facts and matters on which important parts of the delegated report were expressly based and formed part of the background papers. Consequently, the Defendant failed to progressively disseminate information material to the determination of the 2020 application and acknowledges that it denied the public the opportunity and/ or ability to participate in the decision-making process.*
 - 4. Consequently, the Defendant acknowledges that its determination of application Ref: [20]20/01135/F is legally flawed for the reasons set out in the Statement of Facts and Grounds (summarized above) and should therefore be quashed.”*
4. As a result of the decision of 14 May 2021 being quashed, application APP/20/01135/F now falls to be redetermined. Revised plans were submitted in 2022 and further amendments submitted in the same year and in 2023. Further publicity was carried out in 2022. This assessment is based upon these amended plans. The original report prepared for the quashed decision is appended to this report as a potential material consideration although it should be read in the context of the reasons identified as to why the resulting decision was quashed. All representations made to this application since its first submission on 6 October 2020 have been considered on this assessment.
 5. Considering the positioning on the site, and the bulk, height, and massing of the development approved in 2011 and the issuing of the CLUED in 2019, the permission granted under ref. APP/10/01557/F as amended with the approval of ref. APP/13/00071/F is considered material and relevant to this assessment. Although the 2011 permission as varied in 2013 is more than 10 years old, it remains the position that the LPA has confirmed it has been implemented and the development

approved could still be carried out. This permission is therefore considered a 'fallback' position in relation to the development currently proposed.

6. It is noted that representations have been made with respect of the 2019 permission questioning the accuracy of the plans. Notwithstanding this, the 2019 permission was not subject to judicial review and remains extant. An assessment of the plans approved with permissions recently granted to the neighbouring properties at 38 Dorset Lake Avenue and 324 Sandbanks Road led to the conclusion that there are no evident material inaccuracies to this permission granted in 2019, as stated on a received counsel opinion submitted in August 2021. The 2019 permission (ref.: APP/19/00124/F) therefore is capable of being implemented and condition 2 of the permission (Approved Plans) is considered enforceable. The building proposed with the 2019 permission is of similar architectural style and appearance, when compared to the current application. The 2019 permission is therefore potentially another 'fallback' position for the applicant and consequently a material consideration for the assessment of the present application.
7. Also relevant to the assessment of this application is the recent planning history of the adjoining site to the north at no. 38 Dorset Lake Avenue. In April 2019 permission was granted (ref. APP/18/01543/F) for the demolition of the existing property to erect a building with 9 apartments, with associated parking and access. This application was varied in May 2020 (ref. APP/20/00114/F), to allow minor alterations to the scale and design of the building, and materials as detailed on the plans. By the time the present application at 40 Dorset Lake Avenue was submitted, the building at no. 38 had been demolished, according to the previous officer's notes for the present application.
8. Further amendments to the development permitted at no. 38 Dorset Lake Avenue were approved in March 2022 (ref. APP/21/01854/F), for the introduction of 4 heat pump units to the side (SE) elevation with no. 40; and to reduce the number of apartments from 9 to 8 units. Throughout the changes since the previous permission granted in April 2019, the bulk, massing and height of the approved building at no. 38, as well as its positioning on the site, have not changed significantly. More importantly, the proximity, levels, and openings to the lower ground floor apartments in relation to the existing wall between no. 38 and the application site at no. 40 have not changed significantly. The approved development for 38 Dorset Lake Avenue has been built, and the site is currently occupied by the flatted development. Consideration has been given to the 2019 permission (as amended) at 38 Dorset Lake Avenue in this assessment.

Description of Proposal and Background to Amendments

9. Full planning permission is sought for erection of a 5-bedroom house, pool and boathouse, with proposed Gross Internal Floor Area (GIA) of 944 square metres (stated on the floorplans). The proposal includes landscaping, parking and other associated infrastructure. The house is to be constructed as three-storey detached dwelling with a basement and accommodation in the roofspace, albeit with the appearance of having two-storeys at the front elevation. At the rear elevation, the building line recedes gradually at upper levels, in a similar pattern as on other rear elevations found in the immediate surroundings.
10. The roof would be hipped at all elevations, joined by a roof crown at approximately 16.8 metres AOD. This would be approximately 0.8 metre lower than the roof crown of the neighbouring property to the south, and approximately 2.2 metres lower than the property immediately to the north of the site. There are dormer windows and a Juliet balcony, as well as one dormer window proposed below ridge line at the rear and southern side elevations.
11. The main bulk of the building would be approximately 13 metres wide and 25 metres long. An additional volume of approximately 5.85 metres width projects forward from the main front elevation in approximately 6.35 metres. The building has slight variations on the side elevations but is generally set back 1.75 metre from the southern boundary and 1.2 metre from the northern boundary, where the side elevation would be approximately 31.5 metres long.
12. The finishing materials for the house would generally comprise slate roof tiles, render façade finishing and Crittall windows and doors. The plinth of the house, as well as the lower ground and boat house will be finished in stone.

13. Parking would be provided to the front, mixed with a landscaped area, which will include the existing trees fronting the site. The swimming pool would be located to the rear of the house, at the same level as the lower ground floor. The boat house is proposed by the decked area to the further rear of the property, where a fire pit will be located. The side walls would largely accompany the site's natural levels and would comprise existing walls, with new landscaped areas bordering most of their extent. A low perimeter wall at 3.60 metres AOD is proposed to the edge of the pool area.
14. As part of the review of the planning application following the High Court's decision, discussions have occurred between the Council and the applicant's agent with a view to addressing the concerns raised by the adjoining landowners, consultees and other third parties. This has included conducting new site visits and meeting the neighbour's architect on site to view the development at no. 38, as well as viewing the application site from that location. These initial discussions have led to the submission of amended plans in April 2022, when a new round of consultation on the plans was carried out, with a new site notice being posted outside the site. Since then, a series of amended plans submitted in on behalf of the applicant continued to be submitted, following negotiation and discussions.
15. The further amendments submitted since April 2022 include a further set back the ground floor terrace from the property at no. 38, addressing design and privacy concerns raised by the neighbours. The plans were also amended to include on the plans the relationship between the current proposal and previously approved plans; to clarify the use of rooms at the lower ground floor; to include the outline of dormers on elevations; to add the low perimeter wall to the edge of the pool area; and to reduce the extent of the area of hardstand to the front of the proposed dwelling. The drainage layout was also amended to address Tree officers' comments. The revised submission also included an updated Flood Risk Assessment; and updated Arboricultural Method Statement and Tree Protection Plan.
16. The Council is satisfied that the latest plans and documents submitted provide an accurate basis for determining the application and enable the assessment of the issues which have been raised particularly in relation to the impact on outlook, privacy and visual amenity of (future) occupiers of the flats built at no. 38 Dorset Lake Avenue. The updated plans and documents have been consulted on and now form the basis upon which the application is to be determined. This report outlines the main considerations which have been taken into account and also addresses various matters which are raised by third party representations.

Description of Site and Surroundings

17. The application site is 0.184 hectares, located on the south-western side of Dorset Lake Avenue, close to its junction with Sandbanks Road. The previous dwelling has been demolished and the site is currently vacant, with some initial foundation works started. The application plot is relatively narrow but approximately 120 metres long and slopes gently from the highway to the front of the demolished dwelling. The plot then slopes more steeply with terraces between the rear of the demolished dwelling and the harbourside. A sea wall defines the boundary with the harbour to the west, and there are brick walls and timber fencing surrounding the site to both north and south, where the site adjoins neighbouring properties, and a timber wall and gate to the front boundary of the site, where it is accessed from Dorset Lake Avenue. Protected trees are positioned at the front of the site adjacent to the access.
18. The surrounding area is residential in character with a prevailing pattern of development of contemporary style buildings, some of those in the immediate vicinity of up to four storeys height, varied building frontage positions and with narrow gaps between buildings. The pattern of development changes further north of the site and the properties fronting Dorset Lake Avenue and Firs Lane, where most of the residential properties are houses of 2- to 4-storeys in height with a closer alignment to the sealine, albeit on a slightly looser grain with wider gaps across the buildings.
19. Immediately to the south of the application site at no. 324 Sandbanks Road is a 4-storey block of flats, with flank walls set back approximately 1.2 metres from the side boundary with the application site. Two windows overlook the application site, with the Council's records showing these windows do

not serve habitable rooms on the approved plans for No.324. Outbuildings serving as garages and hardstanding are located in front of no. 324.

20. To the north of the application site is no. 38 Dorset Lake Avenue, currently a 4-storey block of flats. The main bulk of the building is set back at approximately 1 metre from the boundary with the application site, with glazed openings wrapping around all southwestern corners of the building from ground to third floor levels. Most of these openings are in a recessed bulk of the building, which is set back approximately 2.3 metres from the side boundary with no. 40 Dorset Lake Avenue.

Relevant Planning History:

2011: Demolition of existing house, erect contemporary residential dwelling; with additional detached boat store. Approved (APP/10/01557/F).

2013: Non-Material Amendment following approval 10/01557/F to carry out alterations to the approved scheme. Approved (APP/13/00071/F).

2017: Demolition of existing buildings and construction of 3 blocks of flats totalling twenty-three flats and 3 houses with underground parking at 34-40 Dorset Lake Avenue. Approved (APP/16/01147/F).

2018: CLEUD application to confirm the approved development (APP/10/01557/F) has been commenced and the planning permission granted in 2010 is therefore lawfully valid. Approved (APP/18/00961/J).

2019: Erection of 5-bedroom detached house, with pool, garage and boat house. Approved (APP/19/00124/F).

Constraints

21. The application site is within 400m and 5km of a Site of Special Scientific Interest (SSSI). This SSSI is also part of the designated Dorset Heathlands SPA (Special Protection Area) and Ramsar site and is also part of the Dorset Heaths SAC (Special Area of Conservation). The proximity of these European sites (SPA and SAC) means that determination of the application should be undertaken regarding the requirements of the Conservation of Habitats and Species Regulations 2017.
22. The application site is also within the Poole Harbour Special Protection Area (SPA), Site of Special Scientific Interest (SSSI) and Ramsar site. The proximity of this further European site also means that determination of the application should be undertaken regarding the requirements of the Conservation of Habitats and Species Regulations 2017.
23. The site benefits from trees protected by an area Tree Preservation Order (TPO), and those on the application site are all located to the front.
24. Approximately 20% of the site is within Flood Risk Zones 2 and 3, where it fronts the Poole Harbour to the rear. The area extends to approximately 25%-30% of the site in future flood risk modelling.
25. The site is also located within the Coastal Zone and Shoreline Character Area, and subject to the Harbour Edge Protection Zone as defined by the Poole Local Plan.

Public Sector Equalities Duty

26. In accordance with section 149 Equality Act 2010, in considering this proposal due regard has been had to the need to —
- eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under this Act;
 - advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it;
 - foster good relations between persons who share a relevant protected characteristic and persons who do not share it.

Other relevant duties

27. In accordance with regulation 9(3) of the Conservation of Habitats and Species Regulations 2017 (as amended) ("the Habitat Regulations), for the purposes of this application, appropriate regard has been had to the relevant Directives (as defined in the Habitats Regulations) in so far as they may be affected by the determination.
28. With regard to sections 28G and 28I (where relevant) of the Wildlife and Countryside Act 1981, to the extent consistent with the proper exercise of the function of determining this application and that this application is likely to affect the flora, fauna or geological or physiographical features by reason of which a site is of special scientific interest, the duty to take reasonable steps to further the conservation and enhancement of the flora, fauna or geological or physiographical features by reason of which the site is of special scientific interest.
29. For the purposes of this application, in accordance with section 2 Self-build and Custom Housebuilding Act 2015, regard has been had to the register that the Council maintains of individuals and associations of individuals who are seeking to acquire serviced plots in the Council's area for their own self-build and custom housebuilding.
30. For the purposes of this application, in accordance with section 17 Crime and Disorder Act 1998, due regard has been had to, including the need to do all that can reasonably be done to prevent, (a) crime and disorder in its area (including anti-social and other behaviour adversely affecting the local environment); (b) the misuse of drugs, alcohol and other substances in its area; and (c) re-offending in its area.

Consultations

31. Letters have been sent to internal and statutory consultees since the amended plans in April 2022, with the latest letters sent in December 2022 and September 2023. Correspondence with internal consultees have also been carried out, which resulted in further consultation responses regarding the latest amendments. The overall expiry date for consultation was 19 October 2023, and the consultation responses are summarized as follows:

(BCP) Lead Local Flood Risk Authority- Noted Environment Agency's comments and recommend condition to improve the use of SuDS on the site.

BCP Transportation Services- No objection subject to conditions.

BCP Biodiversity officer- No objection subject to conditions.

BCP Tree Team- No objection, subject to acceptable amendments relocating the attenuation tank and drainage lines, and recommended conditions.

Environment Agency- No objection. Provides advice to the LPA with recommended conditions.

Natural England- No response.

Representations

32. Since the submission of application on 6 October 2020, letters to neighbouring properties have been sent out in respect of the proposed development, and a site notice was posted outside the site on 22 April 2022, with overall expiry date for consultation of 19 October 2023. Representations from three neighbouring addresses have been received, one offering comments and two raising planning-related concerns or comments. These are separated in relation to the quashed decision dated of 14 May 2022 and summarised as follows:

Representations objecting the proposal, received after 14 May 2021:

- Lack of discussion and/ or communication with neighbours
- Lack of information regarding amendments
- Lack of publicity regarding officers' correspondence with applicants and other information relating to the application
- Lack of due diligence in the process
- Failure to consider information provided by third parties
- Lack of transparency and publicity regarding previous officer's report
- Lack of scale bars on the plans; drawings are inaccurate and misleading
- Relevance of previous planning permissions on plans

- Unattractive and oppressive/ dominant design as perceived by neighbouring properties and creating a dangerous precedent
- Loss of light and outlook at adjoining properties
- Proximity to side boundaries
- Development would not be permitted under GDPO
- Other developments in the area being amended to reduce impact on neighbours
- Site visit at the neighbouring property is fundamental for assessing the application

Representations objecting the proposal, received before 14 May 2021:

- The proposal would extend beyond the established building line
- The front section of the dwelling would be overbearing to the neighbour
- Rear terrace walls are higher than what has been approved
- Levels shown on the site plan not accurate

Representation commenting on the proposal, received before 14 May 2021:

- Proposal is for a house
- Discrepancies relating to tree T1

Key Issue(s)

33. The key issue(s) involved with this proposal are:

- Housing Delivery Test
- The principle of development
- Impact on the character and appearance of the area
- Impact on the living conditions of neighbouring properties
- living conditions of future occupiers
- Highways and Parking
- Trees, Ecology and Green Infrastructure
- Housing Supply and Delivery
- Sustainability
- Flood Risk
- SAMM / CIL Compliance
- Other Matters

34. These issues will be considered along with other matters relevant to this proposal below.

Policy context

35. Local documents:

Poole Local Plan (Adopted 2018)

PP01: Presumption in favour of sustainable development
 PP02: Amount and broad location of development
 PP08: Type and mix of housing
 PP24: Green Infrastructure
 PP27: Design
 PP31: Poole's coast and countryside
 PP32: Poole's important sites
 PP33: Biodiversity and geodiversity
 PP34: Transport strategy
 PP35: A safe, connected and accessible transport network
 PP37: Building sustainable homes and businesses
 PP38: Managing flood risk
 PP39: Delivering Poole's infrastructure

Consultation on a BCP-wide Local Plan is due to be considered at a Full Council meeting on 9 January 2023 where it is recommended that the draft Local Plan (LP) be approved for public

consultation in January 2024. Due to the very early stage the plan has reached, no weight is being attached to policies in the proposed draft LP at this stage.

Supplementary Planning Documents and Guidance

Standards for Waste Container Storage and Access (July 2023)

Parking Standards SPD (Adopted January 2021) (Adopted January 2021)

Dorset Heathlands Interim Air Quality Strategy 2020-1025 (Adopted February 2021)

The Dorset Heathlands Planning Framework 2020-2025 (Adopted March 2020)

Poole Harbour Recreation 2019-2024 (Adopted February 2020)

Nitrogen Reduction in Poole Harbour (Adopted February 2017)

Shoreline Character Areas SPG (Jun 2004)

Design Code (Adopted August 2001)

Other Documents

The BCP and Dorset Local Housing Needs Assessment (November 2021)

36. National Planning Policy Framework ("NPPF" / "Framework")

Including in particular the following:

Section 2 – Achieving Sustainable Development

Paragraph 11 –

"Plans and decisions should apply a presumption in favour of sustainable development.

.....

For **decision-taking** this means:

- c) approving development proposals that accord with an up-to-date development plan without delay; or
- d) where there are no relevant development plan policies, or the policies which are most important for determining the application are out-of-date, granting permission unless:
 - (i) the application of policies in this Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed; or
 - (ii) any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies of this Framework taken as a whole."

Section 5 – Delivering a sufficient supply of homes

Section 9 – Promoting sustainable transport

Section 11 – Making effective use of land

Paragraph 124 –

"Planning policies and decision should:

.....

- c) give substantial weight to the value of using suitable brownfield land within settlements for homes and other identified needs, and support appropriate opportunities to remediate despoiled, degraded, derelict, contaminated or unstable land;
- d) promote and support the development of under-utilised land and buildings, especially if this would help to meet identified needs for housing where land supply is constrained and available sites could be used more effectively (for example converting space above shops, and building on or above service yards, car parks, lock-ups and railway infrastructure);"

Section 12 – Achieving well-designed and beautiful places

Section 14 – Meeting the challenge of climate change, flooding and coastal change

Section 15 – Conserving and enhancing the natural environment

Planning Assessment

Housing Delivery Test

37. At the heart of the NPPF is the presumption in favour of sustainable development, reiterated in Poole Local Plan Policy PP01. NPPF paragraph 11 applies this presumption to decision making where the local plan classed as out of date. Footnote 8 of paragraph 11 classifies a local plan as out of date if the local planning authority is (i) unable to demonstrate a five-year supply of deliverable housing sites or (ii) where the Housing Delivery Test (HDT) result is less than 75% of the housing requirement over the previous three years.
38. The 5-year housing supply and HDT results continue to be applied to each local plan area separately until replaced by a BCP Local Plan. In the Poole area there is a 4.1-year housing land supply with a 20% buffer (a shortfall of 423 homes) and a 2021 HDT result of 78%. Footnote #8 advises that for applications involving the provision of housing, the local plan is thus considered as out of date as the local planning authority is unable to demonstrate a five-year supply of homes.
39. NPPF Paragraph 11 states that where policies which are most important for determining the application are out of date, planning permission must be granted unless policies in the Framework that protect areas or assets of particular importance provide a clear reason for refusing the development proposals or when any adverse impacts of granting permission would significantly and demonstrably outweigh the benefits when assessed against the policies in the Framework taken as a whole.
40. For this planning application, albeit the proposed development is for the erection of a new house, the planning history demonstrates that this would in fact replace the dwelling which has been demolished and there remains extant permissions to erect a dwelling on the site. For this reason and the purposes of this assessment, there is no net gain in housing proposed and thereby the weight to be attached to this aspect of the scheme is not considered to be significant. Notwithstanding this position, the development still needs to be assessed against the policies in the Framework and the Development Plan, which is the subject of this report.

Principle of development

41. Both paragraph 11 of the NPPF, and PP1 of the Local Plan place a presumption in favour of sustainable development. Policy PP2 of the Poole Local Plan seeks to direct the majority of development in the plan period to the most accessible locations being within Poole town centre, sustainable transport corridors, district & local centres. The site lies outside of these identified areas, however, the Local Plan in Policy PP2 still identifies a need for 1,900 units to be delivered in locations "Elsewhere within the urban area" during the plan period. The application site falls within the urban area and therefore would meet part of this identified need in the Local Plan. PP2 states that development in these areas will be permitted provided that the scheme is capable of delivering sustainable patterns of development. The proposal will also be expected to demonstrate how suitable sustainable transport measures have been incorporated into the proposal to connect the development with town, district and local centres, as an alternative to reliance upon the car.
42. In this instance, the principle of erecting a dwelling on the site is acceptable and has also been established with the extant permissions ref. APP/10/01557/F and ref. APP/19/00124/F. Notwithstanding this point, the development would provide an electrical vehicle (EV) charging unit and sheltered cycle parking provision for 5 cycles, which will be secured by condition. Those and other policy compliant aspects of the proposal described along this report make the development sustainable and therefore acceptable in terms of the requirements of the NPPF and policies PP1 and PP2 of the Local Plan. Therefore the principle of erecting a dwelling on the site is acceptable under Policy PP2.

Impact on the character and appearance of the area

43. Policy PP27 of the Poole Local Plan reflects the aims of Paragraph 135 of the NPPF, seeking to ensure that development achieves a good standard of design which is defined as development that functions well, fits in with and enhances an area's character within its context. In this regard, the policy also requires that development reflects or enhances local patterns of development and neighbouring buildings in terms of layout and siting including building line and site coverage; height and scale; bulk and massing; materials and detailing; landscaping and visual impact. Policy PP27

also requires, inter alia, that development responds to natural features on the site and does not result in the loss of trees that make a significant contribution to the character and local climate of the area; and provides convenient and practical parking, servicing, bicycle storage, waste and recycling arrangements.

44. Policy PP31 states that development in the Coastal Zone will be permitted where it respects the built shoreline character of Poole. The Shoreline Character Areas SPG includes the site on the Parkstone Yacht Club area, identified as a mixed stretch of coast.
45. The proposed development is for a three-storey house with a hipped roof with slate roof tiles, stone and render façade finishing and Crittall windows and doors. The application site is in an area which is residential in character and in more recent years has seen development of a number of buildings of contemporary architecture and a mix of architectural styles, finishes and roof types including the adjacent properties at 38 Dorset Lake Avenue and 324 Sandbanks Road. The 2011 permission (ref. APP/10/01557/F) itself proposed a modern building of three-storeys and flat roof replacing the two-storey house with articulated pitched roof. The permission granted in 2019 (ref. APP/19/00124/F) has evidently similar massing and roof articulation and appearance to the design currently proposed. The design of the current proposals is considered acceptable considering the context, subject to a condition requesting details of the finishing materials.
46. In terms of overall massing, scale and site layout, the proposal would have a stepped elevation facing Dorset Lake Avenue with the front wing set back off the boundary in relation to 324 Sandbanks Road and projecting forward less than one metre to the NE where it adjoins the boundary with 38 Dorset Lake Avenue. The highest part of the roof would be a flat roof crown and would sit lower in comparison to both adjoining properties at 38 Dorset Lake Avenue and 324 Sandbanks Road. The proposed building would occupy a similar proportion of the site when compared to the neighbouring buildings, but would sit closer to the side boundaries, whilst still maintaining a visual gap. The proposed building position is closer to the Dorset Lake Avenue boundary by approximately 0.7 metre in relation to the permission granted in 2011 and approximately 2.8 metres in relation to the 2019 permission. However, it is still set back approximately 38m from the north-east boundary. The proportion of the building occupying the site is similar to the development approved in 2011.
47. Although parking is proposed in front of the dwellings, this again is not out of keeping with the area with several examples of large parking areas being formed in front of dwellings along the road, including the adjoining properties at 38 Dorset Lake Avenue and 324 Sandbanks Road. The plans submitted for this scheme do provide for some landscaping to the front between the spaces being provided which will soften the impact of the parking area. The trees existing to the front of the site are proposed to be retained and will offer a good level of screening of the application site and the parking located in the front garden.
48. Within the rear garden, a single storey boathouse is proposed. This would only be visible from the harbourside and is considered to be of a design and scale that is proportionate to the dwelling. It will be similar in nature to many outbuildings in the area and is acceptable.
49. In summary, the surrounding area comprises a mixture of buildings of different types, sizes, designs and materials and the building would not detract from the character of the surrounding area. Particularly in relation to issues of scale, mass, layout and width, the proposal is considered an improvement in relation to the developments approved in 2011 and 2019. In relation to other matters, the proposed building would respect the rhythm of the street scene and the design reflects many elements of design found in the street already. Its overall height would be commensurate with that of the adjoining neighbouring properties. The proposed material palette would not appear at odds with the character and appearance of the surrounding area given similar materials have been used nearby. This would be conditioned. Overall, the proposals would therefore align with the NPPF and Policies PP27 and PP31 of the Local Plan in Poole.

Impact on the living conditions of neighbours

50. PP27 states that development will be permitted where it is compatible with surrounding uses and would not result in a harmful impact on amenity for local residents and future occupiers in terms of sunlight, daylight, privacy, noise and whether it would be overbearing/ oppressive; and provides

satisfactory external and internal amenity space for existing and future occupants. Paragraph 135 of the NPPF is supportive of planning decisions which provide attractive, welcoming and distinctive places to live and visit; create places that are safe, inclusive and accessible and which promote health and well-being, with a high standard of amenity for existing and future users.

51. Immediately to the south of the application site at no. 324 Sandbanks Road is a 4-storey block of flats, with flank walls set back approximately 1.2 metres from the side boundary with the application site, with glazed openings wrapping around the rear of building in all levels, at approximately 4.2 metres from the application site. Two windows overlook the application site, with the Council's records showing these windows do not serve habitable rooms on the approved plans for no.324. Given the rear-facing aspect and the relative distance and between the existing glazed openings at no. 324 and the proposed openings, the development would not result in substantial overlooking or loss of privacy to these neighbouring residents. The proposed rear terrace and garden levels, the relative lower height, and the setting back of the proposed rear elevation in relation to no. 324 also helps in avoiding the proposals being overbearing or there being overlooking to the flats at no. 324. The positioning of the proposed dwelling in relation to no. 324 also acceptably limits the impacts of overshadowing or loss of natural light at the neighbouring premises.
52. To the north is no. 38 Dorset Lake Avenue, a 4-storey block of flats with flank walls set back approximately 1 metre from the boundary with the application site, with one opening serving a bedroom at third floor. The building also presents glazed openings wrapping around all southwestern corners of the building from ground to third floor levels, which are set back at least *circa* 2.3 metres from the side boundary with no. 40 Dorset Lake Avenue. A lower ground floor flat located at the south-western most corner of no. 38 is most likely to be impacted, as it presents two windows serving habitable rooms directly facing the boundary wall with the application site at no. 40, at approximately 2.2 metres from the boundary wall. Concerns have been raised by third parties in relation to the detrimental impact of the proposed dwelling, in relation to the flats at no. 38, particularly this lower ground floor unit. All development will have impacts to a greater or lesser degree. The test in Policy PP27 is whether that impact is harmful and to refuse an application solely on these grounds, such harm needs to be overriding to warrant refusal of the scheme as a whole. In this respect the pattern of development as noted above is of relatively closely spaced buildings and visibility of adjoining buildings is a common factor between properties as well as oblique views across adjoining amenity spaces. In this particular case, the development at no. 38 was approved with somehow limited access to natural light from the side windows (facing the boundary wall), and it is considered that the proposed development was amended to help avoid increasing the limited access to light and the relative sense of enclosure and overbearing to the flats at no. 38 Dorset Lake Avenue.
53. In addition, regard has been given to the fallback position and the impacts of the 2011 and 2019 extant permissions in relation to this matter. Both the extant 2011 permission and the current proposal include a 1.80-metre-high obscured glazing screen along the side of proposed terraces, which would be approximately 1.1 metre distant from the boundary with no. 38 Dorset Lake Avenue. There is no indication that screening to the balconies was approved or secured by condition with the 2019 permission. The ground floor terrace was approved at 5.60 metres AOD, or 20 centimetres lower than the current proposal. Notwithstanding this, the ground floor terrace approved in 2019 extends further to the south-west than that proposed with the current application. The risk of overlooking to the adjoining residential properties, including to their rear gardens, would be greater to both 38 Dorset Lake Avenue and 324 Sandbanks Road, if the 2019 permission was implemented. The proposed dwelling contains a number of side-facing windows. These either serve non-habitable rooms, are shown to be obscure glazed or views from the ground floor level will be screened to neighbours by the existing boundaries. Consequently, the scheme is considered to have acceptable impacts on the privacy of neighbours.
54. In relation to the site at no. 38 and the permission granted in 2011 (as amended in 2013), the main difference is that the currently proposed ground floor terrace would project further out from the rear elevation by approximately 2.5 metres. Notwithstanding this, the currently proposed ground floor terrace would be approximately 1.2 metres lower than the terrace in the 2011 permission, as this was approved at 7.025 metres AOD, and the proposed terrace is set at 5.80 metres AOD. The terrace being at 5.80 metres AOD would effectively be at a similar height or lower than the existing (and to be retained) brick wall along the boundary with no. 38 Dorset Lake Avenue, which varies on this part of the boundary between 5.79 and 6.25 metres AOD, as shown on the Site Plan. As shown on the

Floorplan Overlay, the proposed building is further away from the harbourside than on the previous approvals, and therefore would be an improvement in relation to the extant permissions in relation to the scale of the building closest to the north-west boundary. In conclusion, it is acknowledged that the currently proposed positioning, massing and height of the proposals would result in an impact to the living conditions of adjoining neighbours at no. 38 Dorset Lake Avenue in terms of their outlook, however the assessment is that this does not result in substantial harm for the reasons above.

55. Third party representations raise concern regarding the heights of the wall along the boundary with no. 38 Dorset Lake Avenue. These walls currently have the same height as the extant permission and are proposed to be retained, as shown in the elevations. The walls along the boundary with no. 324 are proposed to be retained as well, therefore no additional impact is expected from the proposed boundary walls. Neighbours also objected to the proposal indicating that the front of the proposed buildings would have detrimental impact on the adjoining property at no. 38, however both properties would be aligned at the front and the proposed building at no. 40 would be lower, therefore the proposals are not considered to be overbearing to No.38.
56. Overall, due to the building's positioning, massing and heights, the proposals are considered to have an acceptable impact on the living conditions of neighbouring properties. In addition, the proposals are considered to have a lesser impact on adjoining properties compared to the fallback position of the developments approved in 2011 and in 2019. The proposals are therefore acceptable in relation to the NPPF and Policy PP27 of the Poole Local Plan in this respect.

Impact on the living conditions of future occupiers

57. Within the internal accommodation distribution, four bedrooms would be located at first floor, with an additional bedroom on the 2nd floor, all of them well above the minimum set out in the technical housing standards of the Nationally Described Space Standard (NDSS) 2015. The occupiers of the proposed flats would enjoy an acceptable level of light and outlook which would provide a comfortable level of accommodation in all habitable rooms. The rooms are spacious, and the bedrooms have direct access to terraces and balconies, in addition to the outdoor areas.
58. Several windows proposed to the southern elevation of the house would have limited outlook, given the relatively close distance from the flank side wall of property at no 324 Sandbanks Road, and there would potentially be a level of overlooking from the terraces at no. 324. These windows would not serve habitable rooms, and therefore the risk of overlooking is not considered to cause substantial harm to the privacy of the future users of no. 40 Dorset Lake Avenue. Exception is made to the side windows serving the dining room at ground floor of the proposed dwelling, however as other windows serve the same room with a different aspect over the front garden, the side windows can be fitted with obscured glazing. This is recommended to be secured by condition. In addition to these, two windows are proposed to the master bedroom at first floor, which would have poor outlook and could potentially be impacted by overlooking from side openings at no. 38 Dorset Lake Avenue. This is acceptable as the master bedroom would also benefit from a large glazed double door accessing the terrace overlooking the rear garden, and a condition therefore is also recommended for those side windows to have obscured glazing.
59. Air source heating pumps have been installed at the neighbouring property, on the side elevation of the building and near the boundary wall with the application site, just above the upper finished line of the wall. Whilst information regarding any potential impact from noise was not provided with the application, officers note that the windows which would be near the heating pumps would not serve any habitable rooms. Secondary windows serving habitable rooms are proposed away from the heating pumps, and the rooms would have alternative openings to secure access to natural light and ventilation in the event the secondary windows are required to be shut to avoid any noise.
60. Overall, the proposal would be compliant with PP27 of the Local Plan and Paragraph 135 of the NPPF, providing acceptable living conditions for the future users.

Highways and Parking

61. The Council's Highways team have reviewed the application and have raised no objections to the proposal, noting the amended site plan retaining the existing access and providing sufficient parking to meet guidelines.
62. The team also noted that the Parking Standards SPD (2021) is now applicable and as such the scheme should provide an electrical vehicle (EV) charging unit and sheltered cycle parking provision for 5 cycles, recommending these matters are secured by condition. The proposal can accommodate such requirements within the development that is proposed, and this is therefore considered to be acceptable and in compliance with Local Plan Policy PP35 and sustainable travel requirements on the NPPF.

Trees, Ecology and Green Infrastructure

63. The proposed development site is subject to an area Tree Preservation Order (TPO), and the 4 trees existing on site are shown to be retained and protected. The Council's Tree officer has reviewed the application and noted that most of the construction works are outside of the trees' Root Protection Areas (RPAs), except for the new driveway which will be constructed using a cellular confinement system within the RPA of tree G1.3. This was accepted by the Tree officer, who acknowledged "*the area is currently highly compacted due to the existing driveway and the cellular system will allow for an improved rooting environment*".
64. Further to the above, the proposals have been amended and the attenuation tank was moved to avoid impinging into the RPA of T1 Beech and the drainage lines to the road running through the RPA of G1.3. The revised location of the drainage system was accepted by the Tree officer and, as a result the arboricultural implications for the trees on site were considered acceptable subject to the recommended conditions.
65. The site has been dormant following the demolition of the existing house, with remains of the ground floor still in place and low vegetation throughout, except for the front of the site where the protected trees are located. A biodiversity appraisal has not been submitted in support of the application and biodiversity enhancements have not been proposed with the submission(s). Notwithstanding this, the Council's Biodiversity officer is satisfied that the provision of bat boxes would be sufficient to ensure the required biodiversity enhancement and net gain on the site. This is recommended to be secured by condition. A biodiversity appraisal was not requested.
66. Further to this, the Council's Biodiversity officer noted that due to the location of construction there is a risk of impact to Poole Harbour Site of Special Scientific Interest (SSSI) and Poole Harbour Special Protection Area (SPA) and Ramsar. Officers however are of the view that this can be addressed with the submission of a Construction and Environmental Management Plan for approval with the local planning authority. The Plan is required to show that the protection of SSSI and SPA can be achieved during construction and should include as a minimum as per officer's recommendation: pollution prevention plan and response plan; noise management; clarification of use of pilling and specifications of the two potential types of pilling as pilling can disturb winter birds of Poole Harbour SPA. The Construction and Environmental Management Plan is recommended to be secured by condition.
67. Overall, the proposed development is considered to accord with the NPPF and requirements of the Local Plan policies PP24, PP27 and PP33, subject to recommended conditions.

Housing Supply and Delivery

68. The aims of the NPPF on the provision of sufficient homes meeting the needs of groups with specific housing requirements is reflected in Policy PP8 of the Poole Local Plan. The proposal does not trigger the requirements for housing type and size mix, as it is under the threshold of 11 or more homes or 1,000 square metres or more of floorspace. In this instance, the size and type of proposed dwelling is supported, as the policy acknowledges all housing types and sizes are needed in Poole.
69. For the same reason, the proposal does not trigger requirements for the delivery of self-build and custom-build housing. Notwithstanding this position, consideration has been given to the matter, based on updated information on the BCP and Dorset Local Housing Needs Assessment (November

2021). The document shows that in 2020 there were demand for 250 plots, with an average of 56 new entries in one year (page 200 of the document). The site therefore contributes to this demand and is suitable for self-build or custom-build housing.

70. The proposal, although not increasing the house supply directly, brings back into use a brownfield site, which is currently under-utilised, and which contributes to meeting the BCP need for housing types and sizes, as well as to for self-build and custom-build provision. The proposal is therefore supported by the NPPF and aligns with Policy PP8 of the Local Plan.

Sustainability

71. The proposal includes an Energy & Resource Statement (Anders Roberts Associates Ltd, no date), explaining how the proposal would achieve optimal solar gain, energy reduction through construction materials, high-efficiency heating systems, and controlled, low-energy lighting fittings. The Statement also anticipates that the generation of energy needs for the proposed dwelling can be achieved using a combination of heat pump, photovoltaic technology and solar panel technology, and noting the suitable orientation of the flat roof for photovoltaic and solar panels. The use of biomass technology was deemed not appropriate for this site.
72. As the scheme is for new build development it can be designed and constructed in accordance with the latest Building Regulations. It is appropriate and reasonable to impose a condition to secure details of measures to be incorporated/implemented to achieve 10% of the energy needs through renewable energy sources, as well as of measures to contribute to tackling climate change, in accordance with Policy PP37 of the Local Plan.

Flood Risk

73. The southern portion of the application site is identified in the Council's Strategic Flood Risk Assessment as being at future flood risk from tidal flooding. The dwelling itself is set outside the area of flood risk (flood zone 1) and the scheme therefore does not introduce additional assets at risk into an area of flood risk. There had historically been a dwelling on the site. In addition, it is noted as above that there remains a fallback position to erect a dwelling on the land. In the circumstances, it is considered that it is not necessary to apply the Sequential Test in relation to flood risk. If the Sequential Test does not apply, there is no requirement to carry out the Exception Test.
74. The Environment Agency has noted the lower ground floor level would be at 2.90 metres AOD, therefore below the predicted 3.33 metres AOD, when considering the 1 in 200-year still water tidal flood level when accounting for climate change over the lifetime of development. Since their review of the proposed scheme, the floorplans have been amended to clarify that the lower ground floor would not include any habitable room/ sleeping accommodation. This being satisfied, the Environment Agency requires that the 3.60 metres AOD wall around the pool area is increased to 3.93 metres AOD, to afford 600 millimetres freeboard, due to potential extreme tidal flood risk, including wave action. This is supported and the condition recommended by the Agency was adjusted to reflect this freeboard requirement. Due to the position of this wall within the garden of the proposed dwelling, this increase in height is not considered to result in a significant adverse impact on the outlook from neighbouring buildings.
75. A Drainage Plan and a Flood Risk Assessment (FRA) have been submitted with the application and reviewed by the Council's Water and Flood Risk consultant as well as the Environment Agency. The first has noted the site could have benefitted from further consideration of drainage and sustainability, incorporating features in the landscape as opposed to an underground drainage tank. Officers note however that Figure 43 of the Poole Local Plan shows that the site is located in an area where Sustainable Drainage Systems (SuDS) are impracticable and therefore the suggested condition requiring further exploration of the matter is not recommended.
76. Further to the above, officers note that the site was previously developed to accommodate one dwelling and is therefore classed as previously developed land. The proposal is for one dwelling and the density of the site would not therefore be increased from previous use of the site. Most of the site would remain within Flood Risk Zone 1, where more vulnerable and less vulnerable uses would be

located, including car park and escape routes to exit the building and the site. Only water-compatible development is proposed in the areas of current and future flood zones.

77. Considering all recommended conditions, the proposals would be in line with Policy PP38 of the Poole Local Plan.

SAMM/CIL Compliance

78. Heathlands and Poole Harbour Special Protection Areas are provided for by the Community Infrastructure Levy (CIL) Charging Schedule adopted by the Council in February 2019. In accordance with CIL Regulation 28 (1) this confirms that dwellings are CIL liable development and are required to pay CIL in accordance with the rates set out in the Council's Charging Schedule.
79. The site is within 5km (but not within 400m) of Heathland SSSI and any net increase in dwellings would not be acceptable without appropriate mitigation of their impact upon the Heathland. As part of the Dorset Heathland Planning Framework a contribution is required from all qualifying residential development to fund Strategic Access Management and Monitoring (SAMM) in respect of the internationally important Dorset Heathlands. This proposal would not require such a contribution, as it would not create a net increase in dwellings but would replace the dwelling previously existing on the site.
80. The same would apply to contributions required for any net increase in dwellings to mitigate the resulting recreational impact upon the Poole Harbour SPA and Ramsar site. A contribution is required from all qualifying residential development in Poole to fund Strategic Access Management and Monitoring (SAMM) in respect of the internationally important Poole Harbour. This proposal would not require such a contribution, as it would not create a net increase in dwellings but would replace the dwelling previously existing on the site.

Other Matters

81. Objections to the application have been submitted by third parties discussing publicity of correspondences relating to the application and suggesting the discussion of the proposals with neighbours. The LPA has however made publicly available all relevant correspondence and consulted with the public in line with the Statement of Community Involvement and the Town and Country Planning (Development Management Procedure) (England) Order 2015. The assessment of the merits of the application has been made on the basis of the submitted plans (as amended) and supporting documents which have been made available for public scrutiny. Specific discussions with neighbours and site visits to the neighbouring properties have not been carried out as they were not deemed a pre-requisite in order to conclude on the merits of the application.

Conclusion

82. The fallback position given by previous permissions granted in 2011 and 2019 are important to the decision making process in assessing the merits of the proposal. Having regard to the potential fallback positions, overall, these establish that the scheme does not result in a net gain of dwellings and the design of the building and any impact on neighbouring properties is considered acceptable as they would be an improvement against the developments granted permission in 2011 and in 2019.
83. Even if it could be demonstrated that it is no longer possible to implement the 2019 consent as alleged, it is considered that having viewed this application on its merits, the current proposal meets with the overall aims of Local Plan policies as set out and described in the sections above and is therefore considered to accord with the Development Plan read as a whole. Therefore the acceptability of the current proposal in respect of its impacts on neighbours is not fundamentally dependent on the existence of the fallback positions of the earlier consents. It is a scheme which is acceptable in its impacts on neighbours and as a whole on its own merits bearing in mind the existing pattern of development and for the reasons set out in this report.
84. The proposal would bring back into use a suitable brownfield land site for housing and would promote and support the development of what is currently under-utilised land. It would respect the established character and appearance of the surrounding area and the natural resources on the site, including

protected trees. The proposed development complies with national housing standards and would offer a good quality accommodation to the future users. It would contribute to tackling climate change, by protecting development from flood risk, promoting sustainable travel and by using renewable energy and sustainable design and construction elements. It would also have an acceptable impact on the living conditions of neighbouring properties. The scheme has acceptable economic, social and environmental impacts and represents sustainable development, complying with the Development Plan as a whole.

Recommendation

85. The officer recommendation is that Permission be Granted subject to the following conditions:

Conditions

1. GNI 50 (Time Expiry 3 Years (Standard))

The development to which this permission relates shall 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 the provisions of Section 91 of the Town and Country Planning Act 1990 and amended by Section 51 (1) of the Planning and Compulsory Purchase Act 2004.

2. PLOI (Plans Listing)

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

9101/200-P – Site, Block and Location plans, received 15 December 2023

9101/201-N – Floor Plans, received 15 December 2023

9101/202-O – Elevations 1, received 15 December 2023

9101/203-O – Elevations 2, received 15 December 2023

9101/204-I – Street scene and boathouse, received 08 November 2022

9101/205-N – Drainage, 15 December 2023 Reason- For the avoidance of doubt and in the interests of proper planning.

3. Bird Breeding Season

No vegetation clearance shall occur on any part of the application site to which this permission relates unless either:

(a) it is carried out outside the bird breeding season of 1st March to 31st August inclusive; or

(b) details have been submitted to and approved in writing by the local planning authority which are designed to seek to ensure that no nesting birds are present during the period of vegetation clearance, such details to include methods and timings of supervision and inspection by an identified ecologist for this purpose. In the event of such details being submitted and approved vegetation clearance shall only take place on the application site in accordance with those approved details.

Reason - To prevent the disturbance to birds' nests as protected under Wildlife and Countryside Act 1981(as amended).

4. Arboricultural Method Statement

No part of the development hereby permitted shall be commenced, including any site clearance, the digging of any trenches and the bringing on to the application site of any equipment, materials and machinery for use in connection with the implementation of the development save as is necessary for the purposes of this condition, unless all barriers and ground protection for the purposes of any retained tree have first been provided in accordance with the approved Arboricultural Method Statement ref. GH1905.1 and Tree Protection Plan ref. GH1905.1b, received on 18 November 2022 ("the Approved Tree Protection Measures"). The Approved Tree Protection Measures shall thereafter be retained as approved until both the development has been completed and all equipment, machinery and surplus materials relating to the construction of the development have been removed from the site, unless an alternative time is provided for in the Approved Tree Protection Measures.

Within the areas secured by the Approved Tree Protection Measures, until such time as the Approved Tree Protection Measures have all been removed, nothing shall be stored or placed in any area secured by any part of the Approved Tree Protection Measures nor shall the ground levels within those areas be altered or any excavation made without the written consent of the local planning authority.

In this condition "retained tree" means an existing tree which is identified in the Tree Protection Plan ref. GH1905.1b, received on 18 November 2022.

Reason - To ensure the trees on site are given adequate protection before and during the works on site in accordance with Policy PP27 of the Poole Local Plan (November 2018).

5. Landscape Plan

No development including ground preparation, temporary access construction or construction work shall commence on site until a detailed Landscape Plan has been submitted to and approved in writing by the Local Planning Authority. The plan shall include the position, species and size of new trees as well as all shrubs and ground covers proposed for the development and specification for maintenance and aftercare. Upon approval:

- a) The approved scheme shall be fully implemented with new planting carried out in the planting season October to March inclusive following occupation of the building(s) or the completion of the development whichever is sooner, or in accordance with a timetable to be agreed in writing with the Local Planning Authority.
- b) All planting shall be carried out in accordance with British Standards including regard for plant storage and ground conditions at the time of planting.
- c) The scheme shall be maintained for a period of 5 years and any plant (including those retained as part of the scheme) which die, are damaged or diseased within this period shall be replaced in the next planting season with others of similar size and the same species, unless the Local Planning Authority gives written consent to any variation.
- d) The whole scheme shall be subsequently retained.

Reason - To ensure that reasonable measures are taken to establish trees and vegetation in the interests of local amenity and the enhancement of the development itself in accordance with the National Planning Policy Framework.

6. Construction Environmental Management Plan

(a) No part of the development hereby permitted shall be commenced unless a Construction Environmental Management Plan ("CEMP") has first been submitted to and approved in writing by the local planning authority. The CEMP shall in particular include:

(i) the qualifications and experience of the person(s) who undertook the plan sufficient to demonstrate their competence; and

(ii) a dust emissions management plan that identifies the steps and procedures which will be implemented to control the creation and impact of dust resulting from the site preparation, groundwork and construction phases of the development; and

(iii) a construction environmental management plan that identifies the steps and procedures which will be implemented to minimise the creation and impact of noise, vibration and any other emissions, potential ground and/or water pollution resulting from the site preparation, groundwork and construction phases of the development, with particular consideration as to how Poole Harbour SSSI/SPA/Ramsar will be protected; and

(iv) a construction logistics plan that identifies the steps which will be taken to minimise the impacts of all vehicles (including construction, delivery and waste transport) entering or leaving the site and parking on or off the site; and

(v) contact details by which the local planning authority can provide notice of any potential issue arising in relation to any plan approved for the purposes of this condition ("the Emission Contact").

Subject to paragraph (b) below, the development shall only be constructed in accordance with the approved CEMP and the approved CEMP shall at all times be accorded with.

(b) In the event of the local planning authority receiving a complaint or other notification of a possible escape from the application site, of any emission or other matter to which any of the plans approved for the purposes of this condition relates during any construction associated with the development, that might adversely affect any residential property (including any actual or potential occupier) or any other sensitive receptor, then within one hour (or such longer period as the local planning authority may otherwise agree), from the local planning authority providing notice of the potential escape to the Emission Contact or directly to any person on the application site (whichever is the sooner), no construction shall thereafter take place on any part of the application site (or as otherwise may be agreed in writing by the local planning authority) unless either:

(i) a revised plan that takes account of the escape has been submitted to and approved in writing by the local planning authority in which event thereafter the development shall only be constructed in accordance with that revised plan together with all the other plans approved for the purpose of this condition; or

(ii) the local planning authority has confirmed in writing that construction can continue in accordance with the last approved plans.

Reason - To ensure compliance with The Conservation of Habitats and Species Regulations 2017 (as amended) and S40 of NERC Act 2006, the NPPF and policies PP27 and PP34 of the Poole Local Plan (November 2018).

7. Renewable Energy

No part of the development hereby permitted shall be commenced unless measures to provide 10% of the predicted future energy use from on-site renewable sources, based on the Energy & Resource Statement (Anders Roberts Associates Ltd, no date), have first been submitted to and approved in writing by the local planning authority. Such details shall include identification of arrangements for the future maintenance of such measures. No part of the development hereby permitted shall be occupied unless all the approved measures relating to the development have been fully carried out and thereafter such measures shall at all times be retained and maintained in accordance with the details approved.

Reason - In the interests of delivering a sustainable scheme, reducing carbon emissions and reducing reliance on centralised energy supply, and in accordance with Policy PP37 of the Poole Local Plan (November 2018).

8. Sample of Materials

Details and samples of all external facing and roofing materials as shown on plans 9101/201-N; 9101/202-O; 9101/203-O; and 9101/204-I shall be submitted to, and approved in writing by, the Local Planning Authority before any on-site works other than site clearance is commenced. The development shall thereafter be carried out in accordance with the approved materials details.

Reason - To ensure that the external appearance of the building(s) is satisfactory, in line with Paragraph 140 of the NPPF and in accordance with Policy PP27 of the Poole Local Plan (November 2018).

9. Electric Vehicle Charging Points

Notwithstanding any details contained in any document (including any plan) submitted in connection with the development hereby permitted, no part of the development hereby permitted shall be commenced unless details for the provision of one active electric vehicle charging points and associated infrastructure have first been submitted to and approved in writing by the local planning authority ("the approved Charging Points"). No part of the development hereby permitted shall be occupied unless the approved Charging Points have been installed and thereafter the approved Charging Points shall at all times be retained, kept available for use by the residents of the development hereby permitted and maintained in full working order.

Reason - In the interests of promoting sustainable development including sustainable forms of transport in accordance with the NPPF and Policy PP35 of the Poole Local Plan (November 2018).

10. Screening to Balcony

Prior to the construction of any part of the dwelling hereby approved, details of an obscure glazed or other screen of at least 1.8 metres in height to be erected along the sides of the ground floor terrace and first floor balcony shall be submitted to, and approved in writing by, the local planning authority. The screens shall be erected in accordance with the approved details prior to the first use of the dwelling hereby permitted and shall thereafter be permanently retained as such.

Reason - In the interests of privacy and amenity of the neighbouring properties and in accordance with Policy PP27 of the Poole Local Plan (November 2018).

11. Screen Fencing/Walling

No part of the development hereby permitted shall be constructed above damp proof course level unless details as to the position(s), design, material(s) and type(s) of boundary treatment to be provided as part of the development as shown on the Site Plan (drawing ref. 9101/200-P), together

with a timescale for its delivery has been submitted to, and approved in writing by, the Local Planning Authority. No part of the development shall be occupied unless the boundary treatment has been fully provided in accordance with the approved details and the approved boundary treatment shall at all times thereafter be retained in a manner that ensures that the boundary treatment continues to provide suitable screening.

Reason - In the interests of amenity and privacy and in accordance with Policy PP27 the Poole Local Plan (November 2018).

12. Parking/Turning Provision

The development hereby permitted shall not be brought into use until the access, turning space and vehicle parking shown on the approved Site Plan (drawing ref. 9101/200-P) have been constructed, and these shall thereafter be retained and kept available for those purposes at all times.

Reason - In the interests of highway safety and in accordance with Policies PP27, PP34, PP35 and PP36 of the Poole Local Plan (November 2018).

13. Cycle Parking

No part of the development hereby permitted shall be occupied unless secure bicycle parking for a minimum of 5 bicycles has first been fully provided in accordance with a scheme which has previously been submitted to and approved in writing by the local planning authority. The secure bicycle parking shall thereafter at all times be retained and maintained in a condition such as to be safely and fully useable for the purpose provided.

Reason - In order to secure the provisions of appropriate facilities for cyclists and in accordance with Policies PP27, PP34, PP35 and PP36 of the Poole Local Plan (November 2018).

14. Obscure glazing of side/flank windows

No part of the development hereby permitted shall be occupied unless the windows on the side elevations serving the ground floor dining room and the first floor master bedroom, as well as other windows marked with "OG" as shown on the Floor Plans (drawing ref. 9101/201-N) hereby approved have first been fitted with obscure glazing which conforms with or exceeds Pilkington Texture Glass Privacy Level 3 (or an equivalent level in any replacement standard) and every such window is either a fixed light or hung in such a way as to ensure that the full benefit of obscure glazing in inhibiting overlooking is maintained. Every obscure glazed window shall thereafter at all times be retained in accordance with the specifications of this condition.

Reason - To protect the amenity and privacy of the adjoining properties and in accordance with Policy PP27 of the Poole Local Plan (November 2018).

15. Flood Defence

The development shall be carried out in accordance with the submitted Flood Risk Assessment (produced by M. Frank Tyhurst, no date, no reference). The provision of a continuous permanent perimeter flood defence around the swimming pool area at lower ground floor shall be set to at least 3.93mAOD, notwithstanding the approved Site Plan (drawing ref. 9101/200-P) and the Flood Risk Assessment mitigation set at 3.60mAOD.

The continuous perimeter flood defence around the swimming pool area at lower ground floor and other mitigation measures in the Flood Risk Assessment shall be fully implemented prior to occupation and subsequently retained thereafter throughout the lifetime of the development.

Reason - To reduce the risk of flooding to the proposed development and future occupants, in line with the NPPF and Policy PP38 of the Poole Local Plan (November 2018).

16. Arboricultural Supervision

Site visits shall be carried out by the developer's arboricultural consultant in strict accordance with the supervision schedule contained within the approved Arboricultural Method Statement ref. GH1905.1 (received 18 November 2022). Variations to the approved supervision schedule must be submitted in writing to the local planning authority and shall not be implemented until written consent has been obtained.

Reason - In order that the local planning authority may be satisfied that the trees to be retained on-site will not be damaged during the construction works and to ensure that as far as possible the work is carried out in accordance with current best practice and in accordance with Policy PP27 of the Poole Local Plan (November 2018).

17. Ecological Enhancements

No part of the development hereby permitted shall be occupied unless a minimum of two bat boxes have first been fully provided, the aspects and heights of which shall accord with the recommendations by the Bat Conservation Trust http://www.bats.org.uk/pages/bat_boxes.html. Once provided, the bat boxes shall thereafter at all times be retained.

Reason - To achieve ecological enhancements on the site, in compliance with the NPPF and Policy PP33 of the Poole Local Plan (November 2018).

18. Remove Use as Balcony

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, the flat roof area of the development hereby permitted shall not be used as a balcony, roof garden or similar amenity area.

Reason - To protect the amenity and privacy of adjoining residential properties and in accordance with Policy PP27 of the Poole Local Plan (November 2018).

19. No further windows/doors

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 further windows, dormer windows or doors other than those hereby expressly authorised by this permission shall be constructed on the development hereby approved.

Reason - To protect the amenity and privacy of the adjoining properties and in accordance with Policy PP27 of the Poole Local Plan (November 2018).

Background Documents:

Documents uploaded to that part of the Council's website that is publicly accessible and specifically relates to the application subject of this report include the application and plans as submitted by the applicant and all formal consultation responses and representations submitted. This excludes any documents which are considered to contain exempt information for the purposes of Schedule 12 Local Government Act 1972.

Case Officer Report Completed

Officer: Yole Medeiros

Date: 29/01/2023

Appendix

Case officer report to delegated decision (quashed in September 2021)

Description of Development

Planning consent is sought for erection of a 5 bedroom house, pool and boathouse

Key Issues

- The main considerations involved with this application are:
- Impact on the setting and character of the area
- Impact on residential amenities
- Parking and access
- Protected trees
- Flooding

Planning Policies

Poole Local Plan (Adopted 2018)

PP01 Presumption in favour of sustainable development
PP08 Type and mix of housing
PP27 Design
PP31 Poole's coast and countryside
PP32 Poole's important sites
PP33 Biodiversity and geodiversity
PP34 Transport strategy
PP35 A safe, connected and accessible transport network
PP37 Building sustainable homes and businesses
PP38 Managing flood risk
PP39 Delivering Poole's infrastructure

Supplementary Planning Document

SPD1 Parking & Highway Layout in Development
SPD3 Dorset Heathlands Planning Framework (2020-2025)
SPD5 Poole Harbour Recreation SPD (2019-2024)
SPD6 Nitrogen Reduction in Poole Harbour (Adopted Feb 2017)

National Planning Policy Framework (February 2019)

Relevant Planning Applications and Appeals

2011: Demolition of existing house, erect contemporary residential dwelling; with additional detached boat store. Approved (APP/10/01557/F).

2013: Non Material Amendment following approval 10/01557/F to carry out alterations to the approved scheme. Approved (APP/13/00071/F).

2017: Demolition of existing buildings and construction of 3 blocks of flats totalling 23 flats and 3 houses with underground parking at 34-40 Dorset Lake Avenue. Approved (APP/16/01147/F).

2018: CLEUD application to confirm the approved development (APP/10/01557/F) has been commenced and the planning permission granted in 2010 is therefore lawfully valid. Approved (APP/18/00961/J).

Representations

Representations from two households have been received, raising objection. The issues raised comprise the following:

- The proposal would extend beyond the established building line
- The front section of the dwelling would be overbearing to the neighbour
- Rear terrace walls are higher than what has been approved
- Levels shown on the site plan not accurate
- Discrepancies relating to tree T1

Consultations

BCP Highway Authority - support

Constraints

The site and adjoining land is covered by a number of Area Tree Preservation Orders.

The rear of the site, closest to Poole Harbour, is at risk of flooding and future flooding.

Site and Surroundings

The application site is located on the south western side of Dorset Lake Avenue, close to its junction with Sandbanks Road. The existing dwelling has been demolished and the site is currently vacant. It is noted that 38 Dorset Lake Avenue has also now been demolished.

The application plot is relatively narrow but approximately 120 metres long and slopes gently from the highway to the front of the demolished dwelling. The plot then slopes more steeply with terraces between the rear of the demolished dwelling and the beach. A sea wall defines the boundary with the harbour.

Protected trees are positioned at the front of the site adjacent to the access.

The area is residential and characterised by large, detached dwellings interspaced with some purpose built flats. The layout, scale and appearance of these dwellings is varied and evolving with a number of contemporary examples.

Planning assessment

Design

The principle of replacing the demolished dwelling with a new dwelling is acceptable. The key difference between this application and the extant permission is the provision of a lower ground floor level which would be integrated into the dwelling with internal access. This would include a gym and garden room. A 'pool house' was previously accepted, however, this was detached from the dwelling.

The neighbour has raised concerns about inaccuracies with the plans and levels. It is acknowledged that the lower ground floor area would extend closer to the harbour than accepted previously accepted. However, the garden room would be positioned under the terrace which has been previously accepted and the floor space would protrude no further than the lower ground level of the adjoining building at 324 Sandbanks Road. The increased scale, footprint and height would be consistent with other replacement buildings in the area and the build line towards Poole Harbour would replicate other buildings to the south.

Neighbouring Privacy and Amenity

The footprint of the ground, first and second floor would be similar to the extant permission. This part of the building would be aligned with adjacent buildings. The lower ground floor would protrude further into the rear than the neighbouring dwelling at no. 38. However, this dwelling has now been demolished and the current proposal can therefore be assessed against the extant permission for flats.

Amended plans show a wall along the side boundaries of 38 Dorset Lake Avenue and 324 Sandbanks Road which would be associated with the lower ground floor accommodation. These walls would have a

similar height to the extant permission. The extant permission for flats at no. 38 would have windows on the rear which would be orientated towards Poole Harbour, rather than having the angled windows of the now demolished dwelling. It is noted that the terraces would require side screens and therefore views from the building would be focused towards the rear of the site and Poole Harbour. Based upon representations provided by the neighbour, the rear garden of no. 38 is lower than no. 40 adjacent to the wall. However, the submitted site plan shows that existing ground levels would be maintained adjacent to the boundary wall. The side wall of the proposed lower ground floor and terrace privacy screen above would be set back from the side boundary to break up the appearance of the wall and reduce its impact on the neighbour. The additional height of rear of the proposal would result in some loss of outlook from the neighbouring garden, however this garden would now be communal and each flat would have adequate outlook from their rear windows and terraces. The proposal would therefore not materially harm neighbouring outlook. The rear patio area of 324 Sandbanks Road would have a similar level to the terrace of the proposal.

Windows are proposed on all elevations. Windows on the front and rear elevations would have views towards Dorset Lake Avenue and Poole Harbour respectively. Windows on the south east side elevation would be obscure glazed, with the exception of the stair windows. These would be centrally positioned on the building and would have views towards the side wall of no. 324. First floor windows on the north west side elevation would be obscure glazed and could be secured by condition (#4).

The terrace on the ground floor and the balcony on the first floor would overlook neighbouring gardens. Side screens could be secured through condition (#5).

The proposal would provide significant accommodation and adequate daylighting, outlook and privacy for future occupants.

The proposal would therefore be in accordance with PP27 of the Poole Local Plan and would preserve neighbouring and future occupant amenity and privacy.

Parking and highway safety

The existing access would be utilised. The garage building is no longer proposed, however, there would be sufficient parking, secured by condition (#6). The proposal would therefore preserve highway safety and complies with provisions of policies PP34 and PP35 of the Poole Local Plan and the BCP Parking Standards SPD.

Trees

PP27 states that development should respond to natural features and not result in the loss of trees which make a significant contribution to the character and local climate. Any scheme which requires the removal of trees should, where appropriate, include replacement trees to mitigate for their loss.

The application is supported by an Arboricultural Method Statement and a Tree Protection Plan. The methods proposed to protect retained trees are acceptable and secured by condition (#7). The proposal would result in the loss of a number of protected trees. However, their loss is acceptable and replacement trees could be secured by condition (#8).

Biodiversity

Details of a swift box/brick (or a suitable alternative) can be secured by condition (#9) for the proposed dwelling to ensure there would be a biodiversity enhancement in accordance with Policy PP33.

Renewable energy

It would be readily possible for the development to incorporate renewable energy equipment to provide 10% of estimated energy use in accordance with PP37. Details could be secured by condition (#10).

Flood Risk

Being close to the shoreline of Poole Harbour, the site is at risk of flooding, both now and increasingly in the future and would fall within the latest local flood risk standing advice. However, because of the

topography of the site, the habitable accommodation within the building on the ground floor would be above the predicted future flood levels, which the local flood risk standing advice requires to be set no lower than 3.6m AOD.

The lower ground floor would have a finished floor level of 2.9m AOD. However, the Environment Agency have advised that given the lower ground floor accommodation is ancillary accommodation connected to the main house, it would be acceptable as long as there is no sleeping accommodation. A condition could also be used to ensure the use of the boat house remains water compatible storage only (Condition #11).

Section 106 Agreement/CIL compliance

Contributions Required			Dorset Heathland SAMM	Poole Harbour Recreation SAMM
Houses	Existing	0	@ £394	@140
	Proposed	1		
	Net increase	1	£394	£140
Total Contributions			£394 (plus admin fee)	£140 (plus admin fee)
CIL	Zone A		@ £230sq m	

Mitigation of the impact of the proposed development on recreational facilities; Dorset Heathlands and Poole Harbour Special Protection Areas; and strategic transport infrastructure is provided for by the Community Infrastructure Levy (CIL) Charging Schedule adopted by the Council in February 2019. In accordance with CIL Regulation 28 (1) this confirms that dwellings are CIL liable development and are required to pay CIL in accordance with the rates set out in the Council's Charging Schedule.

The site is within 5km (but not within 400m) of Heathland SSSI and the proposed net increase in dwellings would not be acceptable without appropriate mitigation of their impact upon the Heathland. As part of the Dorset Heathland Planning Framework a contribution is required from all qualifying residential development to fund Strategic Access Management and Monitoring (SAMM) in respect of the internationally important Dorset Heathlands. This proposal requires such a contribution, without which it would not satisfy the appropriate assessment required by the Habitat Regulations

In addition, the proposed net increase in dwellings would not be acceptable without appropriate mitigation of their recreational impact upon the Poole Harbour SPA and Ramsar site. A contribution is required from all qualifying residential development in Poole to fund Strategic Access Management and Monitoring (SAMM) in respect of the internationally important Poole Harbour. This proposal requires such a contribution, without which it would not satisfy the appropriate assessment required by the Habitat Regulations.

The applicant has submitted a Section 111 form and paid the relevant contributions towards Dorset Heathlands and Poole Harbour Recreation SAMM.

Summary

- The scale, height, massing, layout and siting of the proposal would reflect the local pattern of development and neighbouring buildings.

- Neighbouring privacy and amenity would be preserved
- Protected trees would be preserved through mitigation measures and replacement trees can be secured
- Highway safety would be preserved

Planning balance

- Erection of the proposed dwelling would utilise a currently vacant site.
- The loss of trees would result in some immediate and short term harm to the visual amenity of the area. This would be overcome by the submission of a tree replacement scheme.