

## **Proposed New Railings Marine Parade, Lyme Regis**

**Planning Issues & Options for Consideration  
Submitted to Lyme Regis Town Council**



**Footprint Futures – Planning & Regeneration**

**For Lyme Regis Town Council**

**March 2019**

# Proposed Replacement Railing at Marine Parade Lyme Regis

## Report on Planning Issues & Options for Lyme Regis Town Council – April 2019

### 1 Background

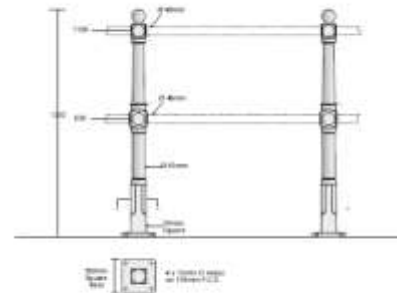
1.1 In 2017 the Town Council decided to replace the existing historic cast iron railings along the first length of the Marine Parade. This involved approximately 220m of railings along a section of Marine Parade from the Cobb Gate Car Park running west to the edge of The Bay Apartments building, as illustrated below.

1.2 There was an internal debate to decide whether they should be replaced on either a 'like for like' basis or whether new steel and galvanised railings should be installed, to match those elsewhere along the seafront. These had been installed by West Dorset DC as part of the land stability works completed some years ago. The Town Council decided to pursue the latter option for new steel railings. See CIS Plans.

1.3 The planning application was refused by the West Dorset District Council on 17 September 2017 [on the casting vote of the District Council's Planning Committee Chair] on the following grounds:

*"The proposed development would result in the loss of an important and historic feature in the conservation area and the proposed design of the replacement railings fails to preserve or enhance the character of the conservation area and would be detrimental to the setting of the adjacent listed buildings and buildings identified as being of local importance as set out in the Conservation Area Appraisal.*

*Therefore, the proposal is considered to be contrary to Policy ENV4 of the West Dorset, Weymouth and Portland Local Plan (adopted 2015); Section 12, of the National Planning Policy Framework; and Sections 66 (setting impact) and 72 (preserve/enhance test) of the Planning (Listed Buildings and Conservation Areas) Act 1990."*



1.4 The Report on the application to Planning Committee recognised that the railings do need to be replaced, but the Planning Authority was not satisfied that these could not be replicated in the same design and form as the existing railings.

Existing Railing at Marine Parade  
Lyme Seafront - In need of Replacement



1.5 The report states amongst other matters that :

*“There is no doubt that the railings, whilst not independently listed, are a heritage asset with significance due to their age and form. It is considered that they contribute positively to the setting of the listed buildings, to the character and appearance of the conservation area and to the wider public realm as they demark the promenade from the lower old cart road and beach.”...*

*“Furthermore, Historic England is clear in its guidance that historic, locally designed railings should be re-cast if irreparable. Accordingly, this is considered to be the approach that should be taken here.”...and that*

*“It is accepted that the proposed railing design may have been deemed appropriate in the areas of recent land stabilisation works and that the design may also have been commissioned within WDDC, however, it is considered that this is a markedly different location with significant heritage value, which should be preserved or enhanced. It is considered that the proposed railings would do neither and instead, cause a negative impact on the setting of the listed buildings, the character and appearance of the Conservation Area.”*

1.6 It is clear from the above therefore that there were strong views about the proposed modern style, steel railings, that led to the refusal of consent.

## 2 Future Options

2.1 It is considered that resubmitting the application for the same railings in the same form is likely to result in the same recommendation to refuse and although not certain, would be likely to result in a refusal if considered again by the new, Dorset Council's' Planning Committee, as the previous

Indicative Position of Railings to be Replaced  
Marine Parade Lyme Regis



reasons for refusal are clear cut from the Planning Authority's perspective. It was not a '*finely balanced*' recommendation.

## **Permitted Development**

2.2 However, all local authorities including parish/town councils such as Lyme Regis do benefit from 'Permitted Development' in exercising their functions. This is granted by Part 12 of **The Town and Country Planning (General Permitted Development) (England) Order 2015**.

2.3 This Part of the Order allows Local Authorities, which includes Lyme Regis Town Council, allows it to undertake certain works or development, without the need to apply for planning consent, as permission is automatically granted by the Order and so is "Permitted Development".

2.4 The full extract from the Order; Part 12 is included as **Appendix 1**, with the most relevant aspects being as follows, with relevant text underlined:

**.....The erection or construction and the maintenance, improvement or other alteration by a local authority or by an urban development corporation of—**  
**any small ancillary building, works or equipment on land belonging to or maintained by them required for the purposes of any function exercised by them on that land .....structures or works required in connection with the operation of any public service administered by them.**

**For the purposes of Part 12, "local authority" includes a parish council.**

2.5 In response to the above, on the basis that Lyme Regis Town Council:

- Owns, manages and maintains Marine Parade
- Is exercising its functions as seafront manager
- Is exercising its functions in respect of tourism promotion and development
- Is proposing scheme of replacement railings that constitute small scale works
- Is proposing structures and works that are required in connection with the operation of its public services
- Is, in local authority definition terms; a 'Parish Council'.

2.6 In the light of the above, it can be argued that the proposed replacement railings in whatever form, constitute "*Local Authority Permitted Development*".

2.7 If advantage were to be taken of this provision, then it is considered that this should be checked and confirmed or otherwise with the Planning Authority. This approach has been taken in respect of the planned lighting scheme at Langmoor Gardens, where it has been confirmed that the installation of the lighting units is Permitted Development; [PD].

2.8 However it is recommended that serious consideration be given to this matter before embarking on this route, for a number of reasons and that the options for the railings be reconsidered.

2.9 Having received a refusal of consent, even if the Permitted Development approach is subsequently confirmed by the Planning Authority and the Town Council were to take advantage of the PD rights to implement the new railings, it is suggested that this could result in significant criticism from those with interests in the historic environment, with associated reputational damage. This is because the Council had previously accepted that an application *was* required, as it submitted one and therefore it could now be seen to be *'using a legal loophole'* to circumvent the planning process. Arguably this would send a very negative message to the local community and public at large, about the Council's general approach to the planning process.

### 3 Assessment and Comparison of Options

3.1 The table below sets out an independent analysis of the issues, benefits and challenges of the two options for the railings, for consideration by the Town Council.

<b>Railing Design</b>	<b>Benefits</b>	<b>Challenges</b>
<b>Replacement with Modern Steel/Galvanised railings</b>	Similar to design to others along Marine Parade and elsewhere, so consistent approach.	Railing design is more bulky than existing historic, cast iron railings and this part of Marine Parade is much narrower than elsewhere, so would take more room and appear more visually dominant
	Railings readily available from Townsends who hold patent	Design contrary to that supported by Planning Authority. The railings would be much closer to listed buildings along this stretch of Marine Parade and therefore arguably affect their setting
	Robust construction, so should last for considerable time, with limited repair and maintenance	Larger and more bulky construction would require larger foundations/fixings into base of promenade. Uprights are right on the edge of

		the Parade where there is a drop to the lower level. Therefore more intrusive works and so potential for breakout or collapse of supporting walls.
		Likely to be more costly, compared with cast iron railings
	Could be Permitted Development subject to confirmation of Planning Authority	If planning application required, likely to be refused again
<b>Replacement with 'Like for Like' historic cast iron railings</b>	Same design as existing railings, so historical replica approach, which respects listed building and conservation area context and so would be supported by Planning Authority and other conservation interests.	Thinner railings than steel option and so less robust material, so erosion may take place at faster rate than more robust, steel option
	Construction in same form possible and railings readily available from local foundry	
	Costs approximately £45,000, likely to be cheaper than steel railings.	
	Railings thinner than steel option and use of existing foundations/fixing locations possible, so less intrusive works	
	Could be Permitted Development subject to confirmation of Planning Authority but even if not, then planning application unlikely to be required as they would be 'like for like' replacements and so considered as being maintenance and repair.	

3.2 It can be seen from the above that an independent assessment of the 2 options shows that the 'like for like' replacement of the railings in cast iron, would appear to be less problematic option for the Town Council. **This view has been arrived at without any preconceived opinion and with no real preference for either option.**

## **4 Next Steps & Recommendation**

4.1 If the Town Council was minded to continue to pursue the new steel railings as opposed to replica cast iron railings, then the way forward could be to submit a letter to Dorset Council, explaining what is planned and putting forward the case that the works are Local Authority Permitted Development.

4.2 This may be accepted by the Planning Authority, but it might also be argued that as a planning application was submitted previously, it had been accepted by the Town Council that formal planning permission was required and therefore the proper course of action for a responsible body such as a local authority, would be to resubmit another application.

4.3 The resubmission of another application would have cost, but especially timing implications, as all planning applications, even minor ones have been taking and are currently taking, many months to determine by the Dorset Council. This option therefore potentially extends the current uncertainty for a considerable period of time and could well result in a second refusal of planning permission.

**4.4 In the light of consideration of the issues and challenges and other matters in this report it is therefore recommended that:**

- **In the interests of speed, cost and reputation, the Town Council should review the options, but agree to pursue the replica cast iron option for the railings, which could then be progressed in a short timescale and in a cost effective manner.**
- **That the Local Planning Authority be advised of this decision and approach, to confirm their support.**

4.5 Further discussion and explanation of these issues is offered to the Council and its Committees if required.

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## Appendix 1 - Part 12 of the GPDO 2015

### PART 12

#### Development by local authorities

##### *Class A*

##### ***Permitted development***

**A. *The erection or construction and the maintenance, improvement or other alteration by a local authority or by an urban development corporation of—***

- (a) any small ancillary building, works or equipment on land belonging to or maintained by them required for the purposes of any function exercised by them on that land otherwise than as statutory undertakers;***
- (b) lamp standards, information kiosks, passenger shelters, public shelters and seats, telephone boxes, fire alarms, public drinking fountains, horse troughs, refuse bins or baskets, barriers for the control of people waiting to enter public service vehicles, electric vehicle charging points and any associated infrastructure, and similar structures or works required in connection with the operation of any public service administered by them.***

##### **Interpretation of Class A**

**A.1** For the purposes of Class A, “urban development corporation” has the same meaning as in Part 16 of the Local Government, Planning and Land Act 1980 (urban development)(a).

**A.2** The reference in Class A to any small ancillary building, works or equipment is a reference to any ancillary building, works or equipment not exceeding 4 metres in height or 200 cubic metres in capacity.

##### *Class B*

##### ***Permitted development***

**B. *The deposit by a local authority of waste material on any land comprised in a site which was used for that purpose on 1st July 1948 whether or not the superficial area or the height of the deposit is extended as a result.***

##### **Development not permitted**

**B.1** Development is not permitted by Class B if the waste material is or includes material resulting from the winning and working of minerals.



## **Interpretation of Part 12**

**C. For the purposes of Part 12, “local authority” includes a parish council.**