

NOTICE OF MEETING

Meeting: PLANNING COMMITTEE

Date and Time: WEDNESDAY, 1 MAY 2019, AT 9.00 AM*

Place: THE COUNCIL CHAMBER, APPLETREE COURT,
LYNDHURST

Telephone enquiries to: Lyndhurst (023) 8028 5000
023 8028 5588 - ask for Andy Rogers
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PUBLIC PARTICIPATION:

*Members of the public are entitled to speak on individual items on the public agenda in accordance with the Council's public participation scheme. To register to speak please contact Development Control Administration on Tel: 02380 285345 or E-mail: DCAdministration@nfdc.gov.uk

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Chief Planning Officer

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This Agenda is also available on audio tape, in Braille, large print and digital format

AGENDA

Apologies

1. MINUTES

To confirm the minutes of the meeting held on 10 April 2019 as a correct record.

2. DECLARATIONS OF INTEREST

To note any declarations of interest made by members in connection with an agenda item. The nature of the interest must also be specified.

Members are asked to discuss any possible interests with Democratic Services prior to the meeting.

3. PLANNING APPLICATIONS FOR COMMITTEE DECISION

To determine the applications set out below:

- (a) **Site of 11 Lime Kiln Lane and Land Rear of 201 to 209 Long Lane, Holbury, Fawley (Application 18/10527) (Pages 1 - 18)**

7 dwellings comprised: 3 terraced houses; 4 detached houses; car ports; parking; landscaping (Amended scheme to outline approval 15/11072 and reserved matters 17/10293)

RECOMMENDED:

Chief Planning Officer authorised to grant permission subject to conditions

- (b) **Beach Hut 6A, Hordle Cliff Beach Huts, Cliff Road, Milford-on-Sea (Application 19/10230) (Pages 19 - 26)**

Change of use of beach for the relocation of existing beach hut on plot 286 to plot 6a

RECOMMENDED:

Refuse

- (c) **9 The Parade, Ashley Road, Ashley, New Milton (Application 18/11552) (Pages 27 - 36)**

Use as restaurant/winebar (Use Class A3/A4) (Retrospective)

RECOMMENDED:

Grant permission subject to conditions

4. ANY OTHER ITEMS WHICH THE CHAIRMAN DECIDES ARE URGENT

To:

Councillors:

W G Andrews (Chairman)
P J Armstrong (Vice-Chairman)
Mrs S M Bennison
Mrs F Carpenter
Ms K V Crisell
A H G Davis
R L Frampton
A T Glass
L E Harris
D Harrison

Councillors:

Mrs M D Holding
Mrs C Hopkins
M Langdale
J M Olliff-Cooper
A K Penson
Miss A Sevier
Mrs B J Thorne
Mrs C V Ward
M L White
Mrs P A Wyeth

STATUTORY TESTS

Introduction

In making a decision to approve or refuse planning applications, or applications for listed building consent and other types of consent, the decision maker is required by law to have regard to certain matters.

The most commonly used statutory tests are set out below. The list is not exhaustive. In reaching its decisions on the applications in this agenda, the Committee is obliged to take account of the relevant statutory tests.

The Development Plan

The Development Plan Section 38

The Development Plan comprises the local development plan documents (taken as a whole) which have been adopted or approved in relation to that area.

If regard is to be had to the Development Plan for the purpose of any determination to be made the determination must be made in accordance with the plan unless material considerations indicate otherwise.

Listed Buildings

Section 66 General duty as respects listed buildings in exercise of planning functions. Planning (Listed Buildings and Conservation Areas) Act 1990

In considering whether to grant planning permission for development which affects a listed building or its setting, the local planning authority or, as the case may be, the Secretary of State shall have special regard to the desirability of preserving the building or its setting or any features or special architectural or historic interest which it possesses.

Conservation Areas

Section 72 General duty as respects conservation areas in exercise of planning functions Planning (Listed Buildings and Conservation Areas) Act 1990

(1) In the exercise, with respect to any buildings or other land in a conservation area, of any powers under any of the provisions mentioned in subsection (2), special attention shall be paid to the desirability of preserving or enhancing the character or appearance of that area.

(2) The provisions referred to in subsection (1) are the Planning Acts and Part 1 of the Historic Buildings and Ancient Monuments Act 1953.

Considerations relevant to applications for residential development

The National Planning Policy Framework (NPPF) set out the Government's planning policies for England and how these are expected to be applied by Local Planning Authorities. These policies are a material consideration in planning decisions.

In relation to housing development, paragraph 47 of the NPPF requires a council's Local Plan to meet the full, objectively assessed needs for market and affordable housing and to identify a five year supply of housing land against its housing requirement. This Council's latest assessment of housing need, as set out in its Strategic Housing Market Assessment (SHMA) indicates a level of need which is considerably in excess of that on which the current Local Plan requirement is based. A new housing requirement figure will be established as part of the Local Plan Review and in this respect it is anticipated that the submission of the Local Plan will be reported to the Council in March 2018. Until then, the level of housing need in the District is sufficiently above the level of housing supply to know that a five year supply of housing land when objectively assessed is not currently available.

In these circumstances, paragraph 14 of the NPPF advises that planning permission for housing development should be granted unless any adverse impacts of doing so would "*significantly and demonstrably outweigh the benefits*" when assessed against the policies of the NPPF as a whole or unless specific policies in the NPPF indicate development should be restricted e.g. Green Belt. This is known as the 'tilted balance' in favour of sustainable development.

Areas of Outstanding Natural Beauty (AONB's)

Section 85. General duty as respects AONB's in exercise of any function Countryside and Rights of Way Act 2000

In exercising or performing any functions in relation to, or so as to affect, land in an area of outstanding natural beauty, a relevant authority shall have regard to the purpose of conserving and enhancing the natural beauty of the area of outstanding natural beauty.

Trees

Section 197. Trees Town and Country Planning Act 1990

It shall be the duty of the local planning authority (a) to ensure, whenever it is appropriate, that in granting planning permission for any development adequate provision is made, by the imposition of conditions, for the preservation or planting of trees; and (b) to make such orders under section 198 as appear to the authority to be necessary in connection with the grant of such permission, whether for giving effect to such conditions or otherwise.

Biodiversity

Section 40. Duty to conserve biodiversity Natural Environment and Rural Communities Act 2006

Every public authority must, in exercising its functions, have regard, so far as is consistent with the proper exercise of those functions, to the purpose of conserving biodiversity.

Conserving biodiversity includes, in relation to a living organism or type of habitat, restoring or enhancing a population or habitat.

Conservation of Habitats and Species Regulations 2010

Under the provisions of the Conservation of Habitats and Species Regulations 2010, the Council has to ensure that development proposals will not have an adverse impact on the integrity of a designated or candidate Special Area of Conservation (SAC), classified or

potential Special Protection Area (SPA), or listed Ramsar site and mitigation will be required.

Any development involving the creation of new residential units within the District will have such an impact because of the resulting cumulative recreational pressure on these sensitive sites. Under Policy DM3 of the adopted Local Plan Part 2, the Council's general approach is to recognise that the impact is adequately mitigated through the payment of contributions for the provision of alternative recreational facilities, management measures and monitoring.

Equality

The Equality Act 2010 provides protection from discrimination in respect of certain protected characteristics, namely: age, disability, gender reassignment, pregnancy and maternity, race, religion or beliefs and sex and sexual orientation. It places the Council under a legal duty to have due regard to the advancement of equality in the exercise of its powers including planning powers. The Committee must be mindful of this duty *inter alia* when determining all planning applications. In particular the Committee must pay due regard to the need to:

- (1) eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under the Act;
- (2) advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it; and
- (3) foster good relations between persons who share a relevant protected characteristic and persons who do not share it.

Financial Considerations in Planning

Section 70 of the Town and Country Planning Act 1990 as amended by the Localism Act 2011 requires all reports dealing with the determination of planning applications to set out how "local financial considerations" where they are material to the decision have been dealt with. These are by definition only Community Infrastructure Levy (CIL) payments and government grant in the form of the New Homes Bonus.

New Forest District Council adopted a CIL charging schedule on 14 April 2014. The implementation date for the charging schedule is 6 April 2015. The New Homes Bonus Grant is paid to the Council by the Government for each net additional dwelling built in the District. The amount paid depends on the Council tax banding of the new dwellings and ranges between £798 and £2,304 per annum for a six year period. For the purposes of any report it is assumed that all new dwellings are banded D (as we don't actually know their band at planning application stage) which gives rise to grant of £1,224 per dwelling or £7,344 over six years.

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Application Number: 18/10527 Full Planning Permission

Site: SITE OF 11 LIME KILN LANE AND LAND REAR OF 201 TO 209
LONG LANE, HOLBURY, FAWLEY SO45 2HJ

Development: 7 dwellings comprised: 3 terraced houses; 4 detached houses; car
ports; parking; landscaping (Amended scheme to outline approval
15/11072 and reserved matters 17/10293)

Applicant: Elite Homes Sussex Limited

Target Date: 14/06/2018

Extension Date: 03/05/2019

RECOMMENDATION: Chief Planning Officer Grant

Case Officer: Stephen Belli

1 REASON FOR COMMITTEE CONSIDERATION

At the discretion of the Chief Planning Officer as amended plans are the subject of re-consultation and any late comments can be considered by Committee.

2 DEVELOPMENT PLAN AND OTHER CONSTRAINTS

Pipelines
Built-up Area
Plan Area
HSE Consultation Zone

3 DEVELOPMENT PLAN, OBJECTIVES AND POLICIES

Core Strategy

CS1: Sustainable development principles
CS2: Design quality
CS3: Protecting and enhancing our special environment (Heritage and Nature Conservation)
CS5: Safe and healthy communities
CS15: Affordable housing contribution requirements from developments
CS24: Transport considerations
CS25: Developers contributions

Local Plan Part 2 Sites and Development Management Development Plan Document

DM3: Mitigation of impacts on European nature conservation sites

4 RELEVANT LEGISLATION AND GOVERNMENT ADVICE

Section 38 Development Plan
Planning and Compulsory Purchase Act 2004
National Planning Policy Framework 2019

5 RELEVANT SUPPLEMENTARY PLANNING GUIDANCE AND DOCUMENTS

SPD - Housing Design, Density and Character
SPD - Parking Standards
SPD - Mitigation Strategy for European Sites

6 RELEVANT PLANNING HISTORY

- 6.1 **17/10293** 7 dwellings comprised: 3 terraced houses; 4 detached garages; bin store; parking; landscaping (Reserved Matters - details of appearance, landscaping, layout and scale, development granted by outline permission 15/11072) Granted: 10 January 2018
- 6.2 **17/10267** 6 detached houses; 3 terraced houses; garages; associated access; parking; bin store; demolition of existing Refused: 20 April 2017
- 6.3 **15/11072** 7 houses; access; demolition of existing (outline application with details only of access) Granted: 14 January 2016

7 PARISH / TOWN COUNCIL COMMENTS

Reconsultation on reduced scheme for 7 units

Happy to accept the decision reached by the District Council's Officers under their delegated powers.

Reconsultation on final amended plans

Views awaited

8 COUNCILLOR COMMENTS

None received

9 CONSULTEE COMMENTS

- 9.1 Hampshire County Council Highway Engineer

Original submission for 8 dwellings

These comments are in response to the amended plans submitted under planning application 18/10527. The applicant seeks permission to erect 8 dwellings with associated access and parking.

The parking standards for the site are laid down by the New Forest District Council (NFDC) as the local parking authority, in accordance with their Supplementary Planning Document (SPD) as adopted in October 2012. These standards require a total quantum of 23.1 allocated spaces (inclusive of visitor parking).

The proposals indicate an under provision of 22 spaces. The submitted dimensions for the car ports and parallel parking spaces are in line with the standards set out in the SPD. The amended parking allocations and numbering is more suitable when compared with the standards in the SPD and match the layout of the dwelling.

No cycle storage has been indicated on the plans, however this can be secured through a suitably worded condition.

The access is deemed sufficient to accommodate the proposed level of traffic. The applicant should be aware that as the proposals include the formation of a new or altered access onto the highway, which will include works within the highway, these works will be required to be undertaken in accordance with standards laid down by, and under a S278 Minor Works license agreement with, the Highway Authority. Full details of how to apply can be found on the County Council website.

The granting of planning permission is independent of the license application, and it is strongly recommended the applicant understands the criteria to be met in order for a license to be granted.

Sufficient provision for pedestrian access to the site has also been provided.

The submitted refuse collection point is acceptable. Similarly the tracking drawings for a refuse collection vehicle and fire tender vehicle are acceptable.

Having regards to the above, the Highway Authority would recommend:

No objection, subject to conditions:

Consultation on final amended plans awaited

9.2 NFDC Landscape and Design Team

Final amended plans

No objections to amended plans which reflect our discussions but there are some anomalies and inconsistencies which need to be corrected.

The reduction in oversupply of car parking spaces has allowed a larger garden for unit 3, and an increase in front garden areas for units 1-3.

Whilst the 7-8 metre garden lengths for units 1-3 are not considered to be sufficient the considerable depth of the adjacent garden to the south will provide a sense of openness with no increased risk of overlooking.

No objections subject to minor amendments to correct anomalies and inconsistencies with plans and planting schedule.

9.3 Natural England

No objections to this amended scheme (for seven units) which is unlikely to have significantly different impacts on the natural environment than the original proposal.

9.4 Ecologist

The additional details/confirmation are from a reputable and appropriate professional, the details are suitable to ensure biodiversity is conserved and enhanced to meet policy requirements. Subject to the delivery of the details being secured via a suitable condition (e.g. development to proceed in accordance with mitigation and enhancement measures within the report and letter unless otherwise approved in writing), no objections raised.

The revisions do not appear to conflict with the Biodiversity Mitigation and Compensation details submitted in June of this year. My previous comment would therefore remain unchanged. (*Previous comments on outline application – confirms that an appropriate reptile translocation has taken place in accordance with best practice*).

9.5 Strategic Gas Network

Standard advice offered regarding gas pipelines in the area. There are however no such pipelines within the application site boundary.

10 REPRESENTATIONS RECEIVED

10.1 Letters of objection from 13 no. local residents raising the following issues.

- Proposal fails policy CS2 test regarding design.
- Too dense a development dominating this back landscape area
- Too close to boundaries with neighbour properties
- Overlooking of existing dwellings and garden areas is unacceptable
- Inadequate access for emergency service and other service vehicles
- Inadequate parking on site will exacerbated off-site parking in the area
- Not compliant with planning or building regulations or health and safety at work
- One additional dwelling not needed given new allocations coming forward
- Alternative access should be sought as the existing is inadequate
- Constant 7 days a week working on site is unacceptable
- Wildlife barrier is not in place
- Inadequate security fencing at the site
- Impact on natural light of neighbouring properties
- Loss of views and outlooks for neighbouring properties
- Additional noise and disturbance from new housing
- Lack of green space within the site
- Development is not aesthetically pleasing

10.2 Amended Plans re-consultation 12 March 2019

Two further letters raising the following issues

- Still considers buildings too high and impinging on local residents, too close to neighbours
- Not in line with best practice as set out in government guidance regarding privacy, light, garden sizes,
- Disregard for proper health and safety on site
- Units 1-3 in particular are overbearing on nearest neighbours
- Plans lack clarity in relation to car ports and party boundaries
- One tree is planted too close to a party boundary

10.3 Amended plans re-consultation 9 April 2019

No comments received to date.

11 CRIME & DISORDER IMPLICATIONS

None relevant on this occasion

12 LOCAL FINANCE CONSIDERATIONS

If this development is granted permission, the Council will receive New Homes Bonus (net increase in dwellings (7 x £1224 = £8568.00) in each of the following four years, subject to the following conditions being met:

- a) The dwellings the subject of this permission are completed, and
- b) The total number of dwellings completed in the relevant year exceeds 0.4% of the total number of existing dwellings in the District.

Based on the information provided at the time of this report this development has a CIL liability of £59,777.22 (NB CIL has already been paid for the 7 units now under construction).

Tables setting out all contributions are at the end of this report.

13 WORKING WITH THE APPLICANT/AGENT

In accordance with paragraph 38 of the National Planning Policy Framework and Article 35 of the Town and Country Planning (Development Management Procedure) (England) Order 2015, New Forest District Council takes a positive and proactive approach, seeking solutions to any problems arising in the handling of development proposals so as to achieve, whenever possible, a positive outcome by giving clear advice to applicants.

In this case all the above apply. The Council and applicant have agreed various amendments to the plans to overcome issues raised with this application to the extent necessary in achieving a positive recommendation and outcome. In particular the reduction to 7 units and improvements to landscaping and site layout are welcomed.

14 ASSESSMENT

14.1 Site description, proposals and background

14.1.1 The application site extends to 0.36 hectares and comprises an area of land formerly occupied by a bungalow known as Devonway and its large rear garden. The application site also encompasses part of the former rear garden of 201 Long Lane, and areas of scrub and paddock to the south of residential dwellings in Lime Kiln Lane, to the west of dwellings in Long Lane and to the north of residential properties in Larch Avenue. The application site is relatively flat.

14.1.2 The adjacent parts of Lime Kiln Lane are mainly characterised by bungalows and chalet bungalows set within generous sized garden plots, although 1-9 Lime Kiln Lane to the north side of the site is a long 2-storey terrace. The adjacent properties in Larch Avenue to the south are predominantly 2-storey detached dwellings, but with some bungalows as well, whilst the adjacent properties in Long Lane are mainly 2-storeys high. Properties within the immediate area typically have fairly long rear gardens that give the area an attractively green and spacious character.

- 14.1.3 In January 2016, the Local Planning Authority granted outline planning permission for the residential development of this land with 7 houses. The proposal entailed demolition of the existing dwelling Devonway so as to secure an access to the land. The only matter of detail that was approved was access, all other matters of detail being reserved.
- 14.1.4 In 2017 two applications were submitted; a reserved matters application for 7 dwellings and a new full planning application for 9 dwellings. Reserved matters approval was granted for the 7 dwelling scheme but the application for 9 dwellings was refused in April 2017 because it was felt the development would have been too intensive and an unduly poor design in this green and spacious rear garden setting. It was also considered that the development related poorly to neighbouring dwellings, and there were also concerns about a lack of ecological information and lack of information to show vehicles could turn acceptably on site.
- 14.1.5 Work is now underway on the site with the 7 houses being built in accordance with the earlier permission but not the site layout it now transpires. The layout of the site showed a terrace of 3 dwellings all 2 storey and with 3 bedrooms facing the site entrance road. To the east of the terrace the approved plans show a block of 4 two storey dwellings facing each other across an informal landscaped courtyard. These units are split between 2 no. 3 bed units and 2 no. 4 bed units.
- 14.1.6 At the end of this block of units on the eastern side of the site the remaining open area was to be included as part of the gardens of the end two houses namely plots 6 and 7. At the present time the access road is constructed and the shell of all 7 units is complete with fitting out now taking place.
- 14.1.7 This application as first submitted, sought permission for one additional unit - plot 8 to be built on the eastern part of the site. This new unit would in effect close off the courtyard of four dwellings approved previously with the same two storey design as plots 6 and 7.

14.1.8 **Amended application**

Following discussions with officers it was noted that units 1-3 have been built closer to the party boundary with the existing dwelling fronting onto Larch Avenue to the south. The result of these discussions has now prompted the applicant to submit a revised application with a new form and set of plans which reduces the number of units applied for to seven, and a new site layout and landscaping plan which addresses the initial error in the setting out of the site which has meant the rear wall of units 1-3 is closer to the party boundary.

14.2 Key considerations

- 14.2.1 The key considerations with this application are the principle of development; impact on character and appearance of the area including a consideration of design; impact on neighbour amenity; highway safety and parking; and matters relating to habitat mitigation and ecology. As the development is at an advanced stage and units are being offered for sale, an early resolution to assist housing delivery would be appropriate. Any comments on the final amended plans will be reported verbally.

Principle and policy considerations

- 14.2.2 The site lies within the established limits of Holbury as indicated in the Development Plan Part 2 and is within walking distance of local services.
- 14.2.3 The LPA is not currently able to demonstrate a 5 year supply of housing land when assessed against its most recent calculation of Objectively Assessed Need. Relevant policies for the supply of housing are therefore out of date. In accordance with the advice at paragraph 11 of the NPPF, permission should therefore be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits or specific policies in the NPPF indicate that development should be restricted.
- 14.2.4 It is clear from the planning history that the principle of 7 no. units has already been approved on this site. What is now at issue are the changes from the earlier approval. Whilst the works to construct the seven dwellings is now at an advanced stage the applicants wish to stress this was not done purposely but as a result of an initial surveying error on their part. They have however been informed in writing that any works that have taken place in advance of a planning permission is at their own risk. The retrospective nature of this proposal does not fetter the Council in deciding this application on its merits.

Character and appearance/design

- 14.2.5 Policy CS2 of the Core Strategy is the key policy consideration in this case. That policy states 'new development will be required to be well designed to respect the character, identity, and context of the area's towns, villages and countryside.....to contribute positively to local distinctiveness and sense of place, being appropriate and sympathetic to its settings in terms of scale ...appearance, materials and its relationship to adjoining buildings and landscape features. In addition the policy states that there should be no unacceptable visual intrusion, overlooking or shading or other adverse impact on local character or amenity (which by definition includes neighbour amenity).
- 14.2.6 The site is very much a backland site without any road frontage or appreciable impact apart from at the point of access onto Lime Kiln Lane. The key impact of this scheme will however be appreciated from within the site itself rather than in the general street scene. Whilst the site is predominantly hidden from public views it is nevertheless still appropriate to consider the quality of the design and layout and judge these against development plan policies (including any supplementary planning advice documents adopted by the Council), and government advice. The recent removal of plot 8 from the scheme has markedly improved the overall design and layout of the site and imposed less pressure to provide car parking for instance. The proposal for seven units is now much more in line with the original design concept for the site arrived at after considerable discussions with your officers.
- 14.2.7 With regard to the original plans the key issue for the Council's urban designer and landscape architect was the lack of detailing regarding the way in which the landscaping of the courtyard and overall site would work in practice.

- 14.2.8 Another issue which has arisen since it was discovered the site party boundary is nearer to the back of units 1-3 is the reduction in rear garden size for those units. Units 1-3 represent the smallest dwellings on the site with 3 bedrooms in each it should be noted.
- 14.2.9 The previous scheme showed the following separation distances compared to the current scheme (i.e. the distance from the rear wall of the unit to the party boundary to the south). The table also shows the previous extent of private garden land shown on the original reserved matters permission compared to the latest plan of the current application

<u>Reserved Matters approval</u>		<u>Current application</u>	
Unit 1	9.4 metres to boundary	Unit 1	7.9m to boundary
Unit 2	9.0 metres to boundary	Unit 2	7.4 m to boundary
Unit 3	9.7 metres to boundary	Unit 3	8.0 m to boundary

Private garden sizes

Unit 1	91 sq. metres	Unit 1	78 sq. m.
Unit 2	54 sq. metres	Unit 2	44 sq. m
Unit 3	55 sq. metres	Unit 3	67 sq. m

- 14.2.10 However to compensate for the reduction in private gardens for units 1 and 2, the front garden sizes for all three units have been increased and improved from the earlier by a greater set back from the private estate road, better defensible space demarked by a low brick wall, and the removal of car parking spaces from the front garden areas which is a poor design feature. In addition it should be noted that the Council does not have any policies requiring a certain length of garden or square size of garden to be provided for x amount of internal floorspace. The size of private garden also needs to be considered in relation to the extent of privacy achievable and degree of overlooking. None of the units are overlooked by properties outside the site with only oblique 1st floor overlooking between the three units. Issues relating to overlooking distances are discussed below under neighbour amenities. Another factor relating to garden and occupancy amenity is the orientation of those gardens to the sun. In this case units 1-3 face south so these gardens will be pleasant sitting out areas albeit the garden length is less than originally approved.
- 14.2.11 Officers consider the final amended plans exhibit a sufficiently high quality design and layout in line with design led policies set out in the development plan and other documents. The latest plan reduces hard surfacing within the site with less car parking than shown on the earlier scheme. That said the overall improvement in layout and design terms does outweigh any slight shortfall on parking. Similarly the access road overall width has been maintained from the original scheme but its appearance has been considerably softened by planting both sides of the carriageway which along with the removal of a pedestrian footway has again improved and softened the appearance of the access onto Lime Kiln Lane in design terms, without compromising the ability of refuse and other large vehicles accessing and turning within the site.

Neighbour amenities

- 14.2.12 A number of objections have been received from local residents as set out above. It is however important to recognise that seven dwellings have already been approved on this site. Most of the objections were in response to the original proposal for 8 no. dwellings. The response to the amended plans reducing the number of units and improving on the layout and landscaping has elicited much less objection to those most affected by the change to units 1-3. The applicants are already in the process of constructing the first seven dwellings under the outline and reserved matters approvals. In this respect issues relating to overlooking and loss of privacy as they relate to four of the dwellings has already been taken into consideration when approval was granted.
- 14.2.13 What has changed is the relationship of units 1-3 with the party boundary of one dwelling which backs onto the site to the south. The back to back distance from the rear of units 1-3 to the rear wall of the nearest dwelling on Larch Avenue is just under 40 metres which is well in excess of the normal 21 metre rule of thumb distance between properties which is generally considered to be a reasonable distance between properties in urban areas. It is also important to note that the whole of the southern boundary of the application site is partly shielded from the dwellings on Larch Avenue by existing vegetation, and outbuildings belonging to adjoining dwellings. An assessment of this overlooking has been carried out on site by the case officer and given the above factors it is considered that whilst there is some overlooking from the rear of the new units from 1st floor windows to existing dwellings both on Larch Avenue and to the north on Lime Kiln Lane the distances are such that an objection could not be sustained. Neighbours have also raised other concerns set out above. Whilst these issues have been considered they are not of sufficient weight to warrant a refusal against a scheme that is nearly identical in house position to the earlier approval.

Highway safety and parking

- 14.2.14 Again concerns have been raised by neighbours regarding the impact of the scheme on highway safety, parking and access for emergency services. The formal response of the Highway Authority however raises no objections to the proposal subject to the imposition of two conditions. The access road is in place and in accordance with the earlier permission. The developers however intend to change the surfacing material of the access road from a hoggin finish to block pavements. This will reduce noise impact and is considered to be an acceptable change.
- 14.2.15 The latest plans show a set of rumble strips as you enter into the site and the main site courtyard. This will serve to slow down traffic and make it more of a pedestrian friendly layout. The deletion of the access segregated footway and its replacement with planting will soften and improve the appearance of the access road without compromising on pedestrian safety given the low speed of traffic using the road.
- 14.2.16 The number of parking spaces overall has reduced from the earlier reserved matters approval from 22 to 17. There is a reduction of visitor spaces from 8 to 3 leaving at least 2 spaces per dwelling. The parking spaces are arranged either as surface parking or parking within open

car ports. None of the car parking spaces are actually shown to be on plot albeit the spaces are likely to be allocated. On this basis it has been determined that the number of car parking spaces should be 19 in total. The latest scheme now shows 17 which is a slight shortfall.

- 14.2.17 Any further views of the Highway Authority to the latest plan will be reported verbally at the Committee meeting. The use of car ports rather than garages will also help to ensure that spaces are actually used for parking purposes as opposed to closed garages which tend to get used for storage. Access for emergency service and refuse vehicles has been considered by the Highway Authority and found to be acceptable. The amended plan does not change this aspect of the scheme. All dwellings will also be provided with secure sheds and cycle storage facilities.

Ecology

- 14.2.18 The Ecologist has been consulted on this application and finds the proposal acceptable subject to the implementation of an ecological biodiversity enhancement plan. This plan was submitted with the application and covers planting elements as well as the provision of bat and bird boxes on the site. This can be the subject of a condition requiring these elements to be in place prior to the last house being occupied. The proposal is considered to be in line with policy DM3 of the Core Strategy which seeks to enhance and maintain biodiversity within any development.
- 14.2.19 The other consideration relating to ecology is in respect of off-site habitat mitigation. In accordance with the Conservation of Habitats and Species Regulations 2017 ('the Habitat Regulations') an Appropriate Assessment has been carried out as to whether granting planning permission would adversely affect the integrity of the New Forest and Solent Coast European sites, in view of that site's conservation objectives. The Assessment concludes that the proposed development would, in combination with other developments, have an adverse effect due to the recreational impacts on the European sites, but that the adverse impacts would be avoided if the planning permission were to be conditional upon the approval of proposals for the mitigation of that impact in accordance with the Council's Mitigation Strategy or mitigation to at least an equivalent effect.
- 14.2.20 The seven dwellings now applied for have already been the subject of an earlier permission and a S106 obligation has been entered into to pay the appropriate contribution for off-site habitat mitigation. That payment has been made under the earlier permission. There is still however a need to either enter into a new agreement with the Council to link the earlier payment with the current application so as to prevent any clawback. This can be required through a condition albeit the condition will be worded that the applicant will need to comply with the Habitat Regulations in respect of mitigating the harm to protected species and areas. In this case this would not be a pre commencement condition.

14.3 Conclusions

- 14.3.1 The site lies in a sustainable location within easy reach of a range of facilities and services such as shops and schools. Permission has already been granted for seven new dwellings on this site with construction now at an advance stage. This application repeats the earlier scheme approval in respect of house design for all units and site layout on four of the units. The movement of units 1-3 closer to the party boundary with the dwelling to the south has been carefully considered and it is concluded that for the reasons set out above there are insufficient reasons to refuse the scheme which could be sustained in the event of an appeal. Details regarding matters of access and parking are considered acceptable. There are no ecological objections. With regard to design and layout the latest proposal which has been agreed with the Council's Environmental Design Team is considered to be overall an improvement on the scheme which gained Reserved Matters approval. In relation to its local impact on neighbour amenity the issues raised have been carefully considered but none are of such weight as to warrant a refusal of planning permission.
- 14.3.2 In coming to this recommendation, consideration has been given to the rights set out in Article 8 (Right to respect for private and family life) and Article 1 of the First Protocol (Right to peaceful enjoyment of possessions) of the European Convention on Human Rights. Whilst it is recognised that there may be an interference with these rights and the rights of other third parties, such interference has to be balanced with the like rights of the applicant to develop the land in the way proposed. In this case it is considered that the protection of the rights and freedoms of the applicant outweigh any possible interference that may result to any third party.

Section 106 Contributions Summary Table

Proposal:			
Type of Contribution	NFDC Policy Requirement	Developer Proposed Provision	Difference
Affordable Housing			
No. of Affordable dwellings	0		
Financial Contribution			
Habitats Mitigation			
Financial Contribution			

CIL Summary Table

Type	Proposed Floorspace (sq/m)	Existing Floorspace (sq/m)	Net Floorspace (sq/m)	Chargeable Floorspace (sq/m)	Rate	Total
Dwelling houses	701	80.31	620.69	620.69	£80/sqm	£59,722.00 *
Subtotal:	£59,777.22					
Relief:	£0.00					
Total Payable:	£59,777.22 Note - CIL payment already made					

* The formula used to calculate the amount of CIL payable allows for changes in building costs over time and is Index Linked using the All-in Tender Index Price published by the Build Cost Information Service (BICS) and is:

$Net\ additional\ new\ build\ floor\ space\ (A) \times CIL\ Rate\ (R) \times Inflation\ Index\ (I)$

Where:

A = the net area of floor space chargeable in square metres after deducting any existing floor space and any demolitions, where appropriate.

R = the levy rate as set in the Charging Schedule

I = All-in tender price index of construction costs in the year planning permission was granted, divided by the All-in tender price index for the year the Charging Schedule took effect. For 2018 this value is 1.2

15. RECOMMENDATION

That the Chief Planning Officer be **AUTHORISED TO GRANT PERMISSION** subject to:

- i) the receipt of no new material objections to the submitted amended plans before 30 April 2019.
- ii) the imposition of the conditions set out below.
- iii) any additional conditions as may be necessary to refine and clarify approved details

Proposed Conditions:

1. Notwithstanding the provisions of Section 91 of the Town and Country Planning Act 1990 (as amended) this permission being retrospective in nature shall be deemed to have been implemented on receipt of the amended application for 7 no. dwellings and plans submitted thereto on 12 March 2019.

Reason: The permission is retrospective in nature and for the avoidance of doubt as to commencement.

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

S101	Location Plan Landscaping and site layout plan
RM004A REV J	Block plan, elevations and floor plan units 1-3
RM004B REV I	Block plan, elevations and floor plans units 4-5
RM004C REV I	Block plan, elevations and floor plans units 6-7
RM005 REV F	Car port plan and elevations
RM011A REV G	Site access for pumping appliances
RM011B REV G	Site access for large refuse vehicles

Reason: To ensure satisfactory provision of the development.

3. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015 (or any re-enactment of that Order) no extension (or alterations) otherwise approved by Classes A, B or C of Part 1 of Schedule 2 to the Order, garage or other outbuilding otherwise approved by Class E of Part 1 of Schedule 2 to the Order, or means of enclosure otherwise approved by Class A of Part 2 of Schedule 2 to the Order shall be erected or carried out within plots 1-3 without express planning permission first having been granted.

Reason: To ensure these particular dwellings which have restricted garden areas retain a reasonable amount of private amenity space and to ensure the layout of the units is maintained in accordance with good design principles as set out in policy CS2 of the New Forest District Council Core Strategy and the Council's SPD on housing design and layout.

4. Before the occupation of individual units provision for parking shall have been made within the site in accordance with the approved plans and shall be retained thereafter.

Reason: To ensure adequate on-site car parking provision for the approved dwellings is in place and maintained as such thereafter.

5. Prior to occupation of individual units secure cycle storage within the shed shown for that unit shall be provided for each dwelling and shall be retained thereafter in accordance with the approved plans.

Reason: To ensure adequate provision within the site.

6. The car ports hereby approved as part of this development shall be maintained as open fronted buildings without garage doors.

Reason: To ensure that there is sufficient space maintained within the site to provide car parking for each unit.

7. The junction onto Lime Kiln Lane and access road into the site along with the internal courtyard surfacing, foul and surface water drainage arrangements, parking and general layout of the site including all means of enclosure and hard and soft landscaping shall be fully completed at the latest prior to the occupation of the last dwelling.

Reason: To ensure that the approved scheme is fully implemented in a phased basis and available for the residents of the site.

8. Prior to the occupation of each individual unit biodiversity enhancements for bats (where appropriate), and birds shall be carried out in accordance with the Hampshire Ecological Services Ltd report dated 22 June 2018, with a minimum of three bat boxes provided for the site as a whole and a minimum of 2 bird boxes provided for each dwelling. The recommendations set out in the report for all protected and other species shall be carried out in full prior to the occupation of the final dwelling on the site.

Reason: To comply with Core Strategy Policy CS3 and to enhance biodiversity and mitigation for protected and other important species.

9. All planting, seeding or turfing comprised in the approved details of landscaping shall be carried out in the first planting and seeding seasons following the occupation of the buildings or the completion of the development, whichever is the sooner. Any trees or plants which within a period of 5 years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size or species, unless the Local Planning Authority gives written consent to any variation.

Reason: To ensure the appearance and setting of the development is satisfactory and to comply with Policy CS2 of the Local Plan for New Forest District outside the National Park (Core Strategy).

10. All external works (hard and soft landscape) shall be carried out in accordance with the approved plans and details within one year of commencement of development and maintained thereafter as built and subject to changes or additions only if and as agreed in writing with the Local Planning Authority.

Reason: To ensure the achievement and long term retention of an appropriate quality of development and to comply with Policy CS2 of the Local Plan for the New Forest District outside the National Park (Core Strategy).

11. The developer shall comply with the need to mitigate the impact of the development on the New Forest and Solent Coast European Nature Conservation Sites. Prior to occupation of any of the units hereby approved, the applicant's proposals must:

- (a) Provide for mitigation in accordance with the New Forest District Council Mitigation Strategy for European Sites SPD, adopted in June 2014 (or any amendment to or replacement for this document in force at the time), or for mitigation to at least an equivalent effect;
- (b) Provide details of the manner in which the proposed mitigation is to be secured. Details to be submitted shall include arrangements for the ongoing maintenance and monitoring of any Suitable Alternative Natural Green Spaces which form part of the proposed mitigation measures together with arrangements for permanent public access thereto.
- (c) The development shall be carried out in accordance with and subject to the approved proposals.

Reason: The impacts of the proposed development must be mitigated before any development is carried out in order to ensure that there will be no adverse impacts on the New Forest and Solent Coast Nature Conservation Sites in accordance with Policy DM3 of the Local Plan Part 2 and the New Forest District Council Mitigation Strategy for European Sites Supplementary Planning Document.

12. Before first occupation of the development hereby approved, a surface water sustainable drainage system (SuDS) shall be designed and installed to accommodate the run-off from all impermeable surfaces including roofs, driveways and patio areas on the approved development such that no additional or increased rate of flow of surface water will drain to any water body or adjacent land and that there is capacity in the installed drainage system to contain below ground level the run-off from a 1 in 100 year rainfall event plus 30% on stored volumes as an allowance for climate change as set out in the Technical Guidance on Flood Risk to the National Planning Policy Framework.

Infiltration rates for soakaways are to be based on percolation tests in accordance with BRE 365, CIRIA SuDS manual C753, or a similar approved method.

In the event that a SuDS compliant design is not reasonably practical, then the design of the drainage system shall follow the hierarchy of preference for different types of surface water drainage system as set out at paragraph 3(3) of Approved Document H of the Building Regulations.

The drainage system shall be designed to remain safe and accessible for the lifetime of the development, taking into account future amenity and maintenance requirements.

Reason: In order to ensure that the drainage arrangements are appropriate and in accordance with Policy CS6 of the Core Strategy for the New Forest District outside the National Park and the New Forest District Council and New Forest National Park Authority Strategic Flood Risk Assessment for Local Development Frameworks.

Notes for inclusion on certificate:

1. In accordance with paragraph 38 of the National Planning Policy Framework and Article 35 of the Town and Country Planning (Development Management Procedure) (England) Order 2015, New Forest District Council takes a positive and proactive approach, seeking solutions to any problems arising in the handling of development proposals so as to achieve, whenever possible, a positive outcome by giving clear advice to applicants.

In this case all the above apply. The Council and applicant have agreed various amendments to the plans to overcome issues raised with this application to the extent necessary in achieving a positive recommendation and outcome.

2. The applicant should be aware that as the proposals include the formation of a new or altered access onto the highway, which will include works within the highway, these works will be required to be undertaken on accordance with standards laid down by, and under a license agreement with, the Highway Authority.
Full details of how to apply can be found at:
<https://www.hants.gov.uk/transport/licencesandpermits/roadopening>

3. The development subject to this notice falls within a highlighted proximity of a mains gas pipe which is considered a major hazard.

The applicant/agent/developer is strongly advised to contact the pipeline operator PRIOR to ANY works being undertaken pursuant to the permission granted/confirmed by this notice.

Address is:

Southern Gas Networks Plc
SGN Plant Location Team
95 Kilbirnie Street
Glasgow
G5 8JD
Tel: 0141 184093 OR 0845 0703497

Search online at:

www.linesearchbeforeyoudig.co.uk

SGN personnel will contact you accordingly.

4. The application drawings/form does not state how surface water will be discharged of. There should be no increase in flow to any surface water system or watercourse. The reason for this is that most of the watercourses in the New Forest catchment flood out of bank during high rainfall which can cause property flooding. A predicted 30% increase in flow rate caused by climate change over the next 100 years is likely to cause more properties to flood. NFDC Building Control can advise on the disposal of surface water.
5. Wildlife and protected species are widespread in the New Forest District and the issuing of planning consent should not be taken as acceptance that they may not be present at the time of development operations. Given that disturbance or harm to wildlife can result in criminal offences being committed by those undertaking or commissioning works, due regard should be given to the law and relevant professional advice. (Whilst professional information supporting this application suggests risks to protected species

may be low, regard should be given to ecological advice and) as wildlife is mobile and may occupy sites where evidence was not previously found, the risk of presence should be appropriately addressed during works. If evidence of protected species (such as bats, nesting birds and reptiles) is encountered, works should stop immediately and Natural England, as well as an ecological consultant, contacted for advice, Works should only proceed in accordance with the advice provided.

6. In discharging condition No.11 above the Applicant is advised that appropriate mitigation is required before the development is occupied, either by agreeing to fund the Council's Mitigation Projects or otherwise providing mitigation to an equivalent standard.

In this case the applicant has already entered into an earlier S106 Agreement and it is suggested that the current application needs to be linked with that agreement by way of a fresh agreement so that the money paid can be transferred to this new permission.

7. The developer is reminded of the need for a Section 278 Highways Act Minor Works license for any new or altered access onto the public highway. Full details of how to apply can be found on the County Council web site.

Further Information:

Stephen Belli

Telephone: 023 8028 5588



New Forest
DISTRICT COUNCIL

Tel: 023 8028 5000
www.newforest.gov.uk

David Groom
Service Manager
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SO43 7PA

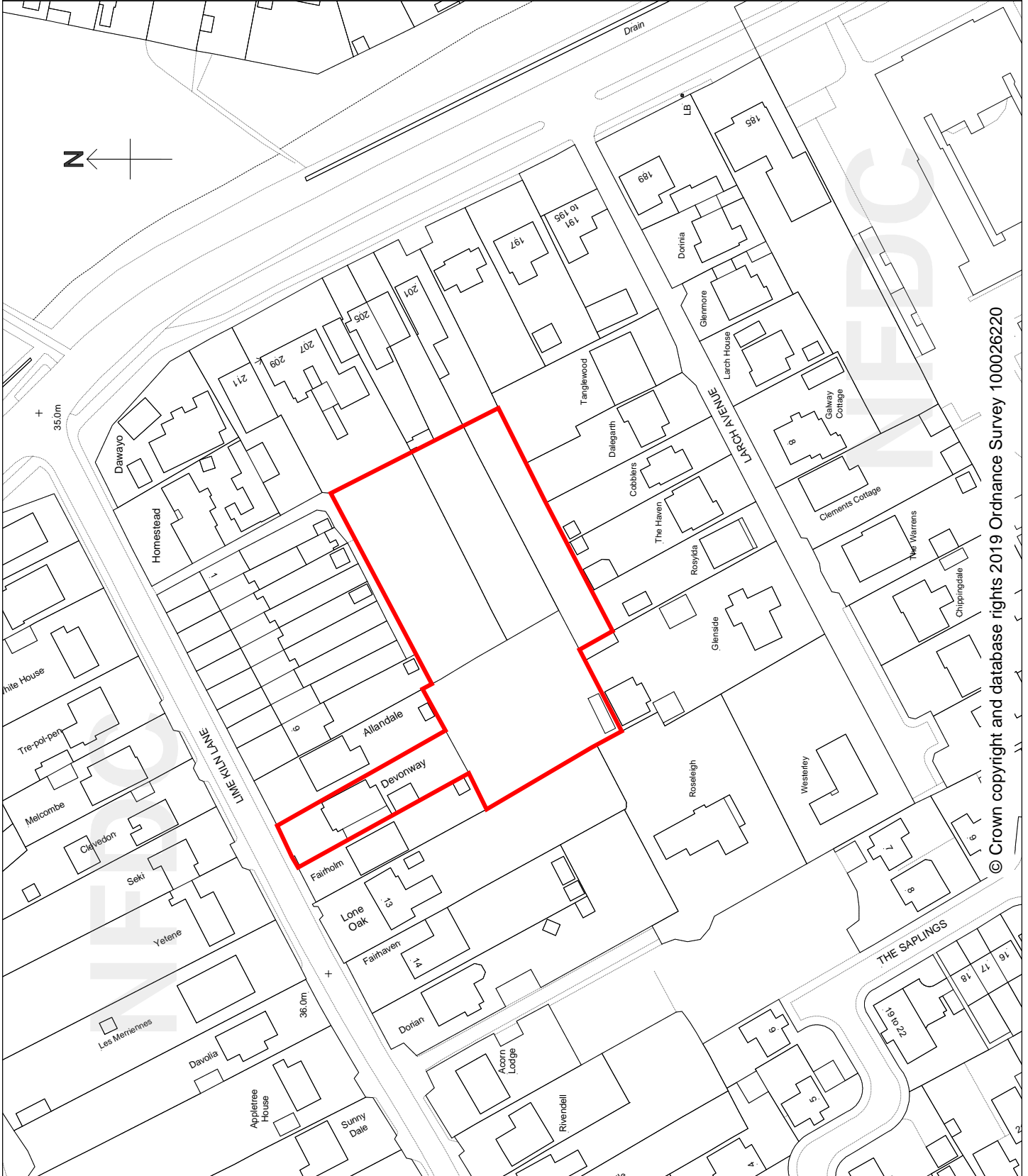
**Planning Development
Control Committee**
May 2019

Item No: 3a

Site of 11 Lime Kiln Lane
& R/O 201-209 Long Lane
Holbury Fawley
18/10527

Scale 1:1250

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the internet, it will not be to
scale.



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Application Number: 19/10230 Full Planning Permission

Site: BEACH HUT 6A, HORDLE CLIFF BEACH HUTS, CLIFF ROAD,
MILFORD-ON-SEA SO41 0NW

Development: Change of use of beach for the relocation of existing beach hut
on plot 286 to plot 6a

Applicant: Miss Rowland

Target Date: 15/04/2019

RECOMMENDATION: Refuse

Case Officer: Kate Cattermole

1 REASON FOR COMMITTEE CONSIDERATION

Contrary to Parish Council view

2 DEVELOPMENT PLAN, OBJECTIVES AND POLICIES

Constraints

Plan Area
Aerodrome Safeguarding Zone
Site of Special Scientific Interest

Plan Policy Designations

Green Belt
Countryside

National Planning Policy Framework

Chap 12: Achieving well designed places
NPPF Ch.13 - Protecting Green Belt land

Core Strategy

CS2: Design quality
CS3: Protecting and enhancing our special environment (Heritage and Nature
Conservation)
CS6: Flood risk

Local Plan Part 2 Sites and Development Management Development Plan Document

DM2: Nature conservation, biodiversity and geodiversity

Supplementary Planning Guidance And Documents

None relevant

3 RELEVANT LEGISLATION AND GOVERNMENT ADVICE

Section 38 Development Plan
Planning and Compulsory Purchase Act 2004
National Planning Policy Framework

4 RELEVANT SITE HISTORY

None relevant

5 COUNCILLOR COMMENTS

No comments received

6 PARISH / TOWN COUNCIL COMMENTS

Milford On Sea Parish Council: recommend permission

7 CONSULTEE COMMENTS

7.1 Natural England: no objection The temporary nature of the hut's positioning on sleepers, and that it is not located on the cliff face but in front of it, sufficiently mitigates for any potential influence on the coastal natural processes within this SSSI. In addition the application does not represent an increased development footprint on the SSSI as a whole, because the original site is close to , or within, an eroding section of coast, and no new hut will be allowed to be located there.

7.2 NFDC Landscape: no objection There is no objection to this application as an individual, but it may open the door to ad hoc and random proposals for the re siting of the remaining condemned beach huts, which should be resisting. A better approach would be to collectively consider the matter to bring a larger scheme forward together that properly considers landscape (seascape) and visual character, and potential impacts of the SSSI interest, with the knowledge that the potential relocation is a short term solution anyway, given the expected natural coastal changes.

7.3 Coastal Protection: the applicant should be aware that there is always an inherent risk to any beach hut located in this vicinity from inundation by the sea or damage from ground movement. The Council will not undertake coast protection works to protect beach huts.

7.4 Hampshire & IOW Wildlife Trust: no objection The Trust is satisfied that the vacated plot would not be reused and on this additional information have removed their original objection

8 REPRESENTATIONS RECEIVED

36 Representations have been received: 14 in favour: and 22 against:

8.1 Objection:

- on a section of undeveloped beach contrary to DW-C9
- would stand out being only hut on beach whereas others in this group are in elevated position, would detract from Green Belt

- would prevent natural erosion of the cliffs to detriment of SSSI
- would create precedent for similar development
- would relocate hut from NFDC land to Barker Mill owned beach
- adverse impact upon wildlife
- creation of new plot as opposed to a replacement hut
- NFDC supplementary planning guidance for beach huts only allows for huts in defined locations
- contrary to previous advice that no new huts will be allowed
- change view
- site is currently an open area of beach
- hut would be prominent by its siting, within group of elevated huts
- plots available on NFDC land
- NFDC responsibility to find alternative locations for huts lost to the erosion of the beach
- no justification to extend beach hut 'estate', taking into account the restrictions placed on alterations and improvements to existing huts
- if erosion of beach continues, could push huts further west along the beach
- destroy the quiet and tranquil area of the beach and change the character of this section of beach
- due to tranquility of this part of beach, huts sell for a premium
- would occupy a natural gap and jut out on the beach
- there is an appropriate site on NFDC land between numbers 38 and 40
- number of derelict huts and others in poor condition and a further 6 vacant plots, therefore 13 locations within designated hut area where NFDC could accommodate the applicant and other owners who find themselves within the same position of losing their huts

8.2 Support:

- would not harm view of other huts
- hut is small and would not interfere with bank
- no impact on neighbouring huts
- no detrimental impact on area
- applicant takes great pride in her current hut and it is well maintained, relocation would enhance that area of the beach
- beach huts integral part of character of the beach and encourage tourists
- would not impact on landscape
- existing huts on cliff face more intrusive to area than one hut on the shingle beach
- proposed siting unique, so would not set a precedent as no similar location available
- given number of huts lost on wider beach/cliff frontage since change in sea defence policy in 2011, relocation of one hut is insignificant
- beach is there for all to enjoy

8.3 The applicant has commented in support of the application as follows:

- visits hut several times a week and reports vandalism and other problems to Coastal, therefore would provide a regular presence and extra security that would benefit other owners on the Barker Mill land
- would not impact upon openness of the area, as would not interfere with the cliff face between beach huts 6 and 7
- would be sited on the widest stretch of shingle in the beach and there is no current marine erosion, therefore no exposure to fossils, no effect on vegetation and associated species

- The condition of the SSSI in this location is unfavourable due to the existence of the beach huts along the beach and cliff face, which restricts natural coastal processes
- Should sea levels rise flooding the entire beach, would gladly remove hut

9 CRIME & DISORDER IMPLICATIONS

None Relevant

10 LOCAL FINANCE CONSIDERATIONS

Local financial considerations are not material to the decision on this application

11 WORKING WITH THE APPLICANT/AGENT

In accordance with paragraph 38 of the National Planning Policy Framework and Article 35 of the Town and Country Planning (Development Management Procedure) (England) Order 2015, New Forest District Council takes a positive and proactive approach, seeking solutions to any problems arising in the handling of development proposals so as to achieve, whenever possible, a positive outcome by giving clear advice to applicants.

Consideration has been given to all the comments received both from Statutory consultees, third parties and the applicant. However, the development is inappropriate development in the Green Belt, and the harm that would arise from the siting of the proposed beach hut would not be outweighed by any other circumstances and as such refusal is recommended in this instance.

12 ASSESSMENT

- 12.1 An existing hut has been removed from its current position on NFDC land (away from the application site), which has been cordoned off due to the ongoing situation with regard to the erosion of the beach. Huts in this location are being removed, and there is no intention to replace them. The hut is a modest gable fronted dual pitched timber hut, in keeping with other huts in its previous location.
- 12.2 This planning application is for the relocation of this existing beach hut to the western end of the beach, onto land which is within the designated Green Belt. There are a group of approximately 20 huts on this section of beach, but these are all set up on the cliff and accessed by steps, and not on the beach as now proposed.
- 12.3 The plot to be vacated will not be reused, due to the condition of the beach. Therefore, the relocation of this hut will not result in the cumulative increase of huts across the overall beach at Hordle Cliff. However the proposal will involve a change of use of land which would result in the effective loss of part of the beach. Whilst the area involved is modest in size and the beach in this location is relatively wide there is a concerns about the principle of this and associated cumulative impact that could result. The Coastal team have reiterated that it will not undertake coast protection works to protect beach huts.
- 12.4 The main issues in this case are whether the development is appropriate within the Green Belt, its visual impact and affect on nature conservation designations, specifically the SSSI.

12.5 Green Belt:

- 12.5.1 The beach hut is sited within the designated Green Belt. The National Planning Policy Framework (NPPF) identifies in Para 133 the essential characteristics of the Green Belt as their openness and their permanence. It further states that: 'Inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances' (para 143). Para 144 goes on to state that when considering any planning application, substantial weight should be given to any harm to the Green Belt. Very special circumstances will not exist unless the potential harm resulting from the proposal is clearly outweighed by other considerations.
- 12.5.2 The construction of new buildings is considered inappropriate in the Green Belt, although there are exceptions to this including the replacement of a building, providing the building is in the same use and not materially larger than the one it replaces (para 145 (d)).
- 12.5.3 The proposed beach hut would utilise the existing hut and so would not be larger in scale or form, however as the hut would be relocated it would not meet this exception, as the western end of the beach where the beach hut is proposed is less developed and so needs to be considered within this context. By reason of the siting of the beach hut it would impact on the openness of the Green Belt, introducing built form into this currently open area of the beach.
- 12.5.4 The proposed development would constitute inappropriate development within the Green Belt which is by definition harmful and it would adversely impact its openness. As a matter of principle the development is therefore contrary to the purposes of including land within the Green Belt and the policy framework within the NPPF, there are no special circumstances that outweigh the harm to justify any exception and therefore this development cannot be supported.

12.6 Affect on nature conservation designations:

- 12.6.1 The application site is located within the Highcliffe to Milford Cliffs SSSI and in the buffer zones of the Solent and Southampton Water Ramsar Solent and Isle of Wight Lagoons SAC and Solent Maritime SAC.
- 12.6.2 Policy DM2 of the Local plan part 2 relates to Nature conservation, biodiversity and geodiversity. This policy states that development which would be likely to affect the integrity of a designated SAC, SPA or listed Ramsar site will not be permitted unless there is no alternative solution and there are imperative reasons of overriding public which would justify the development. Development within or outside a SSSI which would be likely to adversely affect the site will not be permitted unless the benefits of the development outweigh both the adverse impacts on the site and any adverse impacts on the wider network of SSSIs.
- 12.6.3 Natural England and the Hampshire & IOW Wildlife Trust have been consulted. They have raised no objection to the proposed beach hut in this location as there would be no cumulative increase in the number of overall huts across the wider beach. Furthermore, by reason of the temporary nature of the hut's positioning on the sleepers and the fact that it is not located on the cliff face this offers sufficient mitigation of any impact on the SSSI

12.7 Visual Impact:

- 12.7.1 By siting the hut directly on the shingle beach on sleepers, it would not interfere with the cliff face, and therefore would not be visually intrusive on the SSSI. However, the group of huts at the western end of the beach form a cohesive group and are characterised by being in an elevated position. Even though it is a modest sized hut, by reason of its siting directly on the beach, it would be conspicuous in its location and positioned forward of its immediate neighbours. Even though there are beach huts directly on the beach on the NFDC land, these are a reasonable distance away so would not provide immediate context to the siting of this hut. As such the proposed beach hut would appear incongruous in its setting, to the detriment of the character of this part of the beach.
- 12.7.2 The NFDC Landscape Team have noted the ad hoc arrangement of huts in wider beach scene and consider it would be difficult to resist a single hut in this location. However, concern has been expressed in their comments about further applications from other hut owners looking to relocate their condemned huts and the cumulative impact on landscape character of further huts in this location. If this hut were to be allowed, it would make it harder to resist others.

12.8 Other Matters:

- 12.8.1 The proposed beach hut would be sited directly on the beach and therefore lower than neighbouring huts. By reason of its relationship with the neighbouring huts, there would be no adverse impact upon their amenities.
- 12.8.2 A large number of representations have been received objecting and in support of this application. References have been made by objectors to the Beach Hut SPD, which was adopted in 2003, however this became defunct in 2005 and is no longer adopted policy. Furthermore, the policies referred to were in the New Forest District Local Plan First Alteration August 2005, but this plan has been subsequently superseded. There are no specific beach hut policies in the current Local Plan.

12.9 Conclusion

- 12.9.1 The proposed development is inappropriate within the Green Belt and as such is harmful. Furthermore it would be detrimental to the open character within the context of the less developed western end of the beach. All comments have been considered, as well as other material considerations but there are no very special circumstances that exist to outweigh the harm to the Green Belt that would be caused by the proposed inappropriate development. As such the recommendation is to refuse.
- 12.9.2 In coming to this recommendation, consideration has been given to the rights set out in Article 8 (Right to respect for private and family life) and Article 1 of the First Protocol (Right to peaceful enjoyment of possessions) of the European Convention on Human Rights. Whilst it is recognised that this recommendation, if agreed, may interfere with the rights and freedoms of the applicant to develop the land in the way

proposed, the objections to the planning application are serious ones and cannot be overcome by the imposition of conditions. The public interest and the rights and freedoms of neighbouring property owners can only be safeguarded by the refusal of permission.

13. RECOMMENDATION

Refuse

Reason(s) for Refusal:

1. The proposal is inappropriate development within the Green Belt and there are no very special circumstances that exist to outweigh the harm to the Green Belt that would result. Furthermore, by reason of its location it would undermine the openness and character within the context of the less developed western end of the beach creating an imposing and dominant form of development that would detract from the immediate cohesive group of existing beach huts and its wider context. As such it would be contrary to Policy CS2 of the Core Strategy for the New Forest District outside the National Park, and Chap 13 of the National Planning Policy Framework.

Notes for inclusion on certificate:

1. In accordance with paragraph 38 of the National Planning Policy Framework and Article 35 of the Town and Country Planning (Development Management Procedure) (England) Order 2015, New Forest District Council takes a positive and proactive approach, seeking solutions to any problems arising in the handling of development proposals so as to achieve, whenever possible, a positive outcome by giving clear advice to applicants.

Consideration has been given to all the comments received both from Statutory consultees, third parties and the applicant. However, the development is inappropriate development in the Green Belt, and the harm that would arise from the siting of the proposed beach hut would not be outweighed by any other circumstances and as such refusal is recommended in this instance.

2. The applicant should be aware that there is always an inherent risk to any beach hut located in this vicinity from inundation by the sea or damage from ground movement. The Council will not undertake coast protection works to protect beach huts.

Further Information:

Kate Cattermole

Telephone: 023 8028 5588



New Forest
DISTRICT COUNCIL

Tel: 023 8028 5000
www.newforest.gov.uk

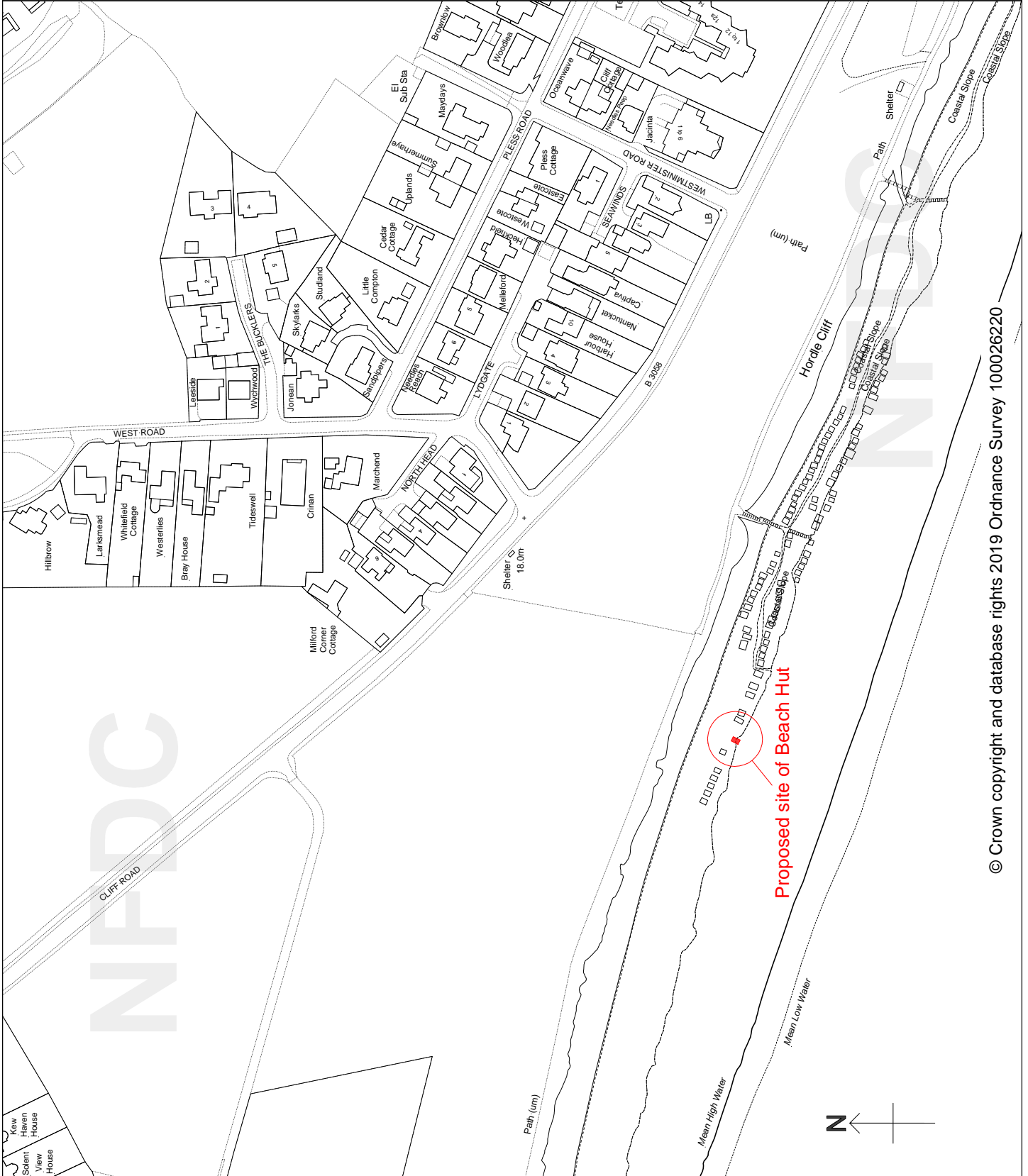
David Groom
Service Manager
Planning and Building Control
New Forest District Council
Appletree Court
Lyndhurst
SO43 7PA

**Planning Development
Control Committee**
May 2019

Item No: 3b
Beach Hut 6a
Hordle Cliff Beach Huts
Cliff Road Milford on Sea
19/10230

Scale 1:2500

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the internet, it will not be to
scale.



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Application Number: 18/11552 Full Planning Permission

Site: 9 THE PARADE, ASHLEY ROAD, ASHLEY,
NEW MILTON BH25 5BS

Development: Use as restaurant/winebar (Use Class A3/A4) (Retrospective)

Applicant: Mrs Bowen

Target Date: 26/03/2019

Extension Date: 03/05/2019

RECOMMENDATION: Grant Subject to Conditions
--

Case Officer: Jo Chambers

1 REASON FOR COMMITTEE CONSIDERATION

Contrary to Town Council view (in part) with regard to the level of control proposed.

2 DEVELOPMENT PLAN AND OTHER CONSTRAINTS

Built-up Area
Local Shopping Frontage
Plan Area
Planning Agreement
Aerodrome Safeguarding Zone

3 DEVELOPMENT PLAN, OBJECTIVES AND POLICIES

Core Strategy

Objectives

1. Special qualities, local distinctiveness and a high quality living environment
4. Economy
6. Towns, villages and built environment quality

Policies

CS1: Sustainable development principles
CS2: Design quality
CS5: Safe and healthy communities
CS10: The spatial strategy
CS20: Town, district, village and local centres

Local Plan Part 2 Sites and Development Management Development Plan Document

DM17: Local shopping frontages in the built-up areas of Totton, Hythe, Lyminster, New Milton, Ringwood and Fordingbridge

NPPF

NPPF Ch.2 - Achieving sustainable development
NPPF Ch. 6 - Building a strong, competitive economy
NPPF Ch.8 - Promoting healthy and safe communities
NPPF Ch.15 - Conserving and enhancing the natural environment

4 RELEVANT LEGISLATION AND GOVERNMENT ADVICE

Section 38 Development Plan
Planning and Compulsory Purchase Act 2004
National Planning Policy Framework

5 RELEVANT SUPPLEMENTARY PLANNING GUIDANCE AND DOCUMENTS

SPD - New Milton Local Distinctiveness - Character Area 4 Ashley

6 RELEVANT PLANNING HISTORY

Proposal	Decision Date	Decision Description	Status
15/10564 Use as coffee shop & bistro	02/10/2015	Granted Subject to Conditions	Decided

7 PARISH / TOWN COUNCIL COMMENTS

7.1 New Milton Town Council: acceptable - (non-delegated)

The Committee whole heartily supports the application, as supported by New Forest Core Strategy policy CS20 (f) regarding Town, district, village and local centres. There is concern however that the restriction suggested by Environmental Health, forcing trading to cease at 14:00hrs on Sundays and Bank Holidays will unfairly penalise the business when nearby takeaways operate until 2300hrs. This is inconsistent. Also the Premises Licence could be called for review should its operations disturb residents.

7.2 Additional comments:

The members reluctantly agree with the suggestion of 1800hr closure Sundays and Bank Holidays. We would like officer reassurance that if the premises seek an amendment to this closure time after a suitable period without complaint, that it would be treated favourably. The EHO states that no assessment has been made on the partitions effectiveness to prevent noise to residents. It appears that the site is not going through the same process that 8 Station Road had to, on application 16/11594. Condition 2 refers to sound proofing. Surely if this aspect was sorted the premises could open for longer and not negatively affect the nearby residences. It may cost more initially, but would put the premises in a much stronger trade position. Please could we have your reassurance that the two sites are being treated in the same way, or that the current soundproofing is adequate. NMTC would be happy to drop the non-delegated status of their comment if officers are able to confirm the above.

7.3 Further Comments:

Whilst its appreciated that there has been positive change since Town Council initially responded [regarding proposed condition requiring 18:00hrs closing on Sundays and Bank Holidays], it is considered that the site is not being treated in the same way as its neighbouring outlets or that within the town that have residences above.

8 COUNCILLOR COMMENTS

None

9 CONSULTEE COMMENTS

9.1 NFDC Environmental Health (Pollution) :no objection but recommend conditions regarding cooking equipment and hours of use.

10 REPRESENTATIONS RECEIVED

None

11 CRIME & DISORDER IMPLICATIONS

None

12 LOCAL FINANCE CONSIDERATIONS

Local financial considerations are not material to the decision on this application

13 WORKING WITH THE APPLICANT/AGENT

In accordance with paragraph 38 of the National Planning Policy Framework and Article 35 of the Town and Country Planning (Development Management Procedure) (England) Order 2015, New Forest District Council takes a positive and proactive approach, seeking solutions to any problems arising in the handling of development proposals so as to achieve, whenever possible, a positive outcome by giving clear advice to applicants.

In this case all the above apply and discussions have taken place with the applicant regarding the need for planning conditions to restrict the types of cooking equipment/processes and hours of opening. These conditions have been agreed and as planning consent is recommended

14 ASSESSMENT

14.1 This application is retrospective and was submitted as a result of an enforcement investigation which revealed the premises were being used for mixed A3 (Restaurants and cafes) /A4 (Drinking establishments) use.

14.2 9 The Parade is a ground floor unit located within a parade of other units. forming part of a Local Shopping Frontage, as identified on both the proposals map of the Local Plan Part 2: Sites and Development Management Development Plan. It is also within the New Milton Local Distinctiveness SPD. There are residential properties opposite and residential flats occupy the upper floors above the parade. Both the ground floor unit at no. 9 and the flat above are in the same ownership but are subject to separate lease arrangements. Notice has been served on the owner of the premises.

- 14.3 Permission was granted in 2015 (15/10564) for a coffee shop and bistro (A3 Restaurants and cafes). This planning permission was granted in the context that the business and the flat above were in the same ownership and use. This allowed for the sale of food and drink for consumption on the premises. The planning permission includes conditions restricting hours and the cooking processes/type of cooking equipment. These conditions specified that there should be no activity on the site beyond the hours of 08:00 and 23:00 Mondays to Saturdays and 8:00am to 14:00 on Sundays and Bank Holidays; and no food or drink consumed on the outside areas other than between the hours of 9:00am to 21:00pm hours Monday to Saturdays and 9:00am to 14:00 on Sundays and Bank Holidays.
- 14.4 The current application seeks to formulate the change of use from A3 to allow a mixed A3/A4 use and an increase in opening hours until 23:00hrs on all days of the week. A4 Drinking establishments allows for the use as a public house, wine bar or other drinking establishments.
- 14.5 The main issues for consideration in the determination of this planning application relate to:
- Principle of development /use;
 - Impact on amenity;
 - New Milton Town Council Comments
- 14.6 Principle of Development/Use
- This Local Shopping Frontage provides for the day to day shopping and service needs of the area (Policy DM17). Policy CS20 seeks to ensure active ground floor frontages and permits new retail and other commercial, service and leisure uses to help meet the day to day needs of the local community and be of a scale appropriate to the role of the local centre. Therefore, the proposed change to mixed A3/A4 use is acceptable in principle with regard to Policies DM17 and CS20.
- 14.7 Impact on Amenity
- The original planning application for A3 use at these premises was retrospective. At the time of considering that application it was noted that the first floor flat was under the same ownership as the café and that the cafe use had taken place at the premises for some months without complaints. It was considered that the amenity of residential properties on the upper floors of the parade and opposite could be protected by planning conditions restricting opening hours and the type of cooking appliances to be used. These factors negated the need for a full extraction system and limited the potential associated noise related matters. With regard to possible noise transference to the residential flat, it was considered that the absence of any complaints regarding the application and the common ownership with the ground floor unit would minimise the impact making it acceptable subject to the specified conditions. The existing A3 use and restrictive conditions are an important material consideration in the determination of the current planning application.
- 14.8 Paragraph 180 of the NPPF requires new development to be appropriate for its location and to mitigate potential adverse impacts to avoid noise giving rise to significant adverse impacts on health and quality of life.

- 14.9 Environmental Health has records of two complaints (one in 2017, the other in 2018) regarding noise from patrons on the pavement and noise from inside the premises at 00:30hrs and 03:00hrs. This was a breach of planning control.
- 14.10 Environmental Health has recommended conditions similar to those attached to the existing planning permission with regard to the type of cooking equipment (plus air fryer used by the applicant) and hours of opening. The limitation of the type of cooking equipment negates the need for extraction ventilation equipment that would raise further issues. Limiting the hours of use is intended to provide some period of quiet for residents above, particularly as no assessment has been made regarding the effectiveness of the partition between the properties to provide mitigation of noise from such a use.
- 14.11 These concerns reflect the planning requirement to mitigate potential adverse impacts arising from the proposed A3/A4 use thereby safeguarding the satisfactory amenity of the first floor residential accommodation and other nearby housing. In securing this, there is an expectation that the planning system will be proportionate in its actions.
- 14.12 The level of control will be influenced by the planning conditions attached to the existing A3 use operating at this site; absence of objections received from neighbours in response to the current planning application and no objection from Environmental Health Officers subject to appropriate planning conditions on the basis of the site's history and that the activities of the unit are not subject to other controls.
- 14.13 Consideration has been given to a condition requiring the submission of acoustic reports. However, this is not considered proportionate given the extant A3 planning permission and agreement by the applicant to proposed conditions. Therefore, conditions are recommended restricting opening hours and cooking equipment/processes.
- 14.14 It is considered that the proposed conditions are reasonable and proportionate given the presence of a flat above and the requirement of para 180 of the current revised NPPF to mitigate and reduce to a minimum, potential adverse impacts resulting from noise from new development – and avoid noise giving rise to significant adverse impacts on health and the quality of life. In particular this is balanced with the requirement in para 80 NPPF that significant weight should be placed on the need to support economic growth. It is considered that the proposed conditions strike an appropriate balance and meet the required tests in this case.

New Milton Town Comments

- 14.15 New Milton Town Council has recommended approval of the applied for opening times to 23:00hrs, suggesting other legislation is available to control potential nuisance. It has also been suggested that acoustic reports should be required for the premises as was the case at 8 Station Road (planning permission 16/11594). The Town Council wishes to ensure a consistency of approach.

- 14.16 In response to comments from New Milton Town Council, it is felt that a termination time on Sundays and Bank Holidays of 18:00hrs for internal use only, and would still afford residents some period of quiet, with no alteration to the condition for the use of outside space.
- 14.17 Each planning application must be determined on its own merits. With regard to the Town Council comments, there are important differences between the current application at 9 The Parade and that previously considered at 8 Station Road:
- 9 The Parade already benefits from an A3 use with restrictive conditions on opening hours. It seeks permission for a change to mixed use A3/A4 (Drinking Establishments).
 - In contrast, 8 Station Road sought permission for a change of use from A1 (shops) to A4 (Drinking Establishments). Objections were received from residential properties regarding potential noise and disturbance from the change of use.
 - There is a greater potential effect on residential amenity arising from a change of use from A1 (shops) to A4 (Drinking establishments) than from A3 (Restaurants & cafes) to a mixed A3/A4 use as proposed at 9 The Parade.
 - Residential properties were located above, opposite and to the rear of 8 Station Road, which warranted a condition relating to acoustic matters.
- 14.18 In that context, given the greater potential for noise and disturbance to residential properties at Station Road, a condition regarding an acoustic report was required. In the circumstances, this was appropriate and justified given the requirement in the National Planning Guidance that noise needs to be considered when new developments may create additional noise and disturbance and the requirement to prevent both new and existing development from contributing to or being adversely affected by noise pollution.
- 14.19 It would not be possible to control concerns regarding the residential amenity of the first floor flat via the Licensing Act 2003. These concerns lie with non-licensable activities, and the proposal is unlikely to cause nuisance to sufficient numbers of properties to constitute a public nuisance.
- 14.20 Furthermore, the applicant has been consulted and has agreed to the proposed conditions.

14.21 Other Matters

It is noted that there is a layby outside The Parade which offers off-street parking. This remains unchanged from the previous application on this site. No parking concerns have been raised or identified in the consideration of this application.

14.22 Conclusion

Officers are in agreement with New Milton Town Council regarding the need for consistency in planning decision-making. However, each application must be determined on its own merits. The circumstances of the current application differ from those at 8 Station Road as identified in

the assessment set out above. There is clear planning justification for the proposed conditions responding to the material planning considerations relating to this site and that the proposed conditions are necessary, relevant to the development to be permitted and reasonable in all other respects. They protect residential amenity whilst allowing the needs of the local community to be supported and a young local business the opportunity to develop. As such the application is recommended for approval, subject to conditions restricting hours of operation and the types of cooking equipment to be used.

- 14.23 In coming to this recommendation, consideration has been given to the rights set out in Article 8 (Right to respect for private and family life) and Article 1 of the First Protocol (Right to peaceful enjoyment of possessions) of the European Convention on Human Rights. Whilst it is recognised that there may be an interference with these rights and the rights of other third parties, such interference has to be balanced with the like rights of the applicant to develop the land in the way proposed. In this case it is considered that the protection of the rights and freedoms of the applicant outweigh any possible interference that may result to any third party.

15. RECOMMENDATION

Grant Subject to Conditions

Proposed Conditions:

1. The development permitted shall be carried out in accordance with the following approved plans: Site Location Plan #00382513-5A42FA, Block Plan #00382511-D1EADE

Reason: To ensure satisfactory provision of the development.

2. No cooking processes shall be undertaken other than the preparation of hot and cold beverages, the use of soup kettle, toaster, the heating of food in a microwave oven and/or a sandwich/panini type toaster and/or a waffle iron and hot plate and griddle and/or airfryer. No other cooking equipment shall be used without the prior written approval of the Local Planning Authority.

Reason: To minimise odour nuisance, in the interests of environmental health and to comply with Policy CS2 of the Core Strategy for New Forest District outside the National Park.

3. No activity shall take place within the building in connection with the approved use other than between the hours of 08:00 - 23:00 Mondays to Saturdays and 08:00 - 18:00 on Sundays and Bank Holidays.

Reason: To safeguard the amenities of nearby residential properties in accordance with Policy CS2 of the Core Strategy for the New Forest District outside the National Park.

4. The outside area shall not be used other than between the hours of 09:00 - 21:00 Mondays to Saturdays and 09:00 -14:00 on Sundays and Bank Holidays.

Reason: To protect the amenities of the surrounding residential properties in accordance with Core Strategy policy CS2 of the adopted New Forest District Local Plan First Alteration.

Notes for inclusion on certificate:

1. In accordance with paragraph 38 of the National Planning Policy Framework and Article 35 of the Town and Country Planning (Development Management Procedure) (England) Order 2015, New Forest District Council takes a positive and proactive approach, seeking solutions to any problems arising in the handling of development proposals so as to achieve, whenever possible, a positive outcome by giving clear advice to applicants.

In this case all the above apply and discussions have taken place with the application regarding the need for planning conditions to restrict the types of cooking equipment/processes and hours of opening. These conditions have been agreed with the applicant and as such planning consent is recommended.

Further Information:

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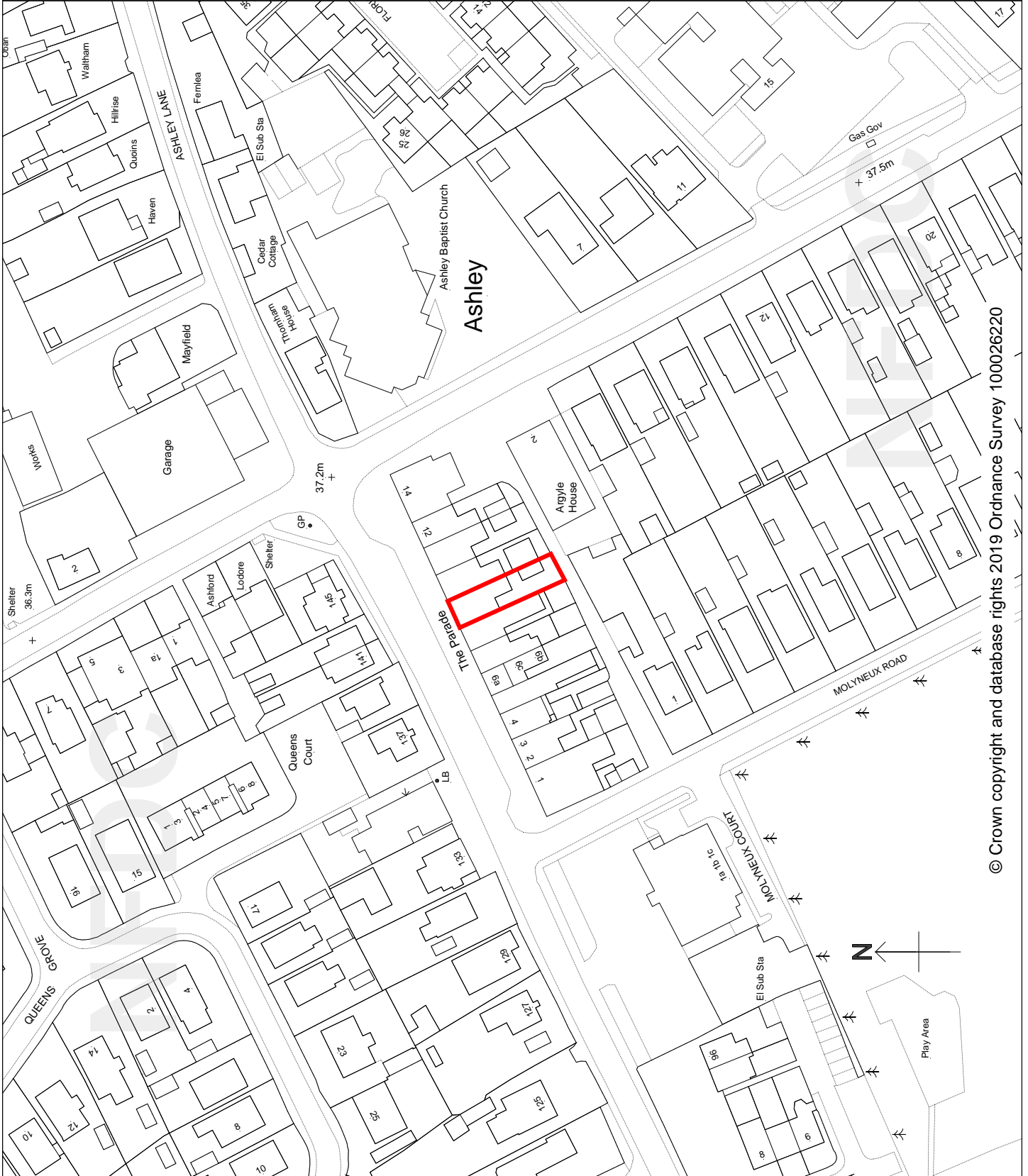
David Groom
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Lyndhurst
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**Planning Development
Control Committee**
May 2019

Item No: 3c
9 The Parade
Ashley Road
Ashley New Milton
18/11552

Scale 1:1250

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