

NOTICE OF MEETING

Meeting: PLANNING COMMITTEE

Date and Time: WEDNESDAY, 11 SEPTEMBER 2019, AT 9.00 AM*

Place: THE COUNCIL CHAMBER, APPLETREE COURT,
LYNDHURST

Telephone enquiries to: Lyndhurst (023) 8028 5000
023 8028 5588 - ask for Karen Wardle
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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: 023 8028 5345 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 14 August 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) **Land of the Old Cinema in Junction Road, Maynard Road, Totton (Application 18/11666) (Pages 1 - 20)**
Two storey building to comprise 4 flats; associated landscaping; cycle store; fenestration alterations to The Old Cinema building
RECOMMENDED:
Grant subject to conditions
- (b) **Abbeyfield House, 17 Herbert Road, New Milton (Application 19/10264) (Pages 21 - 38)**
2 blocks of 5 flats (10 in total); associated carports; bin stores; demolition of existing sheltered accommodation
RECOMMENDED:
Grant subject to conditions
- (c) **Fawley Refinery, Block 36B, Marsh Lane, Fawley (Application 19/10476) (Pages 39 - 64)**
Two re-fueling units consisting of Hydrogen unit & Hydrotreater including 2 stacks about 50 metres high (Block 36B); Automotive diesel oil storage tank (Block 13)
RECOMMENDED:
Grant subject to conditions
- (d) **21 St Johns Street, Hythe (Application 19/10690) (Pages 65 - 72)**
Display internally illuminated wall mounted sign; display non-illuminated post mounted sign (Application for Advertisement Consent)
RECOMMENDED:
Refuse
- (e) **7 Charnwood Close, Totton (Application 19/10720) (Pages 73 - 80)**
Use as residential garden land and erect fence (Retrospective)
RECOMMENDED:
Refuse

(f) **Land of Orchard House, New Valley Road, Milford-on-Sea (Application 19/10889) (Pages 81 - 94)**

Detached dwelling with integral garage; hard surfacing; detached garage

RECOMMENDED:

Grant subject to conditions

4. DELEGATION OF POWERS TO OFFICERS

Members are requested to approve a minor addition to two of the current delegations of powers. The proposed amendments are in bold type:

PLG 39	Town and Country Planning Act 1990 (s.198 and s.211) and Planning (Listed Buildings and Conservation Areas) Act 1990, (s.69)	To determine applications to do works to trees that are subject to protection by a Tree Preservation Order, and to impose such conditions on any consent as he or she deems appropriate	Executive Head, or Chief Planning Officer, or Environmental Design Team Leader, or Development Management Team Leader, or Policy and Plans Team Leader or Senior Tree Officer
PLG 40	Town and Country Planning Act 1990 (s.211) Planning (Listed Buildings and Conservation Areas) Act 1990, (s.69)	To determine whether or not to object to prior notification of an intention to do works to a tree within a conservation area	Executive Head, or Chief Planning Officer, or Service Manager, or Environmental Design Team Leader, or Development Management Team Leader, or Policy and Plans Team Leader or Senior Tree Officer

RECOMMENDED:

That the above addition to delegations PLG 39 and 40 be approved.

5. DATES OF MEETINGS

To agree the following dates of meetings for the Planning Committee (Wednesdays at 9.00 a.m.)

10 June 2020	9 December 2020
8 July 2020	13 January 2021
12 August 2020	10 February 2021
9 September 2020	10 March 2021
14 October 2020	14 April 2021
11 November 2020	12 May 2021

6. ANY OTHER ITEMS WHICH THE CHAIRMAN DECIDES ARE URGENT

To: Councillors:

Christine Ward (Chairman)
Christine Hopkins (Vice-Chairman)
Sue Bennison
Hilary Brand
Fran Carpenter
Rebecca Clark
Anne Corbridge
Kate Crisell
Arthur Davis
Jan Duke

Councillors:

Barry Dunning
Allan Glass
David Hawkins
Maureen Holding
Mahmoud Kangarani
Joe Reilly
Tony Ring
Ann Sevier
Beverley Thorne
Malcolm Wade

Application Number: 18/11666 Full Planning Permission

Site: LAND OF THE OLD CINEMA IN JUNCTION ROAD, MAYNARD ROAD, TOTTON SO40 3BU

Development: Two storey building to comprise 4 flats; associated landscaping; cycle store; fenestration alterations to The Old Cinema building

Applicant: Yeganegy

Target Date: 11/02/2019

Extension Date: 11/09/2019

Link to case file: [view online here](#)

1 SUMMARY OF THE MAIN ISSUES

1.1 The following matters are considered to be the main issues to be taken into account when determining this application. These, and all other relevant considerations, are set out and considered in Section 11, of this report after which a conclusion on the planning balance is reached.

- 1) the principle of development at this site
- 2) the effect on the character and appearance of the area,
- 3) the effect on the living conditions of the adjoining neighbouring properties,
- 4) the effect on public highway safety,
- 5) the effect on the living conditions of future occupiers given the close proximity to the delivery entrance and service yard at the adjacent supermarket.
- 6) the effect on the living conditions of future occupiers, with particular regards to risk to human health, given the close proximity to the railway level crossing in Junction Road, where stationary vehicles in the road significantly contribute to the general poor air quality in the area.

1.2 This matter is being considered by the Committee as the recommendation is contrary to the views of the Town Council

2 THE SITE

2.1 The application site relates to a vacant piece of land fronting onto Maynard Road to the south west of a block of flats known as 'The Old Cinema', formerly named 'Savoy House' within the town centre of Totton. This application also includes part of 'The Old Cinema' and the surrounding land. This vacant parcel of land is largely laid to hardstanding and is in an untidy and neglected condition. Currently, there is no access into this area of land.

2.2 The application site is bounded by a 3 metre high wall on its western side, beyond which is the service yard for Asda Supermarket. To the east and south-east side of the site is a community hall, which is an attractive building that makes a positive contribution to the character of the area. 'Totton Timber' lies directly opposite the site. The 'Old Cinema' is a 2-3 storey residential building in which there are 21 individual flats.

- 2.3 The site lies within the town centre of Totton, very close to all the amenities and facilities including public transport. The site occupies a prominent position in the street scene, in which Maynard Road is a busy road linking Totton with Eling. The site lies within a highly accessible location. It is within a very mixed area comprising residential, retail and community uses. Terraced housing lies to the east of the site in Junction Road.

3 THE PROPOSED DEVELOPMENT

- 3.1 This application seeks permission for the erection of a two storey building to accommodate 4 two bedroom residential flats, a cycle store, together with landscaping and a 1.5 metre high boundary wall adjacent to Maynard Road. The application also proposes fenestration alterations to two existing residential flats at 'The Old Cinema' to include a new ground and first floor window.
- 3.2 The proposed building would fill most of the vacant plot and has been designed with its main elevations facing Maynard Road and the south west corner of The Old Cinema. The proposed building would be staggered on the site to reflect the shape of the site, and visually it would be two interlinked buildings with front gables and road and protruding bay windows.

4 PLANNING HISTORY

- 4.1 Planning permission for 4 flats, associated landscaping, cycle store, fenestration alterations to The Old Cinema Building (18/10898) was refused on the 13th September 2018. There is an appeal pending.
- 4.2 Officers had recommended the grant planning permission at the Planning Committee on the 13th September 2018 (18/10898), but the Committee overturned the recommendation and subsequently refused permission for the following reasons:

Reason for refusal 1

The proposed development does not provide any car parking within the site and would also result in the loss of four existing car parking spaces, together with informal car parking that currently serves the existing residential flats at the Old Cinema, which would be contrary to the New Forest District Council document 'Parking Standards Supplementary Planning Document' adopted in October 2012. The lack of any on site car parking is likely to give rise to inconsiderate and displaced parking on the public highway network which would neither be convenient nor safe and may interrupt the free flow of traffic to the detriment of the highway safety.

Reason for refusal 2

As a result of the close proximity of the proposed flats to the adjacent retail service and delivery yard, the Local Planning Authority considers that the occupants of the proposed flats would enjoy an unsatisfactory and unacceptable living environment due to potential noise and disturbance.

Reason for refusal 3

The application site lies in close proximity to the railway level crossing in Junction Road, where stationary vehicles in the road significantly contribute to the general poor air quality in the area. The Local Planning Authority considers that the proposed residential development would be an inappropriate use within this area that is subject to poor air quality, and as such, there would be an unacceptable risk to the health, quality of life and wellbeing of any occupants of the proposed flats.

5 THE DEVELOPMENT PLAN AND OTHER NFDC GUIDANCE

The Core Strategy

CS2: Design quality
CS3: Protecting and enhancing our special environment (Heritage and Nature Conservation)
CS5: Safe and healthy communities
CS10: The spatial strategy
CS15: Affordable housing contribution requirements from developments
CS24: Transport considerations
CS25: Developers contributions

Local Plan Part 2 Sites and Development Management Development Plan Document

TOT15: Totton town centre opportunity sites
DM3: Mitigation of impacts on European nature conservation sites
DM16: Within town centres, outside Primary Shopping Areas and Secondary Shopping Frontages

The Emerging Local Plan

The **Local Plan Review 2016-2036** is in what can be considered an 'advanced stage' in its preparation, in that it has been submitted to the Secretary of State and is under Examination. It is therefore **a material consideration** which can be given weight in decision-making. However, the **weight to be given to it will need to reflect unresolved objections** to the policies. A policy or proposal subject to objections to be considered at the Local Plan Examination can be given less weight than a policy/proposal not subject to objections.

Policy 1 Achieving Sustainable Development
Policy 5 Meeting our housing needs
Policy 10 Mitigating the impacts of development on International Nature Conservation site
Policy 13 Design quality and local distinctiveness

Supplementary Planning Guidance and other Documents

SPD - Housing Design, Density and Character
SPG - Totton Town Centre - Urban Design Framework
SPD - Mitigation Strategy for European Sites
SPD - Parking Standards

6 RELEVANT LEGISLATION AND GOVERNMENT ADVICE

Relevant Legislation

Planning and Compulsory Purchase Act 2004

Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that “where in making any determination under the planning Acts, regard is to be had to the development plan, the determination shall be made in accordance with the plan unless material consideration indicates otherwise.

Environmental Protection Act 1990

Sets out Council powers to deal with noise nuisance

For the noise to count as a statutory nuisance it must do one of the following:

- 1) unreasonably and substantially interfere with the use or enjoyment of a home or other premises
- 2) injure health or be likely to injure health

Relevant Advice

National Planning Policy Framework 2019

- Section 2 definition of sustainable development and presumption in favour particularly if local plan policies are out of date.
- Section 7 ensuring the vitality of town centres – encouraging residential development on suitable sites
- Section 9 promoting sustainable transport and encouraging development where there are a range of transport options.
- Section 11 making effective use of land including promotion of airspace above existing residential and commercial premises
- Section 12 achieving well designed places, sympathetic to local character and visually attractive
- Para 63. Provision of affordable housing should not be sought for residential developments that are not major developments
- Paragraphs 180 -183 Planning policies and decisions should also ensure that new development is appropriate for its location taking into account the likely effects (including cumulative effects) of pollution on health, living conditions and the natural environment, as well as the potential sensitivity of the site or the wider area to impacts that could arise from the development.

Planning Practice Guidance on Noise 2014

Advises LPAs on the determination of applications where noise is an issue. Noise can override other planning concerns, but the National Planning Policy Framework (which reflects the Noise policy statement) expects noise to be

considered in isolation, separately from the economic, social and other environmental dimensions of proposed development.

Local planning authorities' decision taking should take account of the acoustic environment and in doing so consider:

- 1) whether or not a significant adverse effect is occurring or likely to occur;
- 2) whether or not an adverse effect is occurring or likely to occur; and
- 3) whether or not a good standard of amenity can be achieved

7 PARISH / TOWN COUNCIL COMMENTS

Totton Town Council: Recommend refusal

7.1 Original comments

Previously the proposals were rejected at the planning committee due to the lack of parking spaces provided as well as the relationship and close proximity to neighbouring industrial units. The new application would restore the four spaces that were removed from the Old Cinema in the previous application. Some minor reductions in green space have been made to accommodate this change. However there are still no additional spaces provided for the new flats. The size and number of bedrooms of the proposal remains the same and it is believed that there would be a detrimental impact on parking at the existing flats and on street spaces nearby. There has been no justification or parking survey conducted to support the application and it is unrealistic to think that these flats would not own a car due to the Town Centre location when public transport in the area is not plentiful. It is believed that many of the occupiers of the flats would still own a car and park either in one of the communal spaces or a considerable distance away in a residential street. The flats would therefore be limited to people with good mobility for this reason. The parking standards for NFDC recommend 36 combined communal spaces for both sets of flats, the 12 being provided would clearly be inadequate. The addition of some communal parking spaces at the rear of the site would not be difficult to provide and access is good. It is felt that a slight reduction in scale of the buildings along with some additional parking spaces and retained vegetation screening would make this application more appealing.

7.2 Revised comments following noise report and car parking survey

This last application was recommended for refusal due to the impact on parking on the shared bays at the Old Cinema block of flats. The most recent proposals showed no increase in the spaces provided. A parking survey has since been undertaken over a fairly long period of time and shows there to be anything from 2 to 5 spaces available at any visit. However, it is come to light that these spaces are not allocated on a first come first served basis for the residents of the flats are actually rented out to individuals for a fee. This completely negates the survey as a measure of demand for spaces. Furthermore, the landlords spaces are not shown to be retained in the plans as this area is designated for open pace. Councillors considered that the survey was not evidence that there were no parking issues in this location and would strongly back a refusal on this basis.

8 COUNCILLOR COMMENTS

None

9 CONSULTEE COMMENTS

The following is a summary of the representations received which can be read in full via the link set out at the head of this report.

9.1 HCC Highways: As the applicant has observed, the final decision regarding car and cycle parking is made by the District Council itself. Notwithstanding this, following additional information provided by the applicant in the form of a car parking survey, the Highway Authority raise no objections. The results of a parking survey was conducted within the car park adjacent to the proposed development site on land within the applicant's control and serves the Old Cinema apartment building. The parking survey found that there was an average of approximately 5no. spaces available in the car park adjacent to the development site over the course of one week, of the existing 15 no. parking spaces. The measured average number of available spaces included two spaces which are secured by bollards and marked for use by the landlord, which were not observed to be in use during the parking survey.

9.2 Environmental Health (Pollution and air quality): The properties will clearly be affected by noise from the deliveries to ASDA, which operate throughout the night and by noise from traffic on the adjacent road. However mitigation measures are proposed by the Acoustic Consultant and provided that these are enacted, I have no objection to permission being granted. In addition, the Air Quality Management Area has been resolved due to a reduction in Nitrogen Dioxide levels.

9.3 Southern Gas Networks: Advise of site's proximity to gas main

Comments in full are available on website.

10 REPRESENTATIONS RECEIVED

10.1 The following is a summary of the representations received which can be read in full via the link set out at the head of this report.

For: 0

Against: 2

10.2 One letter of objection on behalf of Asda Stores Limited stating that this proposal would be adversely impacted upon by noise generated by unrestricted 24 hour use of the service yard in close proximity to the proposed flats which would not be appropriately mitigated by the application proposals for ventilation.

10.3 One letter from local resident strongly objects on the grounds of increased traffic and parking in an already over crowded area. There is very little legal parking in my road (Junction Road) due to it being Asda's main delivery entrance. This was a compromise from many years ago when Asda first moved into the area and even allocated a few parking spaces for residents behind the barbers in Junction Road which now seem to be used pretty much permanently. Double yellow lines occupy most of my road due to the access required by Asda delivery lorries

(limitations on the times they can access this entrance are in force).

- 10.4 The idea that the developers want to reduce the amount of parking spaces already allocated to what was Savoy House and then increase the number of needed spaces seems ridiculous. The environmental report on this application stated that because no more parking spaces were being put forward would mean less pollution in the area which is a ridiculous assumption. Not only would a further 8 cars need to be parked for the 4 proposed flats, but they have removed the existing spaces required by the 12 flats already on-site.

11 OFFICER COMMENTS

Introduction

- 11.1 There are five main issues in this case, which include the principle of development at this site, the effect on the character and appearance of the area, the effect on the living conditions of the adjoining neighbouring properties, the effect on public highway safety, the effect on the living conditions of future occupiers given the close proximity to the delivery entrance at the adjacent supermarket and the effect on the living conditions of future occupiers, with particular regards to risk to human health, given the close proximity to the railway level crossing in Junction Road, where stationary vehicles in the road significantly contribute to the general poor air quality in the area.

Principle of development and local and national policy

- 11.2. The site lies in a highly sustainable location within the town centre of the largest town in the district. There are a full range of services and facilities within easy walking distance of the site including a range of public transport options. Both local and national policy point to a preference of accommodating new residential development in sustainable locations and for maximum growth numbers to be accommodated in the principal settlements.
- 11.3 The application site is a Town Centre Opportunity Site which Policy TOT15.8 of the Local Plan Part 2 indicates should be developed primarily for retail / office / community uses. The proposal to develop the site for residential would therefore not accord with this policy, however, the applicant carried out a Marketing Assessment Report, which concluded that the site does not represent a viable proposition for commercial, community or retail use. Accordingly the marketing report demonstrates that the only viable use for the site is residential.
- 11.4 Paragraph 85 of the NPPF states that residential development often plays an important role in ensuring vitality of centres and encourages residential development on appropriate sites. Paragraph 17 of the NPPF 'making effective use of land' states that decisions should promote an effective use of land in meeting the need for homes and in a way that makes as much use as possible of previously-developed or 'brownfield' land, including car parks and service yards. It is considered that the proposed development would meet these objectives.
- 11.5 The Local Planning Authority 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.

Comparisons between the current planning application and that previously refused scheme

- 11.6 This current planning application is nearly identical to that previously refused. There are no changes to the design of the building, the differences are set out below:
- The proposal would broadly retain the existing formal car parking arrangements which current serves the existing flats.
 - The area of land subject to this planning application, was previously used as an informal car parking area. However, the area of land is no longer accessible or available as informal/ overflow car parking.
 - The applicants have carried out a car parking survey on the existing car parking serving the flats, which concludes that a number of spaces are available at peak times.
 - An updated noise report has been carried out and submitted as part of this application.

The effect on the character and appearance of the area

- 11.7 In assessing the effect on the character and appearance of the area, the site lies within an area which comprises a mixture of property types, styles and uses. The large warehouse type structure of 'Totton Timber directly opposite the site dominates this part of the road. Equally when travelling along Maynard Road, Asda supermarket adjoining the site is a large scale building, there are some trees and soft landscaping which help soften the impact of the Asda building on the street. The other adjoining building known as Fairways School is considered to be an attractive traditional brick building which contribute to the overall character of the area.
- 11.8 The site occupies a very prominent position in the street scene. Currently the site makes a negative contribution to the character of the area. When viewed from Maynard Road, there is a large area of concrete hardstanding set behind an unattractive chain link fence which bound the highway. Along the side boundary of the site is a 2 metre timber high fence and car parking beyond.
- 11.9 The proposed development also has regard to the Totton Town Centre - Urban Design Framework Supplementary Planning Guidance 2003 (SPG). The SPG identifies the site as a proposed Primary Public Frontage. The SPG suggests that development in these areas should contribute to completing, maintaining and improving the integrity of these frontages. It indicates that built development should define the

fronts of sites and that windows and doors should be positioned on the frontages. The site also forms part of a perimeter block where the SPG indicates that development proposals should adhere to the concept of recreating and retaining the perimeter block structure of the town. Accordingly it is considered that there is an opportunity to make enhancements to the street by creating an attractive building addressing Maynard Road.

- 11.10 The proposed building would rise to two storeys in height and be located close to the road. Between the pavement and building, there would be a 1.5 metre high brick wall with railings including space for soft landscaping and front garden. The proposed building has been designed to address Maynard Road, which is the correct design approach. The building's main windows, including the protruding bay windows, would face onto Maynard Road, which would give the building a positive, active, frontage onto the public realm.
- 11.11 Visually the proposed buildings staggered orientation, simple roof forms with gaps created between the roofs of the two interlinked buildings and detailed fenestration, would appear contextually appropriate and would make a positive contribution to the street scene. Indeed, the proposed building is well articulated which helps reduce its massing and would also pick up on the building line of the neighbouring retail store and community hall. Overall it is considered that the proposed development is designed to a high standard which would make a positive enhancement to the street scene.
- 11.12 While the proposed building would fill most of the plot, the layout does provide space for soft landscaping and amenity space, which would help provide an appropriate setting for the building. Because of its location in the town centre, slightly higher densities are encouraged and in this case, it is considered that the proposed development does not appear significantly cramped or overdeveloped.

Effect on residential amenity

- 11.13 With regard to residential amenity, the proposed development would be set fairly close to neighbouring flats in The Old Cinema. The distance between the rear elevation of the proposed building and the nearest flats in The Old Cinema would be around 7 metres. Due to the siting of the proposed building, only the south west corner of The Old Cinema building would be affected by the proposed building, in particular the existing ground and first floor windows.
- 11.14 Because of this close relationship, the proposal has been designed to minimise the impact on these neighbouring flats. This has been achieved by installing obscurely glazed windows on the ground and first floor rear elevation directly facing these neighbouring flats, which will help maintain a reasonable level of privacy. This can be secured by way of condition.
- 11.15 It is also considered that the physical relationship between the proposed development and the existing flats at The 'Old Cinema' is not ideal and there would be some impact on the light and outlook of the two existing windows on the end elevation facing the proposed building. In order to improve this relationship, it is proposed to add ground and first floor windows in the west elevation of 'The Old Cinema' and this

will provide additional light and outlook for the existing residential flats. Indeed, the ground floor bedroom and first floor lounge would benefit, with an additional window into these rooms.

Transportation matters

- 11.16 There are currently 15 car parking spaces on the site at 'The Old Cinema'. It is understood that 2 of the spaces are reserved for landlord use. The proposal would not provide any on site car parking and would be a 'car free' development. A secure cycle store is proposed for the four flats. The proposal would not result in the loss of any parking spaces..
- 11.17 In support of the application, the applicants have submitted a Transport Statement which states that the site is sustainably located close to all the facilities and amenities in the town centre including public transport. The applicants have also carried out a car parking survey at the site over an 8 day period to help illustrate the demand for parking from residents at the Old Cinema. The purpose of the survey is to demonstrate demand for parking, by collecting photographic evidence of empty bays, twice a day (morning and evening). The survey indicated an average number of empty bays was 5. The survey demonstrates that the existing car parking is not used to full capacity.
- 11.18 The key policy test is set out under Paragraph 109 of the National Planning Policy Framework which states that development should only be prevented or refused on highway grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe. Moreover, National policy is now more flexible particularly in town and city centres where there are a range of public transport options available as is the case here.
- 11.19 The parking standards for the site are set out in Supplementary Planning Document (SPD) as adopted in October 2012. These standards indicate 6 unallocated spaces for the proposed development. However, as stated above, the proposal would not provide any on site car parking spaces. The proposed development provides cycle parking which meets the recommended standards.
- 11.20 The comments of the Highway Authority are noted. In particular they do not object to a lack of car parking to serve this site and state that matters for car parking is for the Local Authority, unless there are serious concerns over public highway safety. There is no evidence that the proposed development, in providing no dedicated parking spaces, will cause severe residual cumulative impacts on the road network. The proposed development is a small scale development providing 4 residential flats in a highly sustainable location.
- 11.21 There are double yellow lines along Maynard Road and Junction Road. In addition, in Junction Road there are parking restrictions which do not allow parking during parts of the day. Accordingly, because of these parking restrictions around the site, this will prohibit car parking for the residents, and would also mean that residents will not wish to park their cars if they are located a considerable distance away from their homes. Paragraph 103 of the NPPF states that significant development should be focused on locations which are or can be made sustainable, through

the need to travel and offering a genuine choice of transport modes. This can help to reduce congestion and emissions and improve air quality and public health. This is particularly important in this situation given that the close proximity to bus and rail services and in walking distance to all the facilities and amenities of the town centre. Moreover, the site was previously located within an Air Quality Management Area and Officers would not wish to encourage more on site car parking spaces which will only add to increasing pollution in this area. In sustainable town centre locations, it is considered that on site car parking space provision should be very limited.

- 11.22 In summary whilst Officers can understand the concerns from the Town Council in relation to lack of car parking, Paragraph 109 of the NPPF states that development should only be prevented or refused on highway grounds if there would be an unacceptable impact on highway safety, or the cumulative impacts on the road network would be severe. In this case, given the location of the site within the town centre, which is close to a number of facilities, train station and public transport, it is considered that a 'car free' development would be acceptable and there is no evidence that severe public highway safety issues would result.

The effect on the living conditions of future occupiers given the close proximity to the delivery entrance at the adjacent supermarket and the effect on the living conditions of future occupiers

- 11.23 The proposed development would be located in close proximity to the Asda Service delivery and yard, and the key issue is whether occupants of the proposed development would enjoy a satisfactory living environment. The use of the Asda service yard is not restricted in any way. Thus noisy operations can potentially take place in that service yard area at any time of day. It is felt that given the proposed building would be around 1 metre away from the service yard, there is a strong likelihood that future occupants of the proposed development would be subject to unreasonable levels of noise and disturbance and so consequently would not enjoy satisfactory levels of amenity.
- 11.24 It should be noted that since the previous application was refused, the applicants have carried out an updated noise report, which addresses errors in the original acoustic report submission and the current updated report also includes a number of mitigation measures.
- 11.25 The noise report states that when considering the specific contribution of noise from the adjacent supermarket service yard, it is recognised that residual levels outside the proposed building would be considered to be significantly higher than the typical background noise, and that there is therefore a risk of an adverse impact on the occupiers. The noise report goes on to state that the only means of eliminating such risk is to develop a method by which residents would be able to close the enhanced specification windows and then adopt a high standard of mechanically induced comfort cooling ventilation. In this case, the solution would be in the form of a MVHR unit serving each flat, with additional attenuation provided in each room side duct run. If the LPA is minded to accept this strategy with a suitable informative note attached to the consent, the prospective residents would experience acceptable noise levels within the dwellings.

- 11.26 The Council's Environmental Health Officer concludes that the properties will clearly be affected by noise from the deliveries to the superstore, which operate throughout the night and by noise from traffic on the adjacent road. However, the Environmental Health Officer considers that mitigation measures are proposed by the Acoustic Consultant and provided that these are enacted, would raise no objection. The Environmental Health Officer has commented that although the details of the mitigation are set out in the acoustic report, the final details and specification of the mitigation measures will need to be submitted for approval and this can be dealt with by condition.

The effect on the living conditions of future occupiers, with particular regards to risk to human health, given the close proximity to the railway level crossing in Junction Road, where stationary vehicles in the road significantly contribute to the general poor air quality in the area.

- 11.27 The previous application was refused on the grounds that the proposed residential development would be an inappropriate use within this area that is subject to poor air quality, and as such, there would be an unacceptable risk to the health, quality of life and wellbeing of any occupants of the proposed flats. This was because of the close proximity of the site to the railway level crossing.
- 11.28 In response to the previous reason for refusal, the Environmental Health Officer states that the Environmental Protection department has been monitoring air quality in the Junction Road area of Totton for a number of years, which had resulted in an Air quality Management Area (AQMA) being declared due to exceeding of the Nitrogen Dioxide annual mean Air Quality Objective. In recent years, monitoring has shown that levels of Nitrogen Dioxide are now significantly below the Objective levels and as a result the AQMA was revoked in 2016. Monitoring is still being undertaken at in Junction Road.
- 11.29 Accordingly, the proposal is for housing without on site car parking, which is not expected to negatively affect the air quality of the area. In particular, the proposal would reduce the number of car parking spaces on the site, in which, a very small reduction in air quality could result. Further the reduced levels of Nitrogen Dioxide has resulted in the AQMA being revoked. Pursuing an objection to the proposal on the grounds that at this reduced level the quality of the air in this area would impact on human health is not sustainable. On this basis, a reason for refusal on these grounds would not be defensible at appeal.

12 CONCLUSION ON THE PLANNING BALANCE

- 12.1 In conclusion, it is considered that this is a constrained site. Indeed, the lack of car parking is considered to be a serious concern raised by the Town Council. Equally because of the close proximity of the proposed development adjacent to the delivery entrance of the supermarket, this is clearly not an ideal situation and weighs against the proposal.
- 12.2 However, the negatives need to be weighed against the benefits. In this case, the site has laid dormant for a number of years and the proposal would regenerate the site and create a development which would make a positive contribution to the street and provide much needed additional residential units. Indeed, Totton town centre has a shortfall of flats and overall the district is finding challenge in trying to meet housing need.

Given the focus in the local plan and NPPF for providing new housing, in which the Council do not have a five year land supply, together with the visual enhancements, this weigh in favour of the development.

- 12.3 In applying the balancing exercise, the proposal would provide social and economic benefits including employment for construction workers and increased spending in local shops. The proposal would also provide environmental benefits, in particular, by making efficient use of land to provide housing in a sustainable location close to services and facilities. There is an inadequate supply of deliverable sites to meet the housing needs, although the proposal would provide a modest contribution. Moreover the proposal would bring forward an appropriate use of this vacant and derelict brownfield site and reduce the unattractive views of the existing buildings and this is reflected in the NPPF which seeks to optimise the use of brownfield sites and achieve appropriate densities. Overall it is considered that the benefits far outweigh the negatives.

13 OTHER CONSIDERATIONS

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.

Local Finance

If this development is granted permission, the Council will receive New Homes Bonus £4896 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 £32,289.21

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

Human Rights

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.

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.

Section 106 Contributions Summary Table

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

CIL Summary Table

Type	Proposed Floorspace (sq/m)	Existing Floorspace (sq/m)	Net Floorspace (sq/m)	Chargeable Floorspace (sq/m)	Rate	Total
Dwelling houses	330	0	330	330	£80/sqm	£32,289.21
Subtotal:						£32,289.21
Relief:						£0.00
Total Payable:						£32,289.21

* 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) x CIL Rate (R) x 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 2019 this value is 1.22

14. RECOMMENDATION

Grant Subject to Conditions

Proposed Conditions:

1. The development hereby permitted shall be begun before the expiration of three years from the date of this permission.

Reason: To comply with Section 91 of the Town and Country Planning Act 1990 as amended by Section 51 of the Planning and Compulsory Purchase Act 2004.

2. The development permitted shall be carried out in accordance with the following approved plans: 100 Rev C, 101, Floor plan for existing ground floor flat, floor plan for existing first floor flat, 104, 105, 102, 103, 100.

Reason: To ensure satisfactory provision of the development.

3. Before development commences, samples or exact details of the facing and roofing materials to be used shall be submitted to and approved in writing by the Local Planning Authority. The development shall only be implemented in accordance with the approved details.

Reason: To ensure an acceptable appearance of the building in accordance with policy CS2 of the Core Strategy for the New Forest District outside the National Park.

4. Before development commences, the proposed slab levels in relationship to the existing ground levels set to an agreed datum shall be submitted to and approved in writing by the Local Planning Authority. Development shall only take place in accordance with those details which have been approved.

Reason: To ensure that the development takes place in an appropriate way in accordance with policy CS2 of the Local Plan for the New Forest District outside the National Park (Core Strategy).

5. Before development commences a scheme of landscaping of the site shall be submitted for approval in writing by the Local Planning Authority. This scheme shall include :

- (a) the existing trees and shrubs which have been agreed to be retained;
- (b) a specification for new planting (species, size, spacing and location);
- (c) areas for hard surfacing and the materials to be used;
- (d) other means of enclosure;
- (e) a method and programme for its implementation and the means to provide for its future maintenance.

No development shall take place unless these details have been approved and then only in accordance with those details.

Reason: To ensure that the development takes place in an appropriate way and to comply with Policy CS2 of the Local Plan for the New Forest District outside the National Park (Core Strategy).

6. All external works (hard and soft landscape) as approved by condition 5 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).

7. No development shall be carried out until proposals for the mitigation of the impact of the development on the New Forest and Solent Coast European Nature Conservation Sites have been submitted to and approved in writing by the local planning authority, and the local planning authority has confirmed in writing that the provision of the proposed mitigation has been secured. Such proposals must:

- c) 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;
- d) 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.
- e) 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.

8. 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.

9. No works shall take place above ground floor level to the block of 4 residential flats hereby approved, until the two new windows are inserted into the existing residential flats at The Old Cinema as shown on Drawing No 104.

Reason: Given the close relationship between the proposed development and the existing residential flats at The Old Cinema, it is necessary that additional windows to the existing rooms in the flats are provided to maintain a reasonable amount of outlook in accordance with with policy CS2 of the New Forest District outside the National Park Core Strategy.

10. The lower parts of the ground and first floor windows on the rear [north west] elevation of flats identified as 2 an 4 of the approved building as shown on Drawing No 101 shall at all times be glazed with obscure glass.

Reason: To safeguard the privacy of the adjoining neighbouring properties in accordance with policy CS2 of the Local Plan for the New Forest District outside the National Park (Core Strategy).

11. Notwithstanding the proposals in the Noise Impact Assessment by Ian Sharland Limited ref: M4195 dated 5th June 2019 no development shall take place until a scheme for protecting the proposed dwellings from traffic noise

and the delivery service yard at the adjacent supermarket has been submitted to and approved in writing by the local planning authority. Mitigation measures shall be based on the principles of the Noise Impact Assessment and shall include appropriate standards of double glazing, alternative means of ventilation and for dwellings likely to be adversely affected by noise. The dwellings shall not be built otherwise than in accordance with the approved details.

Reason: In the interest of the amenity of the surrounding neighbouring properties in accordance with Policy CS2 of the Local Plan for the New Forest District outside the National Park (Core Strategy).

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.

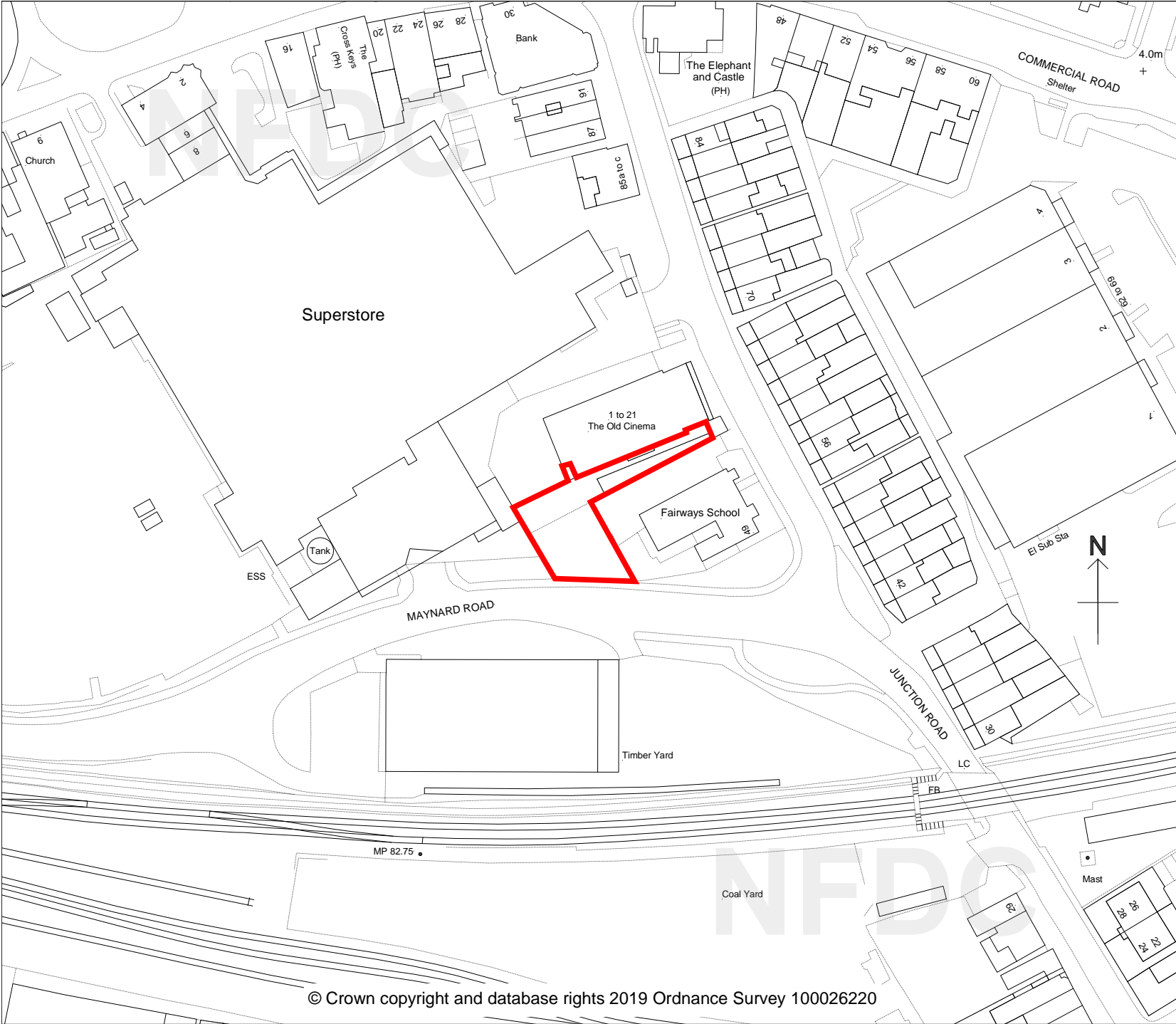
In this case all the above apply and as the application was acceptable as submitted no specific further actions were required.

2. In discharging condition No 7 above the Applicant is advised that appropriate mitigation is required before the development is commenced, either by agreeing to fund the Council's Mitigation Projects or otherwise providing mitigation to an equivalent standard. Further information about how this can be achieved can be found here <http://www.newforest.gov.uk/article/16478/>

Further Information:

Richard Natt

Telephone: 023 8028 5345 (Option1)



New Forest
DISTRICT COUNCIL

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

Claire Upton-Brown
Chief Planning Officer
Planning
New Forest District Council
Appletree Court
Lyndhurst
SO43 7PA

PLANNING COMMITTEE

September 2019

Item No: 3a

Land of Old Cinema
Junction Road/ Maynard Road
Totton
18/11666

Scale 1:1250

N.B. If printing this plan from
the internet, it will not be to
scale.

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Application Number: 19/10264 Full Planning Permission

Site: ABBEYFIELD HOUSE, 17 HERBERT ROAD, NEW MILTON
BH25 6BX

Development: 2 blocks of 5 flats (10 in total); associated carports; bin stores;
demolition of existingsheltered accommodation

Applicant: Pennyfarthing Homes Ltd

Target Date: 08/05/2019

Extension Date: 13/09/2019

Link to case file: [view online here](#)

1 SUMMARY OF THE MAIN ISSUES

The following are considered to be the main issues to be taken into account when determining this application. These, and all other relevant considerations, are set out and considered in Section 11 of this report after which a conclusion on the planning balance is reached.

- 1) The principle of development on this site
- 2) Design and appearance and impact on the Character of the area
- 3) The Living Conditions of Adjoining and Future Occupiers
- 4) Highway impacts
- 5) Impact on the New Forest and Solent Special Protection Area

This matter is to be considered by Committee as the recommendation is contrary to the view of the Town Council and the proposal does not make an affordable housing contribution, contrary to Policy CS15.

2 THE SITE

The site lies within the built up area of New Milton in a residential area characterised by mixed development including two storey flatted developments to either side, detached dwellings to the rear and detached bungalows opposite. With the exception of the application site, housing in the locality is of relatively recent construction.

The existing building is of pre-war construction and appears to have started life as a large detached dwelling within a generous garden curtilage. Over the years single storey additions have been made to the property to facilitate its use as sheltered housing for the elderly, including a manager's flat. The building has ceased use for this purpose and is currently vacant.

Notwithstanding the adhoc additions made to the property over the years, it is set within one of the more generous garden curtilages in the locality, with off-street parking for approximately six vehicles provided to the front of the site. It is understood the existing use accommodated fourteen separate units of sheltered accommodation for the elderly. The curtilage of the property is predominantly bound by established vegetation.

3 THE PROPOSED DEVELOPMENT

The proposal entails demolition of existing structures on the site and erection of 2 buildings to accommodate 5 flats each, totalling 10 two bed units. Accommodation would be provided on three levels, with roof space utilised to provide 2 larger flats. The proposal would have a total of 18 off street car parking spaces, 4 to the front and 14 spaces to the rear, some within single storey car port structures. The building would be of conventional design finished in buff brick, slate tiles with grey upvc windows.

4 PLANNING HISTORY INCLUDING NOTES OF ANY PRE APPLICATION DISCUSSIONS

17/10901 - 22 unit sheltered apartments; cycle and bin storage; parking; demolition of existing - refused February 2018 due to concerns over the visual impacts of the proposal.

15/11809 - 27 unit sheltered apartments for the elderly, bin store, outbuilding, parking, demolition of existing - refused April 2016 due to concerns over the visual impacts of the proposal, lack of a transport assessment and lack of detail on extraction facilities associated with the kitchen.

ENQ/18/20980/SFAT - a pre-application enquiry sought the Council's view on the form of development sought, which concluded that while the principle of residential development may be acceptable; the ridge still looked a little high, sought clarification as to how the roof form would appear and that structures of reduced depth would be preferable.

ENQ/18/20980/SFAT - a pre-application enquiry sought the Council's view on whether loss of the existing premises from a land use providing accommodation for the elderly, to a land use providing independent residential use, would constitute a departure from development plan policies. It concluded that an argument could be put forward that the proposal would be consistent with adopted policies and that a statement outlining the circumstances of the applicant and the proposal's position in respect of policy context should accompany any formal planning submission.

5 THE DEVELOPMENT PLAN AND OTHER NFDC GUIDANCE

Core Strategy

CS1: Sustainable development principles
CS2: Design quality
CS8: Community services and infrastructure
CS10: The spatial strategy
CS13: Housing types, sizes and tenure
CS15: Affordable housing contribution

Local Plan Part 2 Sites and Development Management Development Plan Document

DM3: Mitigation of impacts on European nature conservation sites
DM10: Residential accommodation for older people

Supplementary Planning Documents

Housing Design, Density and Character
New Milton Local Distinctiveness SPD (2010)
Mitigation of impacts on European nature conservation sites

Local Plan Part Review 2016-2036 - Public Consultation Draft

The Local Plan review 2016-2036 is at an advanced stage in its preparation, in that it has been submitted to the Secretary of State and has been Examined. It is therefore a material consideration which can be given weight in decision-making. The following policies from the Emerging Local Plan are considered to be material considerations in this case:

Policy 1 - Achieving Sustainable Development
Policy 5 - Meeting our housing needs
Policy 10 - Mitigating the impact of development on International Nature Conservation sites
Policy 13 - Design Quality and local distinctiveness
Policy 17 - Affordable housing

6 RELEVANT LEGISLATION AND GOVERNMENT ADVICE

Relevant Legislation

Section 38 Development Plan
Planning and Compulsory Purchase Act 2004

Relevant Advice

National Planning Policy Framework

Chapter 5 (Delivering a sufficient supply of homes)
Chapter 12 (Achieving well-designed places)

7 PARISH / TOWN COUNCIL COMMENTS

New Milton Town Council - PAR4: CONTINUED STRONG OBJECTION (NON-delegated) as the current plans do not overcome any of the previous objections stated, namely:

- 1) Bulk and Mass, contrary to Local Distinctiveness Study page 17: Massing & 21: Density.
- 2) Lack of parking - contrary to the Parking Standards SPD
- 3) Lack of greenspace and amount of hardstanding - contrary to the Local
- 4) Distinctiveness Study page 16: Gardens

8 COUNCILLOR COMMENTS

None

9 CONSULTEE COMMENTS

The following is a summary of the comments received which can be read in full via the link set out at the head of this report.

Housing Strategy Section - it is accepted that the scheme cannot be expected

to make a contribution towards affordable housing, either on site or as a commuted sum.

Waste Management- the refuse collection area can be used for individual bag collection by NFDC operatives.

HCC Highways - the highway authority previously commented on this application on 29 April 2019 and requested that vehicle swept path analysis be submitted. The applicant submitted this information on 17 July 2019. Having reviewed the swept path analysis submitted, the highway authority is satisfied that the proposed development would not cause material impact upon the highway network, therefore recommend - no objections subject to conditions to secure appropriate access, turning and parking, cycle storage and a construction management plan.

HCC Surface Water Management - The information provided has included sufficient detail to address the drainage points raised previously.

Environmental Design - the use of roof space has meant that the roof is larger than would otherwise be necessary and this would be seen in combination with the deep footprint the buildings. Revised elevations have now been submitted. The proposal has gone as far as it can with design to enable the use of the roof space. The designs appear to have a greater integrity and simple consistency that makes the buildings more pleasing and reduces to some extent the impact of an oversize mass and over deep footprint. To be clear, the scale and mass has always been a problem but there is a need to make the most efficient use of the land. The design has made this case reasonably well given the applicant's desire to include a flat in the roof space of each of the buildings – the extent to which this can allow me to make a positive recommendation would depend on understanding the impact at street level. This proposal is far better than previous plans for this site and I can see much to recommend it.

Ecologist - the report that supports the application has been prepared by a suitable experienced professional ecologist. Policy accordance can be demonstrated and where aspects require some additional detail and improvement, these can be secured via suitable condition or negotiation. Appropriate Assessment would be required for the net gain in dwellings, in doing so the Council would need to consider whether any existing use can be relied upon, or whether the evidence in respect of recreational impacts on designated sites supports the need for mitigation for all new residential units. I would accept the case officer's approach and would be able to provide further information on approaches elsewhere and the evidence base if required. As the development results in some loss of some biodiversity value, albeit of a local level, due to the need to meet requirements of national and local policy (e.g. NPPF 175, Local Plan CS3 and DM2) the ecology report is correct in identifying areas for biodiversity compensation and enhancements. Given the scale of the proposal these seem to lack a suitable level of ambition to ensure enhancement is provided. I would accept the case officer's approach to secure:

- A suite of three swift boxes on each building
- Provision of a house sparrow terrace on one building
- Details of the number and location of features to allow small mammal movement through any fencing
- Use of landscape treatments that provide habitat and feeding resources for wildlife

Southern Water - no objections, but give informatives

10 REPRESENTATIONS RECEIVED

The following is a summary of the representations received they can be read in full via the link set out at the head of this report.

Representations have been received from eleven separate parties raising the following points:

- Concern is expressed over parking and access during the course of construction.
- The three storey nature, depth and resultant bulk and massing is inappropriate
- The design is poor and out of character with the area
- The proposal constitutes overdevelopment
- Erosion of green space and vegetative cover
- Inadequate details provided on refuse collection
- Inadequate details of vehicle swept-path tracking
- No cycle parking details are provided
- Traffic generation
- Inadequate car parking
- Poor visibility on egress
- Inadequate space for vehicles to manoeuvre
- Overlooking
- Increased noise and air pollution from rear parking area
- Detriment to wildlife
- Lack of amenity space for future occupiers
- Inaccuracies in the plan labelling

11 OFFICER COMMENTS

Introduction

- 11.1 The proposal entails demolition of existing structures on the site and erection of 2 buildings to accommodate 5 flats each, totalling 10 two bed units. Accommodation would be provided on three levels, with roof space utilised to provide 2 flats. The proposal would have a total of 18 of street car parking spaces, 4 to the front and 14 spaces to the rear, some within single storey car port structures. The building would be of conventional design finished in buff brick, slate tiles with white upvc windows.

Relevant Considerations

The main planning considerations have been set out at the beginning of this report.

The principle of development on this site

- 11.1 The site is within New Milton built-up area, the site lies in a highly sustainable location . There are a range of services and facilities within easy walking distance of the site including a range of public transport options. Both local and national policy point to a preference of accommodating new residential development in sustainable locations

and for maximum growth numbers to be accommodated in the principal settlements.

Design and appearance and impact on the Character of the area

- 11.4 Consideration needs to be given to the scale and mass of the development in relation to its impact on the local street scene and character of the area in line with the relevant provisions of Policy CS2 and the New Milton Local Distinctiveness SPD, which identifies the site within Character Area 5: South and East New Milton. The New Milton Local Distinctiveness SPD explains the important elements of what are considered to be distinctive characteristics here. Retaining domestic scale; the need to consider the setting and particularly the green setting are each explained as important elements of the character here.
- 11.5 The proposal follows the established building line of Herbert Road, although the plan forms of the buildings are deeper than those adjoining them (2.1m deeper than Trevone and 4m deeper than Morant Court). The proposed buildings are higher than the adjoining buildings, but the submitted street scene elevation demonstrates that they would not be excessively high, with eaves lines close to those of Trevone and Morant Court. Unlike previous refusals, for single large blocks of accommodation, across the entire width of the site, the gap between the buildings means that views to the rear of the site, incorporating additional landscaping will be afforded from Herbert Road. This assists with reducing the mass of built form and integrating the development into the street scene. The use of roof space has meant that the roof is larger than would otherwise be the case, but revised elevations have been submitted, which make the rear section of roof subservient to the main roof and hip the roof at the rear. The matter is finely balanced, but officers consider the proposal has gone as far as it can with design to enable the use of the roofspace and make most efficient use of the land, within a structure of acceptable design and appearance. The revised designs have a greater integrity and simple consistency that makes the buildings more pleasing and reduces to some extent the impact of an oversize mass and overdeep footprint. To be clear, the matter of scale and mass has always been an issue with recent proposals for redevelopment of this site, but the revised design of the current proposal has mitigated the concerns of officers
- 11.6 The site is quite well vegetated by boundary vegetation, by mature shrub planting and small trees within the site itself, which would be removed to facilitate the development. Ten heavy standard tree replacements are shown on the tree survey, which would need to be bolstered by replacement landscaping and additional heavy standards, particularly on the rear boundary to diminish intervisibility between the site and York Avenue and to enhance the setting of the development. This may be ensured by condition.
- 11.7 The primary materials of construction are buff brickwork, dark Grey cladding and Terral Volay slate tiles, which are acceptable. Details of the dormer materials, window frames, heads, cills and parapet coping, balconies and rainwater goods have yet to be confirmed, but can be clarified by submission of details following the grant of any permission.

The Living Conditions of Adjoining and Future Occupiers

- 11.8 Consideration must be given to the impacts of the proposal on the amenity of adjoining residents, in terms of overbearing presence, outlook, loss of privacy and the impacts from intensification of use of the site. In these respect the proposal will be determined in line with the amenity guidance offered by Policy CS2. The NPPF sets out the core planning principles, one of which is that planning should always seek to secure high quality design and a good standard of amenity for all existing and future occupants of buildings and land.
- 11.9 In terms of privacy, the impact of the proposed structures on the adjoining dwellings to the east and west need to be assessed. The degree of separation; 34m to York Avenue and 32m to Herbert Road are well beyond the generally accepted distance of 21m. The applicant will be requested to provide heavy standard tree specimens within the landscape scheme to the rear of the site to diminish inter visibility and the perception of overlooking. In order to protect the privacy of adjoining occupiers to the north and south, a condition is proposed requiring the windows at first and second floor level in these elevation to be obscure glazed.
- 11.10 Officers are satisfied that the proposal would not have an overbearing impact upon adjoining occupiers following amendments to the submission to lower the rear section of roof, making it subservient to the front roof and by hipping the roof to reduce its scale and massing to the rear.
- 11.11 It is noted that the rear portion of the site will change from living accommodation and garden to a parking and turning area for future occupiers. While this will lead to additional activity to the rear of the site, it is very similar in terms of use and layout to the adjoining sites to the north and south, which are also in use as parking and turning areas. It is not considered that the proposed use as a parking area will increase significantly enough to give rise to noise and air pollution.
- 11.12 The curtilage space for future occupiers is considered to be acceptable for a flatted development, with first and second floor flats provided with balconies and ground floor units with small patio areas. There is also a modest level of communal space around the buildings to facilitate use by future occupiers.

Highway Impacts

- 11.13 In terms of highway impacts, swept path analysis has now been provided, following the initial concerns raised by the Highway Authority. Having reviewed the swept path analysis submitted, the highway authority is satisfied that the proposed development would not cause material impact upon the highway network, subject to conditions to secure appropriate access, turning and parking, cycle storage and a construction management plan.
- 11.14 The proposed level of parking provision (18) is marginally lower than that recommended by the SPD (20). The Highway Authority note that the site is located close to town centre and on-street parking is available on Herbert Road, so an objection based upon shortfall of 2 car parking spaces would be neither appropriate nor sustainable in this instance. Officers concur with this view, as a reasonable level of

off-street parking provision will be made available and future occupiers would have good access to public transport and other services, so in this instance it is not considered that a reason for refusal on the basis of under provision of off-street parking could be substantiated.

Impact on the New Forest and Solent Special Protection Area

- 11.15 The proposed development would have an adverse effect due to the recreational impacts on the European sites, which 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. The application is recommended for approval subject to a habitat mitigation condition (number 8), which will address these concerns following its formal discharge.

Meeting the needs of the Elderly

- 11.16 The proposed development should be balanced against the needs of the local community and elderly in accordance with the provisions of Policies CS8, CS13 and DM10. Policy CS8 of the adopted core strategy places a presumption against any new development involving the loss of community facilities. Policy CS13 seeks to provide a wide range of housing types, sizes and tenures, including providing housing which meets the needs of the elderly, although the justification to the policy acknowledges that provision of homes for the elderly is not a housing priority in the southern coastal area. Policy DM10 supports the provision of accommodation for the elderly, but does not specifically seek to prevent loss of existing accommodation. In relation to the policy context outlined above, it is understood that the elderly accommodation previously provided on the site was not publicly provided, that the property has now been vacant for some time and that the building currently in situ would struggle to meet modern standards for accommodating the elderly. These matters form the applicant's basis for justification of the type of development sought here and are accepted.

Other Issues

- 11.17 The amended plan provides refuse storage facilities to the side of each building, close to the site access for the flats. The applicant has submitted additional refuse collection information stating that refuse will be stored in 350l bins and the applicant has been requested to clarify that refuse will be collected by private operators. The Waste Management Section consider the arrangements to be acceptable
- 11.18 The applicant has submitted additional details in respect of the comments of the County Drainage Authority. The Drainage Authority consider the surface water drainage proposals to be acceptable.
- 11.19 With regard to the comments of notified parties not addressed above. In respect of concerns raised over detriment to wildlife, the Council's Ecologist acknowledges that there will be some loss of biodiversity, but that it could be mitigated through provision of swift and sparrow boxes, the location of features to allow small mammal movement through any fencing and use of landscape treatments to support wildlife. These

details can be secured by condition.

11.20 Inaccuracies in the plan labelling have been corrected by the applicant.

11.21 As the existing building contains a manager's flat and proposes a total of ten dwellings, the net increase in dwellings on the site would be nine units. Consequently there is no requirement for the development to make an affordable housing contribution.

Housing Supply

11.22 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.

Habitat Regulations and other Contributions

11.23 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 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.

12 CONCLUSION ON THE PLANNING BALANCE

12.1 While the proposed development would result in buildings of greater scale and massing and intensification of use of the site, it raises no significant concerns in respect of appearance, adjoining amenity or highway safety. It is considered that the concerns raised over the scheme are significantly outweighed by the benefits; in securing new housing and redevelopment of the site and building in a manner which would be acceptable to the character of the area, would make more efficient use of the land and bring socio-economic benefits to the town and local economy. Accordingly the proposal is recommended for approval, subject to conditions.

13 OTHER CONSIDERATIONS

Proactive Working Statement

In this case the applicant sought the Council's pre-application views on the form of development proposed and further amendments were negotiated during the course of determination of the planning application, to address concerns raised by the case officer, consultees and notified parties. Following

submission of suitably amended plans and information the application was acceptable as amended and no specific further actions were required.

Crime and Disorder

None

Local Finance

If this development is granted permission, the Council will receive New Homes Bonus of £12,240 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 £113,208.00.

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

Human Rights

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.

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.

Section 106 Contributions Summary Table

Proposal:			
Type of Contribution	NFDC Policy Requirement	Developer Proposed Provision	Difference
Affordable Housing			
No. of Affordable dwellings	4	0	4
Financial Contribution	0	0	0
Habitats Mitigation			
Financial Contribution	£8,690 if CIL paid in full	£8,690 if CIL paid in full	0

CIL Summary Table

Type	Proposed Floorspace (sq/m)	Existing Floorspace (sq/m)	Net Floorspace (sq/m)	Chargeable Floorspace (sq/m)	Rate	Total
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Dwelling houses					£80/sq m	£113,208.00
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Subtotal:	£113,208.00.
Relief:	£0.00
Total Payable:	£113,208.00.

* 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) x CIL Rate (R) x 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 2019 this value is 1.22

14. RECOMMENDATION

Grant Subject to Conditions

Proposed Conditions:

1. The development hereby permitted shall be begun before the expiration of three years from the date of this permission.

Reason: To comply with Section 91 of the Town and Country Planning Act 1990 as amended by Section 51 of the Planning and Compulsory Purchase Act 2004.

2. No works hereby approved shall be undertaken above slab level until samples or exact details of the facing and roofing materials to be used shall

be submitted to and approved in writing by the Local Planning Authority. The development shall only be implemented in accordance with the approved details.

Reason: To ensure an acceptable appearance of the building in accordance with policy CS2 of the Core Strategy for the New Forest District outside the National Park.

3. The development permitted shall be carried out in accordance with the following approved plans and details: 5853-WLA-ZZ-XX-DR-A-0005 (Location and Block Plans), 5853-WLA-ZZ-00-DR-A-200 Rev A (3 Bay Car Port), 5853-WLA-ZZ-00-DR-A-210 Rev A (4 Bay Car Port), 5853-WLA-ZZ-00-DR-A-220 (Refuse Store), 5853-WLA-ZZ-XX-DR-A-010 Rev B (Proposed Site Plan), 5853-WLA-01-GF-DR-A-0110 Rev B (Ground Floor Plan), 5853-WLA-01-01-DR-A-0111 Rev A (First Floor Plan), 5853-WLA-01-02-DR-A-0112 Rev B (Second Floor Plan), 5853-WLA-01-03-DR-A-0113 Rev A (Roof Plan), 5853-WLA-01-XX-DR-A-0120 Rev C (Elevations Sheet 1 of 2), 5853-WLA-01-XX-DR-A-0121 Rev C (Elevations Sheet 2 of 2), DD276L01 (Landscape Plan - received 03/07/19), 5853-WLA-ZZ-XX-DR-A-0006 Rev A (Existing Plans, Arboricultural Assessment and Method Statement by Barrell (Feb 2019), 18370-BT1 (Tree Protection Plan), Transport Statement by i-Transport (Feb 2019), ITB14521-GA-004B (Tracking Drawing), ITB14521-GA-003B (Tracking Drawing), ITB14521-GA-001D (Tracking Drawing), Phase 1 habitat Survey by Philip Smith (Feb 2019), Planning Policy Statement by CL Planning (Jan 2019), 810AB02 (Topographical Survey), Drainage Strategy by ES (Feb 2019), 602-01-B, 501-01-A, 501-02-A, and SuDS Operations and Maintenance Manual by ES (July 2019).

Reason: To ensure satisfactory provision of the development.

4. The first and second floor windows in the north and south elevations of the approved buildings shall be obscurely glazed and fixed shut at all times unless the parts that can be opened are more than 1.7m above the corresponding floor level.

The aforementioned windows should be fitted with obscure glass with a minimum obscurity of level 3 glazing and not an applied film.

Reason: To safeguard the privacy of the adjoining neighbouring properties in accordance with policy CS2 of the Local Plan for the New Forest District outside the National Park (Core Strategy).

5. No works hereby approved shall be undertaken above slab level until the proposed slab levels in relationship to the existing ground levels set to an agreed datum shall be submitted to and approved in writing by the Local Planning Authority. Development shall only take place in accordance with those details which have been approved.

Reason: To ensure that the development takes place in an appropriate

way in accordance with policy CS2 of the Local Plan for the New Forest District outside the National Park (Core Strategy).

6. No works hereby approved shall be undertaken above slab level until a scheme of landscaping of the site has been submitted for approval in writing by the Local Planning Authority. This scheme shall include :
- (a) the existing trees and shrubs which have been agreed to be retained;
 - (b) a specification for new planting (species, size, spacing and location), including heavy standard tree specimens on the rear boundary;
 - (c) areas for hard surfacing and the materials to be used;
 - (d) other means of enclosure;
 - (e) a method and programme for its implementation and the means to provide for its future maintenance.

No development shall take place above slab level unless these details have been approved and then only in accordance with those details.

Reason: To ensure that the development takes place in an appropriate way and to comply with Policy CS2 of the Local Plan for the New Forest District outside the National Park (Core Strategy).

7. All external works (hard and soft landscape) shall be carried out in accordance with the approved plans and details prior to occupation of the development and maintained thereafter as built and subject to changes or additions (including signage) 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).

8. No development shall be carried out until proposals for the mitigation of the impact of the development on the New Forest and Solent Coast European Nature Conservation Sites have been submitted to and approved in writing by the local planning authority, and the local planning authority has confirmed in writing that the provision of the proposed mitigation has been secured. Such 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.

9. No works hereby approved shall be undertaken above slab level until further ecological mitigation measures and details entailing a suite of three swift boxes on each building, provision of a house sparrow terrace on one building, details of the number and location of features to allow small mammal movement through any fencing and use of landscape treatments that provide habitat and feeding resources for wildlife have been submitted to and approved in writing by the Local Planning Authority, unless otherwise first agreed in writing with the Local Planning Authority.

Reason: To safeguard and enhance habitat for protected species in accordance with Policy CS3 of the Local Plan for the New Forest District outside of the National Park (Core Strategy) and Policy DM2 of the Local Plan for the New Forest District outside the National Park (Part 2 : Sites and Development Management).

10. No development shall start on site until a construction method statement has been submitted to and approved in writing by the Planning Authority, which shall include:

- (a) A programme of and phasing of demolition (if any) and construction work;
- (b) The provision of long term facilities for contractor parking;
- (c) The arrangements for deliveries associated with all construction works;
- (d) Methods and phasing of construction works;
- (e) Access and egress for plant and machinery;
- (f) Protection of pedestrian routes during construction;
- (g) Location of temporary site buildings, compounds, construction material, and plant storage areas;

Demolition and construction work shall only take place in accordance with the approved method statement.

Reason: In order to consider the effect of construction works on the amenity of the locality.

11. Before the occupation of any part of the development hereby approved, areas for access, turning, parking as shown on the approved plan shall be constructed and hard surfaced and thereafter retained, maintained and kept available for the occupants of the development at all times.

Reason: In the interests of highway safety and in accordance with Policy CS2 and CS24 of the Local Plan for the New Forest outside of the National Park (Core Strategy).

12. Before the commencement of development above slab level, the detailed

design of the cycle parking facility including the specification shall be submitted to and approved in writing by the Local Planning Authority. Before the occupation of any part of the development hereby approved, the cycle store shall be erected as shown on the approved plans and thereafter retained, maintained and kept available for the occupants of the development at all times.

Reason: In the interests of highway safety and in accordance with Policy CS2 and CS24 of the Local Plan for the New Forest outside of the National Park (Core Strategy)

- 13 The development shall be implemented in accordance with the approved details for the disposal of surface water from the site being; Drainage Strategy Drawing ref: 602-01 B, Standard Construction Details ref: 501-01 A, Standard Construction Details ref: 501-02 A, Proposed Site Plan ref: 5853-WLA-ZZ-XX-DR-A-0010 B, Site Survey ref: 810AB02, Soakaway Test Results, Flood Map for Planning, SuDS Operations and Maintenance Manual – initial issue Water Quality Management Manual, Microdrainage Calculations and HCC Checklist

Reason: In order to ensure that the drainage arrangements are appropriate and in accordance with Policy CS2 of the Local Plan for the New Forest District outside the National Park (Core Strategy) 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 discharging condition No.8 above the Applicant is advised that appropriate mitigation is required before the development is commenced, either by agreeing to fund the Council's Mitigation Projects or otherwise providing mitigation to an equivalent standard. Further information about how this can be achieved can be found here <http://www.newforest.gov.uk/article/16478/>
2. Southern Water advise that a formal application for a connection to the public foul sewer to be made by the applicant or developer.

A formal application for connection to the public sewerage system is required in order to service this development, please contact Southern Water, Sparrowgrove House, Sparrowgrove, Otterbourne, Hampshire SO21 2SW (Tel: 0330 303 0119) or www.southernwater.co.uk. Please read our New Connections Services Charging Arrangements documents which has now been published and is available to read on our website via the following link <https://beta.southernwater.co.uk/infrastructure-charges>.

This initial assessment does not prejudice any future assessment or commit to any adoption agreements under Section 104 of the Water Industry Act 1991. Please note that non-compliance with Sewers for Adoption standards will preclude future adoption of the foul sewerage network on site. The design of drainage should ensure that no groundwater or land drainage is to enter public sewers.

Our initial investigations indicate that there are no public surface water sewers in the area to serve this development. Alternative means of draining surface water from this development are required. This should not involve disposal to a public foul sewer.

The Council's Building Control officers or technical staff should be asked to comment on the adequacy of soakaways to dispose of surface water from the proposed development. Due to changes in legislation that came in to force on 1st October 2011 regarding the future ownership of sewers it is possible that a sewer now deemed to be public could be crossing the above property. Therefore, should any sewer be found during construction works, an investigation of the sewer will be required to ascertain its condition, the number of properties served, and potential means of access before any further works commence on site. The applicant is advised to discuss the matter further with Southern Water, Sparrowgrove House, Sparrowgrove, Otterbourne, Hampshire SO21 2SW (Tel: 0330 303 0119) or www.southernwater.co.uk".

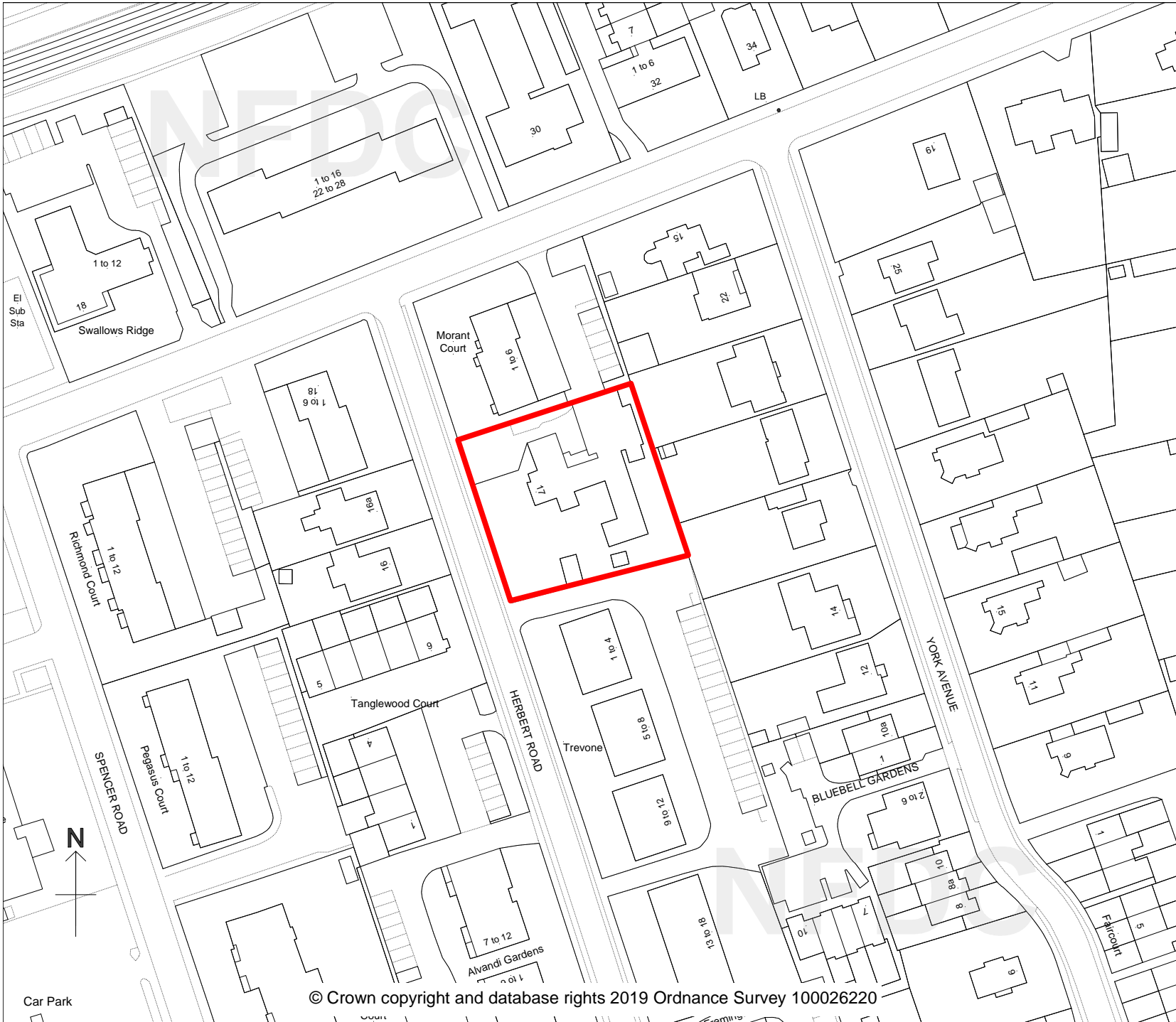
3. New Forest District Council has adopted a Community Infrastructure Levy (CIL) charging schedule and any application now decided, including those granted at appeal, will be CIL Liable. CIL is applicable to all applications over 100sqm and those that create a new dwelling. Under Regulation 42A developments within the curtilage of the principal residence are likely to be exempt from CIL so CIL may not be payable provided the applicant submits the required exemption form prior to commencement of the development.
4. The Hampshire County Highway Authority advises the applicant of the requirement to carry out any works on the highway to the appropriate standard laid down by and under a licence agreement with the highway authority.
5. 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 the applicant sought the Council's pre-application views on the form of development proposed and further amendments were negotiated during the course of determination of the planning application, to address concerns raised by the case officer, consultees and notified parties. Following submission of suitably amended plans and information the application was acceptable as amended and no specific further actions were required.

Further Information:

Jim Bennett

Telephone: 023 8028 5588



New Forest
DISTRICT COUNCIL

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

Claire Upton-Brown
Chief Planning Officer
Planning
New Forest District Council
Appletree Court
Lyndhurst
SO43 7PA

PLANNING COMMITTEE

September 2019

Item No: 3b
Abbeyfield House
17 Herbert Road
New Milton
19/10264

Scale 1:1250

N.B. If printing this plan from the internet, it will not be to scale.

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Application Number: 19/10476 Full Planning Permission

Site: FAWLEY REFINERY, BLOCK 36B, MARSH LANE, FAWLEY SO45 1TX

Development: Two re-fueling units consisting of Hydrogen unit & Hydrotreater including 2 stacks about 50 metres high (Block 36B); Automotive diesel oil storage tank (Block 13)

Applicant: Esso Petroleum Company Limited

Target Date: 13/08/2019

Extension Date: 13/09/2019

Link to case file: [view online here](#)

1 SUMMARY OF THE MAIN ISSUES

The key issues to consider in determining this application are whether the principle of the development is acceptable in the location proposed, the economic impact of this development, whether the submitted Environmental Statement adequately assesses the significant environmental impacts of the proposed scheme having regard to the international, national and local nature conservation designations in and around the area. Other important issues include the visual impact of the proposed scheme, highway impacts, impacts on residential amenity, and impacts on the setting of listed buildings and registered parks and gardens. These, and all other relevant considerations, are set out and considered in Section 11, of this report after which a conclusion on the planning balance is reached.

This matter is before Committee at the discretion of the Chief Planning Officer.

2 THE SITE

2.1 The Fawley Refinery complex is located on the west side of Southampton Water and was established in 1921, it is the largest oil refinery in the UK and provides approximately 20% of the UK refinery capacity and covers an area of more than 1,000 hectares (ha). It is also the largest heavy industrial employer in Hampshire and is the country's last manufacturer of lubricating oils and manufactures a wide range of speciality petrochemicals such as synthetic rubber. Exxon Mobil has an ongoing major investment programme of around £700m which will help secure around 2000 jobs. Located on Southampton Water, the Fawley site has strategic access to distribution logistics across southern England and export access to other markets in Europe and the Atlantic basin. Exxon Mobil operates nearly 700 km of pipeline supplied from Fawley in a network which incorporates critical fuel supplies to the South and Midlands of the country including Heathrow and Gatwick airports.

The complex comprises two principle installations, Fawley Oil Refinery on the southern side and Fawley Petrochemical Plant to the north. Block 36B is located towards the western side of the complex and Block 13 is located to the east of Block 36B. The Fawley complex is bounded to the east and

north-east by mudflats, saltmarsh and Southampton Water. The west and south of the complex is bounded by Fawley Road, the A326 and Long Lane. Beyond Fawley Road to the south east is Fawley Village and undeveloped marshland. Holbury is to the west of the complex and to the north is Cadland Road beyond which are a number of industrial properties. The complex itself contains buildings, refining and chemical process units, roads and hardstanding with occasional scrub/grassland. The site has an industrial appearance and there is a marine terminal in Southampton Water at the north-eastern boundary.

- 2.2 Block 36B is a relatively level area of land of about 2.8 ha and consists of a concrete hardstanding (which is in the process of being removed) and previously housed a steam cracker (demolished in 2012 and included a chimney in excess of 60m high). There is a sub-station building in the western corner and a drum in the eastern corner which are unrelated to the proposed development and will remain operational. The north-western corner of Block 13 where the proposed Automotive Diesel Oil (ADO) storage tank is proposed comprises predominantly bare ground with an existing storage tank which would be removed.
- 2.3 The closest residential properties to the application sites are located about 380 metres away along Cadland Park, Church Lane, Long Lane and Fawley Road. There is significant boundary planting between the site and these residential properties.
- 2.4 Opposite the site on the eastern side of Southampton Water is the Royal Victoria Country Park which is a registered historic park and garden which contains a number of listed buildings.
- 2.5 The site is in close proximity to the following designations:
 - The Solent and Southampton Water Special Protection Area (SPA)
 - The Solent and Southampton Water Ramsar Site
 - The Solent Maritime Special Area of Conservation (SAC)
 - The Solent and Dorset Coast proposed SPA
 - The New Forest SPA
 - The New Forest SAC
 - The New Forest Ramsar Site
 - The New Forest SSSI
 - Hythe to Calshot Marshes SSSI
 - Portsmouth Harbour SPA
 - Portsmouth Harbour Ramsar
 - River Itchen SAC
 - Solent and Isle of Wight Lagoons SAC

3 THE PROPOSED DEVELOPMENT

The proposals are for development at two locations within the Refinery complex as follows:

Block 36B – this is the site of the most significant level of proposed development and comprises a range of plant and vessels of an industrial appearance. The proposals are for a hydrogen plant (to generate hydrogen) and a hydrofiner (to produce Automotive Diesel Oil – AOD) .

The most significant structures would be two stacks which would be about 50

metres high with a variety of other structures up to 34.6 metres high – there would be a range of equipment of varying sizes as follows:

1. A hydrogen plant is proposed which will react natural gas and steam at high temperatures to generate hydrogen. The following plant and vessels are proposed:
 - steam methane reformer comprising a 50 metre high stack and a reformer which would be 20.3m high x 14m wide x 33m long
 - reactors
 - hydrogen - 7m high x 4.5m diameter at base
 - desulphurisation - 8m high x 2.3m diameter at base
 - high temperature shift - 7.8m high x 3.5m diameter at base
 - multiservice compressor 3.8m high x 12.6m wide x 25.4m long
 - condensate separator 5.5m high x 2m diameter at base
 - Drums
 - HD10 vacuum dryer off gas K.O. drum 3m high x 0.7m wide x 0.7m long
 - Natural gas K.O. drum and nitrogen K.O. drum each 3m high x 1.2m wide x 1.2m long
 - High pressure stripper 27.9m x 1.3m diameter at base
 - Housing for process gas air coolers and blow down air coolers 14.5m high x 9m wide x 35.3m long
 - Housing/steel support for hydrogen interstage cooler, hydrogen spill back cooler and natural gas spill back cooler 14.5m high x 11.5m wide x 38.3m long
 - Housing/steel support for steam preheater, BFW preheater, feed preheater and HP stripper economiser 18m high x 8m wide x 24m long
 - Housing/steel support for process condensate pumps 18m high x 8m wide x 24m long
 - Housing/steel support for fuel gas preheater and nitrogen spill back cooler 2.5m high x 8m wide x 16m long
 - Housing/steel support for stripped condensate pumps 10.5m high x 8m wide x 16m long
 - Fuel gas filter 1.5m high x 1.3m wide x 1.3m long
 - Pressure swing adsorption (PSA unit 3.3m high x 5m wide x 27.5m long
 - PSA vessels (x10) 7.6m high x 3.2m diameter
 - Housing for steam silencer 12.8m high x 6m wide x 12m long
2. A HD10 hydrofiner is proposed which will react distillate feed with hydrogen to generate low sulphur ADO, the key elements of the plant are:

Fired heater of 12MW capacity with low NO_x burners and stack 50m high 5m diameter at base and 0.7m diameter at the top.

HD10 hydrogenation reactors 1 and 2 each 23.3m high x 4 m diameter

Housing/steel support for HD10 reactors 31.1m high x 11m wide x 16m long

Drums:

- feed surge drum 4.5m high x 3.1m wide x 10m long
- hot separator drum 8.4m high x 2.3 diameter at base
- cold separator drum 3.3m high x 2.2m wide x 5.1m long
- stripper overheads drum 3m high x 2m wide x 4.8m long
- housing for barometric drum 21m high x 8.3m wide x 10m long
- recycle gas scrubber K.O. drum and recycle gas scrubber 23.3m high x 1.8m wide and 1.8m long
- recycle gas compressor K.O. drum 6m high x 1.4m wide x 1.4m long

- off gas scrubber K.O. drum and off gas scrubber 17m high x 3.8m wide x 3.8m long
- rich amine drum 5.4m high x 1.6m wide x 1.6m long
- housing for steam ejector seal drum 21m high x 8.3m wide x 10m long
- water collection drum 6.6m high x 0.9m diameter
- blowdown drum 2.4m high x 0.4m wide x 0.4m long
- Recycle gas compressor 2.5m high x 8m wide x 8.4m long
- Product stripper 34.6m high x 2.5m diameter at base 1.4 diameter at tip
- Vacuum dryer 15.8m high x 2.5m diameter at base and 13.2 diameter at tip.
- Pumps - a series of pumps for various purposes with maximum dimensions of 2.5m high x 4.6m wide x 8.4m long
- Housing/steel support for hot separator overhead condensers 15.2m high x 11.1m wide x 37.7m long
- Housing/steel support for air cooled exchangers 15m high x 11m wide x 38.3m long
- Housing/steel support for heat exchangers and coalescer 21m high x 8.3m wide x 10m long
- Prefilter 3.2m high x 2m wide x 5m long

The main infrastructure will be fabricated from modified steel (typically stainless steel or carbon steel) and will be similar in appearance to existing infrastructure at the Fawley complex.

Block 13 – an existing gasoline component tank would be demolished and a new ADO tank of capacity 20,500 cubic metres measuring 15m high x 43m diameter would be constructed, a common bund would be formed with the adjacent tank (472) which would have an impermeable floor, the bund would be able to contain over 110% of the largest single tank.

Construction traffic associated with worker movements, deliveries, machinery and heavy goods vehicles (HGVs) for the whole scheme will arrive via the A326 Hythe bypass and will enter the Petrochemical complex through Gate 1 via Cadland Road. Additional, large plant (ie reactor modules) would be delivered pre-fabricated via barge to an accessible dock from which they would be transported via an abnormal load convoy during periods of low density road use to a wide load gate on the B3053 into the complex.

The application is accompanied by the following documentation: Environmental Statement (which covers air quality, noise and vibration, visual impact assessment, biodiversity, land quality, greenhouse gases and cumulative effects assessment), Planning Statement, Transport Assessment, Flood Risk Assessment and Report to Inform Appropriate Assessment.

4 PLANNING HISTORY

This site is subject to a very substantial planning history related to the Oil Refinery. The most relevant to this application is the earlier Screening and then Scoping opinion that informed this application as follows:

18/10974 - Installation of 2 new hydrocarbon process units (Habitats Regulations

Screening Opinion) determined 23-8-2018 – the screening opinion concluded that it is likely that significant effects on European Sites would arise as a result of an increase in air emissions during the developments operational phase, therefore an Appropriate Assessment (AA) will be necessary prior to a decision being made on this application.

18/10980 - Installation of 2 new hydrocarbon process units (Environmental Impact Assessment (EIA) Scoping Opinion - determined 29-8-18 - agreed topics to be considered in depth in the Environmental Statement (ES).

5 THE DEVELOPMENT PLAN AND OTHER NFDC GUIDANCE

Core Strategy

CS1: Sustainable development principles

CS2: Design quality

CS3: Protecting and enhancing our special environment (Heritage and Nature Conservation)

CS4: Energy and resource use

CS5: Safe and healthy communities

CS17: Employment and economic development

CS24: Transport considerations

Local Plan Part 2 Sites and Development Management Development Plan Document

NPPF1: National Planning Policy Framework – Presumption in favour of sustainable development

DM2: Nature conservation, biodiversity and geodiversity

DM3: Mitigation of impacts on European nature conservation sites

DM5: Contaminated land

FAW1: Fawley Oil Refinery

New Forest District Local Plan Review 2016-2036 Part 1: Planning Strategy Submission Document

The NPPF 2019 states:

Para 47. Planning law requires that applications for planning permission be determined in accordance with the development plan, unless material considerations indicate otherwise. decisions on applications should be made as quickly as possible, and within statutory timescales unless a longer period has been agreed by the applicant in writing.

Para 48 Local Planning authorities may give weight to relevant policies in emerging plans according to:

- a) the stage of preparation of the emerging plan (the more advanced its preparation, the greater the weight that may be given);
- b) the extent to which there are unresolved objections to relevant policies (the less significant the unresolved objections, the greater the weight that may be given); and
- c) the degree of consistency of the relevant policies in the emerging plan to this Framework (the closer the policies in the emerging plan to the policies in the Framework, the greater the weight that may be given).

The Local Plan Review 2016-2036 is at an 'advanced stage' in its preparation, in that it has been submitted to the Secretary of State and is under Examination. It is therefore a material consideration which can be given weight in decision-making.

The following policies are considered to be material considerations in this case:

Policy 10 Mitigating the impacts of development on International Nature Conservation sites

Policy 14 Landscape character and quality

Policy 21 Employment and Development

Policy 29 Safe and healthy communities

Supplementary Planning Guidance and other Documents

None relevant.

6 RELEVANT LEGISLATION AND GOVERNMENT ADVICE

Relevant Legislation

Planning and Compulsory Purchase Act 2004

Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that "where in making any determination under the planning Acts, regard is to be had to the development plan, the determination shall be made in accordance with the plan unless material consideration indicates otherwise

Section 19(1A) requires LPAs to include policies in their plans to "secure that the development and use of land contribute to the mitigation of, and adaption to, climate change".

Section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990 (LBCA) requires that special regard shall be paid to the desirability of preserving the building or its setting or exercise of any features of special architectural or historic interest which it possesses.

Environmental Protection Act 1990

Sets out Council powers to deal with noise nuisance

For the noise to count as a statutory nuisance it must do one of the following:

- unreasonably and substantially interfere with the use or enjoyment of a home or other premises
- injure health or be likely to injure health

The Conservation of Habitats and Species Regulations 2017

Requires an Appropriate Assessment to be undertaken by the Competent Authority (NFDC) to consider the impacts that this proposal may have on the interest features of the relevant European Sites.

The Climate Change Act 2008

Established a legally binding target to reduce the UK's greenhouse gas emissions by at least 80% in 2050 from 1990 levels. To drive progress and set the UK on a pathway towards this target the Act introduced a system of carbon budgets including a target that the annual equivalent of the carbon budget for the period ending 2020 is at least 34% lower than 1990.

Relevant Advice

National Planning Policy Framework (NPPF)

The NPPF sets out the Government's planning policies and is a material consideration in determining planning applications. At the heart of the NPPF is a presumption in favour of sustainable development. The following paragraphs are particularly relevant to the consideration of this application:

Para 7 sustainable development – which includes a social objective to support healthy communities

Para 8 the planning system has 3 overarching objectives; economic, social and environmental.

Para 11 presumption in favour of sustainable development

Paras 47 to 50 determining applications

Paras 80 to 82 building a strong, competitive economy

Para 91 promoting healthy and safe communities

Para 102 promoting sustainable transport

Para 127 achieving well designed places

Para 148 meeting the challenge of climate change, flooding and coastal change. Addressing climate change is one of the core land use planning principles which the NPPF expects to underpin both plan making and decision taking. The NPPF emphasises that responding to climate change is central to the economic, social and environmental dimensions of sustainable development.

Para 170 conserving and enhancing the natural environment.

Para 172 gives the highest status of protection for the 'landscape and scenic beauty' of national parks.

Para 178 ground conditions and pollution.

Paras 193 to 197 conserving and enhancing the historic environment

Planning Practice Guidance on Noise 2014

Advises LPAs on the determination of applications where noise is an issue. Noise can override other planning concerns, but neither the [Noise policy statement for](#)

[England](#) nor the National Planning Policy Framework (which reflects the Noise policy statement) expects noise to be considered in isolation, separately from the economic, social and other environmental dimensions of proposed development. Local planning authorities' decision taking should take account of the acoustic environment and in doing so consider:

- whether or not a significant adverse effect is occurring or likely to occur;
- whether or not an adverse effect is occurring or likely to occur; and
- whether or not a good standard of amenity can be achieved.

Noise Policy Statement for England 2010

The Noise Policy Statement for England was published on 15 March 2010. It sets out the long term vision of government noise policy, to promote good health and a good quality of life through the management of noise.

Planning Practice Guidance on Air Quality 2014

This provides guiding principles on how planning can take account of the impact of new development on air quality.

Institute of Air Quality Management - Guidance on land use and development control: Planning for Air Quality 2017 v1.2

Institute of Air Quality Management - Assessment of dust from demolition and construction 2014

Planning Practice Guidance on Climate Change June 2014, last updated March 2019

Advises how to identify suitable mitigation and adaptation measures in the planning process to address the impacts of climate change. Addressing climate change is one of the core land use planning principles which the NPPF expects to underpin both plan making and decision taking.

7 PARISH / TOWN COUNCIL COMMENTS

Fawley Parish Council: recommend permission with the condition that all environmental standards are met and no major planned maintenance events are to be scheduled during construction of the new plant and an appropriate plan for labour transportation is in place. The Parish Council notes the comment of HCC relating to development traffic for the design year 2021.

8 COUNCILLOR COMMENTS

No comments received

9 CONSULTEE COMMENTS

The following is a summary of the representations received which can be read in full via the link set out at the head of this report.

- 9.1 Environment Agency - no objection subject to a condition regarding discovery of previously unidentified contamination and advice to the

applicant in respect of the possible need for an Environmental Permit, reuse of material in line with the Environmental Permit, watching brief for any contamination and hazardous substances.

- 9.2 Natural England: advise that NFDC as competent authority should have regard for any potential impacts that this proposal may have on each European Site. Their advice is based on the assumption that NFDC intends to adopt the applicants Habitats Regulation Assessment to fulfil its duty as competent authority. Having considered the assessment, and the measures proposed to mitigate for all identified adverse effects that could potentially occur as a result of the proposal Natural England advises that they concur with the assessment conclusions providing that all mitigation measures are appropriately secured in any permission given. A Construction Environment Management Plan is proposed to set out all mitigation measures and working practice to mitigate impacts on the environment during construction of the development, this should be secured by an appropriate mechanism.
- 9.3 In terms of protected landscapes, the site is close to the New Forest National Park and the application should be assessed carefully to establish whether the proposed development would have a significant impact or harm the statutory purposes of the National Park which are to conserve and enhance the natural beauty, wildlife and cultural heritage of the park; and to promote opportunities for the understanding and enjoyment of the special qualities of the park by the public.
- 9.4 Southern Water - no objections and have no comments to make.
- 9.5 Environmental Health Contaminated Land - no objections subject to conditions.
- 9.6 Environmental Health Pollution - no objections subject to conditions to ensure that the development is carried out in accordance with the submitted details. They have commented in respect of construction noise, construction traffic noise, operational noise and construction and air quality in terms of construction (travelling to the site and dust and emissions from construction activities) and operation (emissions from the plant - nitrogen oxides, particulate matter, carbon monoxide and volatile organic compounds). The applicants have completed a Construction Environmental Management Plan (CEMP) which should be read in conjunction with the Environmental Statement and this demonstrates how the potential sources of noise and emissions can be controlled so that adverse effects are not experienced.
- 9.7 Hampshire County Council Highways - have reviewed the Transport Assessment and associated information submitted in support of the application. They comment in relation to the construction traffic which is likely to arise as the level of traffic generation once the development is operational is minimal. It is also confirmed that the planned route for construction traffic is acceptable and that it should be the only route for construction HGVs accessing and exiting the site. They advise that the mitigation measures proposed by the applicant which include ensuring that Fawley Pertochemical Complex does not undertake significant planned major maintenance activities during the peak construction traffic period of the proposed development, the construction workforce will be transported to the site by mini-busses and a Travel Plan is proposed.

These measures should be included as part of a Construction Management Plan.

- 9.8 NFDC Environmental Design (Urban & Landscape) - No objection, the proposal is firmly embedded within the existing Refinery which includes structures of similar form and heights, therefore there are no adverse character impacts as a result of the proposal. The visual impact assessment uses an appropriate methodology and techniques to explore the potential changes to the visual aspects of the proposals on a suitable range of receptors, and has selected viewpoints at a range of distances, concluding that there may be some minor impacts during the construction phase, generated by the use of tall cranes, on the most sensitive and closest receptors. Beyond the construction phase the visual impacts will reduce the impacts to null given the context of the development. It would be reasonable to require proposals elsewhere on the site to provide a net gain in biodiversity across the development sites.
- 9.9 Marine Management Organisation Poole - Comment Only
- 9.10 Economic Development - this site has been an important facet of the New Forest economy for a number of decades both in terms of jobs created and local supply chains influenced. From an economic aspect therefore, an investment that signals the preservation of this impact is welcomed. Although it is acknowledged that the longer term employment benefits by way of job roles created is negligible, the shorter-term impact during the construction phase is noteworthy. Whilst this will not be met by an entirely local labour force, the economic impact of this on local goods and services would benefit the area immediately beyond Fawley. The economic influence of the Fawley Refinery site extends beyond the district boundary and therefore the impact of investment in this site extends to a regional and even national level.
- 9.11 Fareham Borough Council - raise no objection.
- 9.12 Eastleigh Borough Council - no objection to the principle of the development subject to consideration of the following issues: impacts on air quality, visual impact (in particular the setting of the heritage assets at Victoria Country Park which is a registered historic park and garden which contains a number of listed buildings) and vehicle movements.
- 9.13 Planning Casework Unit, Ministry of Housing Communities and Local Government - have no comment to make on the Environmental statement.

Comments in full are available on website.

10 REPRESENTATIONS RECEIVED

The following is a summary of the representations received which can be read in full via the link set out at the head of this report.

A total of 8 representations of support and 115 representations of objection have been received.

115 objections (including from the East Dorset Friends of the Earth, Save our Shores, New Forest Friends of the Earth, Extinction Rebellion Bournemouth and

Dorset and UCU Bournemouth University Environment Committee) have been received which raise the following concerns:

- fossil fuel processing units should not be expanded
- Detrimental impact on air pollution, , environmental and global health impacts
- Contrary to Paris Agreement, UN Sustainability Goals and UKs position of reducing adverse and negative impacts on climate change, against the New Forests sustainability and reducing climate change aims,
- adverse visual impact,
- risks of contamination to land and water,
- increased greenhouse gas emissions,
- catastrophic concerns for planet,
- against human rights,
- harm to local wildlife,
- green energy is the only option,
- rising sea levels,
- need hydrogen to fuel zero emission buses, lorries and trains not to produce Automotive Diesel Oil (ADO),
- investment should be spent on renewable energy,
- intolerable noise is already generated by the Refinery,
- increased Sulphur dioxide and nitrous dioxide emissions,
- the proposals will not improve the local economy,
- the UK does not need this investment in order to maintain its energy security and there is a risk that the investment will prove uneconomic and even unnecessary within 15 years,
- increased risk of explosion, fire and oil leaks,
- adverse impact on the National Park,
- the proposals would be contrary to Government Policy, the National Planning Policy Framework and be premature to the New Forest Local Plan 2016-2036 and contrary to the Core Strategy.
- Concerns are also raised about the operation of Exxonmobil and where their profits go.

8 letters of support have been received stating that;

- it is a great idea to produce fuel here as it will lead to a reduced carbon footprint,
- pipelines reduce freight on busy roads,
- increased job opportunities,
- won't see any difference from outside as local residents,
- helps support the whole county with respect to supplying the fuel demand, encourages investment in the UK, Exxon has provided many job opportunities (including apprenticeships and graduate schemes) and the proposals will help provide a cleaner environment by providing cleaner fuel.

11 OFFICER COMMENTS

Introduction

11.1 The main issues for consideration in relation to the proposals are the principle of development and whether it delivers sustainable development ie economic, social and environmental objectives.

- The impact of the development on the local and national economy
- The visual impact of the development in terms of its impact on the surrounding landscape and setting of heritage assets within the area
- ,the impact of traffic generated during the construction phase and post construction phase on the ransport network
- the impacts of additonal , noise and vibration on both adjoining residential properties and the natural environment ,
- whether the development would result in a reduction in air and water quality,
- whether the development would result in additional waste (including land affected by contamination) that could not be mitigated
- , climate change, flood risk and coastal change. In addition it is necessary to undertake an Appropriate Assessment (AA) before a decision can be made in respect of the application.

Relevant Considerations

The principle of development

11.2 Policy FAW1 of the First Alteration of Local Plan Part 2 refers specifically to this site and states that "land may be developed for uses directly related to the petrochemical industry" provided development does not conflict with any policies in the Core Strategy or Local Plan Part 2.

Economic Impact

11.3 PPF (para 80) states that planning decisions should "help create the conditions in which businesses can invest, expand and adapt. Significant weight should be placed on the need to support economic growth and productivity, taking into account both local business needs and wider

opportunities for development." This advice is reflected in Policy 6 of the Local Plan Review.

- 11.4 As set out earlier in the report this site is the largest oil refinery in the UK and provides approximately 20% of the UK refinery capacity and is the largest heavy industrial employer in Hampshire and is the country's last manufacturer of lubricating oils and manufactures a wide range of speciality petro chemicals such as synthetic rubber. Exxon Mobil has an ongoing major investment programme of around £700m which will help secure around 2000 jobs. The Fawley site has strategic access to distribution logistics across southern England and export access to other markets in Europe and the Atlantic basin. There is also nearly 700 km of pipeline supplied from Fawley in a network which incorporates critical fuel supplies to the South and Midlands of the country including Heathrow and Gatwick airports. The site also plays an important role in the local supply chain within the New Forest. The site and the proposed development therefore plays a critical role within the national and international economy. The economic influence of the Fawley Refinery site extends beyond the district boundary and therefore the impact of investment in this site extends to a regional and even national level.
- 11.5 It is acknowledged that the longer term employment benefits by way of job roles created is negligible, the shorter-term impact during the construction phase is noteworthy. Whilst this will not be met by an entirely local labour force, the economic impact of this on local goods and services would benefit the area immediately beyond Fawley.
- 11.6 The applicant has stated that the proposed development will support the retention of long term employment at the Fawley complex which will be a benefit of the scheme to the economy of the area and be in line with both national and local policy.

Environmental Statement

- 11.7 The application is accompanied by an Environmental Statement (ES), in accordance with the Town & Country Planning (Environmental Impact Assessment) Regulations 2011 (as amended). This describes the 'Environmental Impact Assessment', which assesses the potential environmental effects of the development during the construction and completed scheme (beneficial or adverse), the degree of impact, and mitigation measures to avoid, reduce or offset negative impacts. The issues covered are: Air Quality, Noise and Vibration, Visual Impact, biodiversity, land quality, green house gases and cumulative effect assessment.
- 11.8 It is considered that the likely environmental impacts of the development have been adequately assessed in the ES and subject to the imposition of appropriate conditions to secure the mitigation measures are considered acceptable. The various chapters of the ES are addressed further in the following paragraphs

Visual Impact

- 11.9 Paragraph 127 of the NPPF, Policy CS2 of the Core Strategy, and Policy 13 of the Local Plan Review all seek to ensure that development should be visually attractive and sympathetic to local character and history. The

application is accompanied by a visual impact assessment contained within the Environmental Assessment which seeks to demonstrate the impact the development would have on the surrounding area. Having considered the assessment that accompanies the application it is clear that the proposed stacks would be visible from some distant views although they would be seen in the context of other substantial structures on the site some of which are much higher. There would be taller cranes that would be utilised during the construction phase, the visual impact of these would be time limited. In terms of design the structures are by their nature functional and are appropriate to the context of the wider site.

- 11.10 The NPPF (para 172) requires that great weight should be given to 'conserving and enhancing landscape and scenic beauty' in National parks. Some of the existing structures on the site are visible from the National Park. The Environmental Statement (ES) includes an assessment of the impact from Beaulieu Heath, Blackwell Common, Solent Way and Cowleys Heath. This assessment concludes that the impact of the development would be minimal as only the two chimneys would be visible from the National Park and they would be viewed in the context of the large number of other structures on the site (many of which are taller than those proposed). Your officers have considered the evidence submitted and consider that the proposals would not detract from the special qualities of the National Park.
- 11.11 The proposals would also be visible from the Royal Victoria Country Park which is located on the opposite side of Southampton Water and is a registered historic park and garden which contains a number of listed buildings. The visual impact assessment has considered the impact of the development on recreational users of the park as well as users of the Solent Way.

Impact on Heritage Assets

- 11.12 Local Plan Part 2 Policy DM1 states that development proposals should conserve and seek to enhance the historic environment and heritage assets, with particular regard to local character, setting, management and the historic significance and context of heritage assets. This includes a balancing exercise between impact on Heritage Assets against public benefits which is also referred to in the National Planning Policy Framework (NPPF) 2019.
- 11.13 Paragraph 193 of the NPPF states that when considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the assets conservation. Paragraph 196 of the NPPF states that where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal, where appropriate securing its optimum viable use. In this case the site is located on the opposite side of Southampton Water to the designated asset and the development is set well within the existing complex of very large structures. The visual impact assessment includes a view of the site from Victoria Park and this demonstrates that there would be very limited impacts on recreational users arising from the development such that they would be at the lower end of the scale of less than substantial harm. Whilst the visual impact assessment does

not seek to assess the impact a development would have on the setting of a listed building or park this assessment can inform the assessment on setting. Given the distance between the development and the asset it is considered the development would have limited impact on the setting of these heritage assets.

- 11.14 There is no doubt that the structures proposed are of a very functional appearance, in terms of assessing the application the design is a function of industrial process that will take place in the development.

Highway Implications

- 11.15 The NPPF encourages appropriate opportunities to promote sustainable transport, the need for that development should be served by safe and suitable access for all users; and that any significant impacts on the transport network or highway safety, can be cost effectively mitigated to an acceptable degree.
- 11.16 The advice in paragraph 109 is clear that "development should only be prevented or refused on highway grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe".
- 11.17 The application is supported by an assessment of Traffic Generation and Distribution which advises that the implications of the development, once operational, on traffic movements would be negligible as the development would be highly automated with existing staff being employed within the new development and therefore result in a low additional workforce requirement.
- 11.18 The Transport Assessment sets out that construction traffic associated with construction worker movements, deliveries, machinery and heavy goods vehicles (HGVs) will arrive via the A326 Hythe bypass and will enter the Petrochemical complex through Gate 1 via Cadland Road. Additional, large plant (ie reactor modules) would be delivered pre-fabricated via barge to an accessible dock from which they would be transported via an abnormal load convoy during periods of low density road use to a wide load gate on the B3053 into the complex.
- 11.19 The Highway Engineer has assessed the proposals and is of the opinion that the planned route is acceptable and considers that it should be the only permitted route for construction HGVs accessing the site. The site, with committed development is likely to generate 129 vehicular trips including 126 mini-buses and 3 HGVs during the am peak hour (07:00 to 08:00) and 129 trips during the pm peak hour (18:00 to 19:00) during the construction period. The applicant has carried out an assessment of the capability of the highway network to accommodate the construction traffic forecast for Hardley Roundabout and the Heath Roundabout, the modelling that has been carried out indicates that both junctions could operate within capacity. The applicant has proposed various mitigation measures including ensuring that Fawley petrochemical complex does not undertake significant planned major maintenance activities during the peak construction traffic period. A package of mitigation measures proposed has demonstrated that the traffic generated during the construction period can be accommodated without detrimental impact on the capacity of the adjoining highway network . This mitigation can be

secured by conditions requiring approval and implementation of a Construction Management Plan and Travel Plan.

Noise and Vibration

11.20 Guidance on noise is contained in the National Planning Practice Guidance and the Noise Policy Statement for England 2010 advises Local Planning Authorities on the determination of applications where noise is an issue. Noise can override other planning concerns, but neither the Noise Policy Statement for England nor the National Planning Policy Framework (which reflects the Noise policy statement) expects noise to be considered in isolation, separately from the economic, social and other environmental dimensions of proposed development. Local planning authorities' decision taking should take account of the acoustic environment and in doing so consider:

whether or not a significant adverse effect is occurring or likely to occur;

whether or not an adverse effect is occurring or likely to occur; and

whether or not a good standard of amenity can be achieved.

11.21 A noise and vibration assessment is included in the Environmental Statement which has been undertaken in accordance with the Noise Policy Statement for England (NPSE) and assesses the impacts upon the closest residential properties in Cadlands Park Estate, Long Lane and Church Lane. The report concludes that construction noise levels and construction traffic noise will be within acceptable limits. The Environmental Health Officer has commented in respect of construction noise, construction traffic noise and operational noise and vibration.

11.22 In terms of construction noise it is anticipated that construction will last about 2 years with most being confined to normal daytime working hours (08:00 - 18:00 Mon to Fri and 08:00 - 12:00 Sat), however works may be required occasionally outside these hours into the evening and night time. Whilst there will be noise associated with the construction phase the noise would be within acceptable limits and could be controlled by a condition relating to a Construction Environmental Management Plan (CEMP).

11.23 The application indicates that there will be an increase of 3% to the total traffic flow during construction (a worst case estimate based on traffic flows generated during the height of construction activity). An increase in traffic flow of 25% equates to a 1dB change in traffic noise, therefore the increase will be less than 1dB which is indicative of a negligible magnitude of impact on noise sensitive receptors (such as residential properties) for short term change in road traffic noise.

11.24 Once the development is completed operational noise is predicted to be below the lowest background sound levels at receptor locations, similarly vibration is not considered to be an issue as no significant sources of vibration are proposed. It should be noted that both operational and construction noise is already subject to extensive controls under the Environmental Permit enforced by the Environment Agency.

11.25 The levels of noise and vibration generated are expected to be well within acceptable limits in accordance with national and local policy and

guidance.

Air Quality

- 11.26 The National Planning Practice Guidance contains advice about air quality and guiding principles on how planning can take account of new development on air quality.
- 11.27 An assessment of likely air quality impacts is contained in the Environmental Statement (ES) and this has been undertaken in accordance with current relevant air quality guidance. The impacts of interest are from construction traffic travelling to the site, dust and emissions from construction activities and emissions from the operational plant (nitrogen oxides, sulphur oxides, particulate matter, carbon monoxide and volatile organic compounds).
- 11.28 The Environmental Health Officer has commented on each of these areas of interest in terms of impact on human health receptors only (not in relation to impacts on ecological receptors or on climate change) as follows:
- 11.29 Impacts from construction traffic travelling to the site - the number of vehicle movements on the local road network will be limited to 28 HGV movements per construction day and 176 light duty vehicle movements per construction day, current assessment guidance in the Institute of Air Quality Management - Guidance on land-use planning and development control scopes out further detailed assessment of the impact of the traffic. The use of barges is proposed to import materials onto site during construction and operation (20 throughout the whole development phase), the number of shipping movements is considered minimal in terms of any impact on air quality. Construction emissions - the site is about 400 metres from the nearest relevant receptor which means that the impacts are considered minimal. In order to avoid any impact from dust a Construction Environmental Management Plan could agree dust suppression techniques and should follow good practice, such as not idling equipment on site, watering of the site, reducing stockpiles etc.
- 11.30 Operational emissions from proposed plant: the long term impact from emissions (nitrogen dioxide and particulate matter [PM10 and PM 2.5]) are determined as negligible as are the short term impact from emissions (nitrogen dioxide, sulphur dioxide and carbon monoxide).
- 11.31 Operational emissions from fugitive emissions: additional fugitive emissions of volatile organic compounds released from valves and flanges in connection with the proposed development has been assessed to be a less than 1% of the air quality assessment level, as such the impact is deemed insignificant.
- 11.32 Operational emissions from traffic: operational traffic would be minimal and not significant in terms of impact on air quality.
- 11.33 Impact on Air Quality Management Areas (AQMA) and Clean Air Zones (CAZ) Local AQMAs and CAZs which may be impacted by the proposed development are located in the neighbouring authorities of Southampton and Eastleigh. These are areas where the air quality concentrations of pollutants are either close to or exceeding air quality limit values and therefore are vulnerable to any increases in pollutant concentrations. The CEMP could include a requirement that HGV construction traffic should

avoid the A35 route into Southampton, unless required, to avoid the Southampton CAZ.

- 11.34 The Esso Refinery currently operates under a Permit issued by the Environment Agency, this sets conditions for the operation of the site including emission limits and the agreement of various Management Plans including noise and odour. It is understood that the applicant has been issued a variation to their permit to take account of the operation of the proposed development
- 11.35 In conclusion on this issue, the submitted air quality assessment which models the likely impacts on human health is accepted, air quality impacts arising from the construction phase of the development could be controlled through the CEMP.

Impact on Nature conservation

- 11.36 Prior to submission of this application this Authority issued a screening opinion to the effect that the proposals could result in likely significant effects on the internationally designated sites listed in Section 2.5 of this report and that, as a result this Council, as the competent authority, must complete an Appropriate Assessment (AA) to determine if the proposals may affect the protected features of the designated sites before deciding to grant planning permission for the development. The application is accompanied by a Report to Inform the Appropriate Assessment which has been the subject of consultation with Natural England and the Environment Agency. The Council has also engaged the services of an Ecological Consultant to carry out an independent assessment of the information that has been submitted. The conclusion is that the proposals would not result in adverse effects on the Integrity of European Sites either alone or in combination with other plans and projects, having regard to the suite of mitigation measures that would be implemented.

Pollution and Waste

- 11.37 The Environmental Assessment seeks to demonstrate that the development will not cause any form of pollution including how waste from the development would be dealt with. The potential for adverse effects from the proposed development arises from the need to carry out excavation works of potentially contaminated material and groundwater. The assessment focuses on human receptors and the potential for adverse effects to arise in respect to soil and water environment.
- 11.38 The Environmental Statement includes a chapter which addresses the matter of land quality and associated contaminated land matters in terms of human and environmental receptors (soils and water environment). Impacts on human receptors would be controlled by legislation such as the Health and Safety at Work Act (during the construction phase), Construction Design and management Regulations and the Contaminated Land: Applications in Real Environments (CL:AIRE) Definition of Waste Code of Practice which would lead to the effect on human receptors being minor. The risk to environmental receptors (soil) can also be controlled through compliance with CL:AIRE which would also result in a minor effect. The Environment Agency has commented on the Environmental Statement and has advised that it has no objection. Environmental Health Officer (Pollution) have commented on the Environmental Statement in terms of land quality and have raised no objection subject to conditions to

ensure that any contamination is dealt with in an appropriate manner.

Climate Change

Green House Gas Emission

- 11.39 The NPPF emphasises that responding to climate change is central to the economic, social and environmental dimensions of sustainable development. It also states that climate change is one of the core land use planning principles which should underpin decision making. The Climate Change Act 2008 sets the commitment of the UK to reduce its net green house gas (GHG) emissions by 80% below the 1990 levels by 2050 and requires the Government to establish 5-year carbon budgets.
- 11.40 The Environmental Statement (ES) includes much detail about the likely impact of the development on greenhouse gas emissions. In order to meet UK demand for Ultra Low Sulphur Diesel (ULSD), transport fuel suppliers imported approximately 50% of finished ULSD into the UK in 2017. The proposals will result in a proportion of this being produced in this country thereby reducing the need for imported diesel. This would lead to reduced transport emissions reducing the need to import diesel by ship from overseas. The European Union Emissions Trading Scheme (EU ETS) (or replicated scheme if the UK leaves the EU without remaining in this scheme) puts a price per ton on carbon dioxide (CO₂) emissions. This scheme incentivises manufacturers to invest to reduce their emissions. A percentage of imported diesel to the UK is from countries who are not party to the EU ETS (eg. Russia where about one third of UK diesel is currently imported from) and who have no current plans to create a similar scheme to reduce emissions.
- 11.41 The Government has committed that all new cars and vans sold in the UK will be zero emission by 2040 and almost all cars and vans will be zero emission by 2050. The applicant has pointed out that the emissions from vehicles would happen regardless of where the fuel is made therefore this proposal would not, in itself result in increased emissions. The applicant has also stated that the decision to invest in this proposal has been made in the full knowledge and expectation of the stated timelines and the understanding that they will be met. The UK market for diesel is not expected to grow and the development is not reliant upon any increased volumes of diesel being consumed in the UK, the development is entirely concerned with replacing import of diesel.
- 11.42 In addition to the above commitments, the Government has confirmed its ambition to see at least 50% of all new cars and 40% of all new vans being ultra-low emission vehicles (hybrid vehicles - part electric and part carbon fuelled) by 2030. In order to reach the 2040 and 2050 commitments there will be a transition period during which ultra-low emissions fuels will be essential to that achievement. The proposed development will produce some of the ultra-low sulphur diesel that will be used during this transition period for cars and vans until 2050. In addition, at present there is no battery/electric technology that can power commercial vehicles and moving plant so it will be important to have a supply of low emission diesel fuels post 2040 and 2050.
- 11.43 The Environmental Statement concludes that the effect of the proposed development on the global climate is not considered significant because

of the above reasons and partly due to the fact that diesel produced at the Refinery will reduce the number of shipping imports bringing diesel in to the country. This is a conclusion that is accepted by officers.

Flood Risk and Coastal Change

11.44 The site lies entirely within Flood Zone 1 which is at lower risk of flooding. In addition the Flood Risk Assessment indicates that the risk of surface water flooding is also low as a result there are no adverse implications of these proposals in respect of flooding. The Environment Agency have raised no concerns in this regard

Other Matters Raised by Interested Parties

11.45 Fossil fuel processing units should not be expanded - while this point is noted there are no policies that specifically prevent the expansion of the plant at this site subject to the consideration of all relevant issues. Policy FAW1 of the Local Plan Part 2 (which is proposed to be saved in the Local Plan Review 2016-2036) permits the development of the site for uses directly related to the petrochemical industry.

11.46 Green energy is the only option - this is clearly a goal to aim for, however ADO is still needed to run vehicles and the governments policies still assume that people will continue to use diesel for many years to come, the proposed development would not alter this situation.

11.47 Investment should be spent on renewable energy and the UK does not need this investment to in order to maintain its energy security - this is a matter which is beyond the scope of the assessment of this planning application.

11.48 Increased risk of explosion, fire and oil leaks - these matters are dealt with by other Regulators such as the Environment Agency and Health and Safety Executive.

11.49 Operation of Exxonmobil and where their profits go - these matters are not planning considerations for assessment as part of this application.

12 CONCLUSION ON THE PLANNING BALANCE

In conclusion, this site is the largest oil refinery in the UK and provides approximately 20% of the UK refinery capacity and the site plays an important role within the national and international economy. This proposal for significant investment brings significant benefits to the ongoing future of the Refinery. The above assessment sets out a detailed appraisal of the proposals and it is concluded that there would be limited visual impact arising from the development and users of the Royal Victoria Country Park would experience a very low magnitude of change. The highway impacts arising from the development would be negligible during the operation of the development and the impacts during construction would be within acceptable limits, subject to appropriate controls. In terms of noise and vibration these impacts would also be within acceptable limits and would be controlled through the Construction Environmental Management Plan (CEMP). Air quality matters have been the subject of close scrutiny by our

Environmental Health Officer who has concluded that any impacts would be minimal. With regard to ecological impacts these have been closely examined and the Appropriate Assessment has concluded that no significant adverse impacts are likely to arise from the development. With regard to pollution and waste these have also been assessed in detail and it has been found that any issues can be satisfactorily controlled by conditions. The matter of climate change has been examined in detail and the proposals are unlikely to give rise to concerns based on the assessment carried out above. While a large number of objections have been received to this application it cannot be a vehicle to prevent the use of carbon fuelled vehicles particularly as emissions from vehicles would still occur regardless of where the fuel is made. On balance this proposal is considered to be worthy of support.

13 OTHER CONSIDERTIONS

Crime and Disorder

Not relevant

Local Finance

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

Human Rights

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.

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.

14. RECOMMENDATION

Grant Subject to Conditions

Proposed Conditions:

1. The development hereby permitted shall be begun before the expiration of three years from the date of this permission.

Reason: To comply with Section 91 of the Town and Country Planning Act 1990 as amended by Section 51 of the Planning and Compulsory Purchase Act 2004.

2. The development permitted shall be carried out in accordance with the following approved plans: 036B/021134/01/020/000901 Rev. D001, 000902 Rev. D001, 000903 Rev. D001, 000904 Rev D001, 000905 Rev. D001, 000906 Rev. D001, 000907 Rev. D0001, 000908 Rev D001, 000909 Rev. D001, 000910 Rev. D001, 000912 Rev. D001, 000913 Rev. D001, REF/021120/01/020/000911 Rev. D001, Planning Statement, Environmental Statement, Report to Inform the Appropriate Assessment, Flood Risk Assessment and Construction Environmental Management Plan.

Reason: To ensure satisfactory provision of the development.

3. If, during development, contamination not previously identified is found to be present at the site then no further development (unless otherwise agreed in writing with the Local Planning Authority) shall be carried out until a remediation strategy detailing how this contamination will be dealt with has been submitted to, and approved in writing by, the Local Planning Authority. The remediation strategy shall be implemented as approved.

Reason: To ensure that the development does not contribute to, is not put at unacceptable risk from, or adversely affected by, unacceptable levels of water pollution from previously unidentified contamination sources at the development site.

4. During any (site clearance, removal of floor slab and) foundation excavations a suitably qualified contaminated land consultant shall carry out a **watching brief** with regards to asbestos, hydrocarbons and any other ground contamination. In the event that contamination is found at any time when carrying out the approved development, it must be reported in writing immediately to the Local Planning Authority.

Reason: To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled water, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors in accordance with policy CS5 of the Local Plan for the New Forest District Council outside the National Park (Core Strategy) and Policy DM5 of the Local Plan for the New Forest

District outside the National Park. (Part 2: Sites and Development Management).

5. Prior to importation or reuse of material for the development (or phase of) a Materials Management Plan (MMP) in accordance with CL:AIRE Definition of Waste Code of Practice shall be submitted to and approved in writing by the Local Planning Authority. All works will be undertaken in accordance with the approved document.

Reason: To ensure that it is known where material (site-won and imported) is re-used and disposed of dependent on it's suitability

6. The development shall be carried out in accordance with the Construction Environmental Plan (document number F4ST-WGR-00-EN547) and as updated by email dated 8th August 2019 unless otherwise first agreed in writing by the Local Planning Authority.

Reason: In order to ensure that the development take place in an appropriate manner and in order to safeguard the amenities of the area.

7. One month prior to the commencement of the main contract start for the development the applicant shall submit for the written approval of the Local Planning Authority a detailed Travel Plan. The approved details shall be implemented when the main contract starts and retained throughout the duration of construction.

Reason: In the interests of highway safety.

8. One month prior to the commencement of the main contract start for the development a Construction Management Plan, to include details of provision to be made on site for construction access, the turning of delivery vehicles and lorry routing as well as provisions for removing mud from vehicles and a programme of works has been submitted to and approved in writing by the local Planning Authority. The approved details shall be implemented prior to the start of the main contract and retained throughout the duration of construction.

Reason: In the interests of highway safety.

Notes for inclusion on certificate:

1. 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.

Further Information:

Steve Clothier
Telephone: 023 8028 5588



New Forest

DISTRICT COUNCIL

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

Claire Upton-Brown
Chief Planning Officer
Planning
New Forest District Council
Appletree Court
Lyndhurst
SO43 7PA

PLANNING COMMITTEE

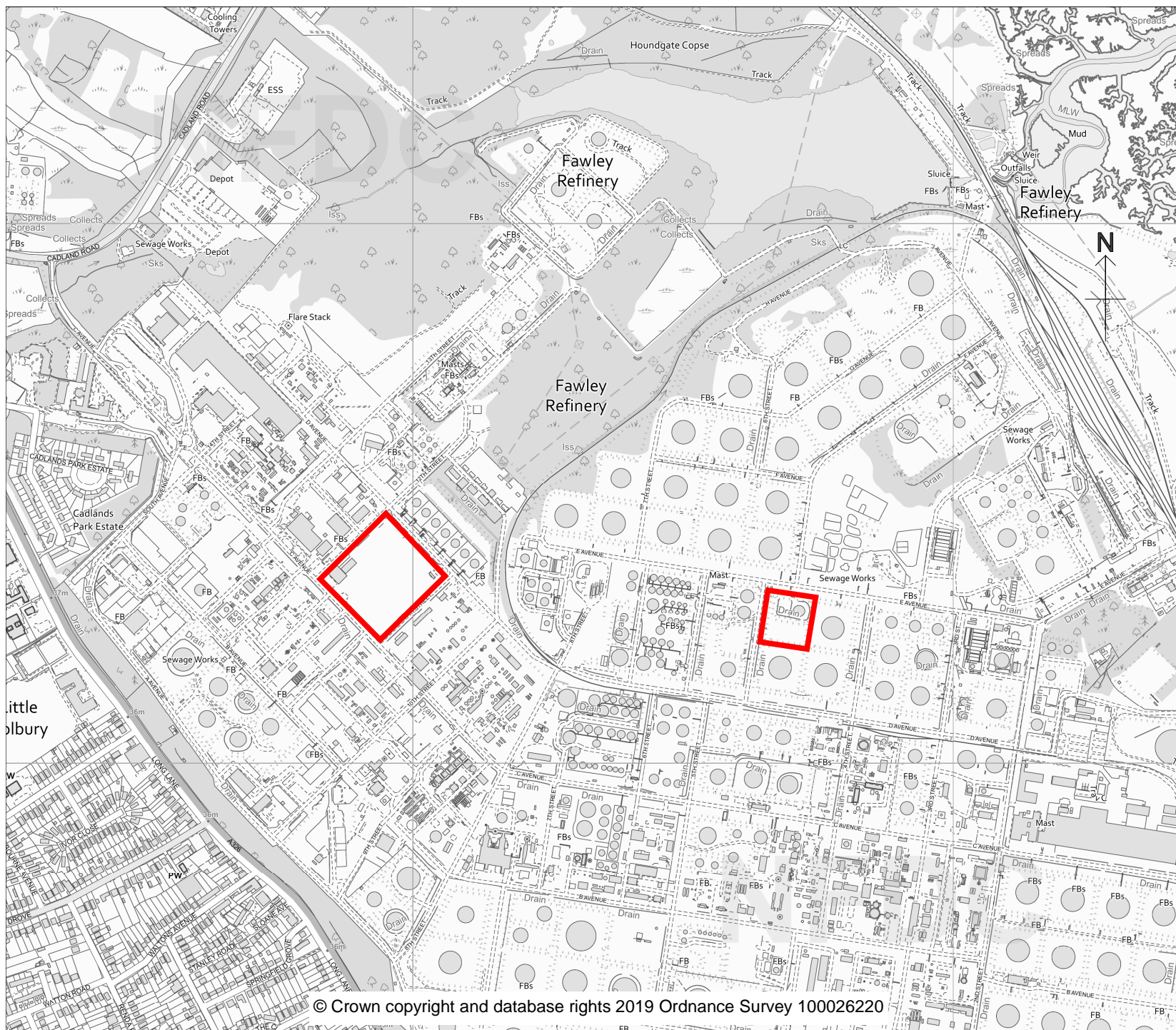
September 2019

Item No: 3c

Fawley Refinery
Block 3b
Marsh Lane Fawley
19/10476

Scale 1:10000

N.B. If printing this plan from the internet, it will not be to scale.



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Application Number: 19/10690 Advertisement Consent

Site: 21 ST JOHNS STREET, HYTHE SO45 6BZ
Development: Display internally illuminated wall mounted sign; display non-illuminated post mounted sign (Application for Advertisement Consent)

Applicant: Mrs Steadman

Target Date: 25/07/2019

Extension Date: 13/09/2019

Link to case file: [view online here](#)

1 SUMMARY OF THE MAIN ISSUES

The following are considered to be the main issues to be taken into account when determining this application. These, and all other relevant considerations, are set out and considered in Section 11, of this report after which a conclusion on the planning balance is reached.

- 1) Highway safety
- 2) Visual amenity

This matter is being considered by Committee as the recommendation is an opposing view to that of the Town Council.

2 THE SITE

The application site falls within the built up area, Conservation Area and within the Town Centre boundary. 21 St John's Street is a large detached property situated opposite the new Lidl building. To one side of the property there is a terrace of Listed Buildings and to the other side is the Parish Council building.

3 THE PROPOSED DEVELOPMENT

Display internally illuminated wall mounted sign; display non-illuminated post mounted sign

4 PLANNING HISTORY

Proposal	Decision Date	Decision Description	Status
84/NFDC/27481 Addition of a conservatory.	13/11/1984	Granted	Decided
81/NFDC/19118 Change of use from office accommodation to residential with overnight accommodation.	25/06/1981	Granted Subject to Conditions	Decided

5 THE DEVELOPMENT PLAN AND OTHER NFDC GUIDANCE

Constraints

Aerodrome Safeguarding Zone
Plan Area
Flood Zone

Conservation Area: Hythe Conservation Area

Plan Policy Designations

Built-up Area
Town Centre Boundary

CS20: Town, district, village and local centres

National Planning Policy Framework

Chap 12: Achieving well designed places
Chap 16: Conserving and Enhancing the Historic Environment

Core Strategy

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

Local Plan Part 2 Sites and Development Management Development Plan Document

DM1: Heritage and Conservation

Emerging Local Plan

Policy 13: Design Quality and Local Distinctiveness

S03: Built Environment and Heritage

Supplementary Planning Guidance And Documents

SPG - Hythe - A Conservation Area Appraisal
SPG - Shopfront Design Guide
Hythe Neighbourhood Plan

6 RELEVANT LEGISLATION AND GOVERNMENT ADVICE

None relevant

7 PARISH / TOWN COUNCIL COMMENTS

Hythe & Dibden Parish Council
Comment: PAR 3: Recommend PERMISSION.

8 COUNCILLOR COMMENTS

No comments received

9 CONSULTEE COMMENTS

The following is a summary of the representations received which can be read in full via the link set out at the head of this report.

HCC Highways - Condition

- no objection
- subject to condition

NFDC Conservation - Objection

- we are required to preserve and enhance the character of the Conservation Area by the Planning (Listed Buildings and Conservation Area) Act 1990 section 72.
- a hanging sign with LED lights would be more traditional
- the shopfront design guide states maximum size should be 650x650
- remove post mounted sign from proposal

Comments in full are available on website.

10 REPRESENTATIONS RECEIVED

No comments received

11 OFFICER COMMENTS

Introduction

The proposal is to display an illuminated wall mounted sign and a non illuminated post mounted sign. The main issues for consideration for this advertisement application are the impacts on the visual amenity of the area having particular regard to its siting within a Conservation Area, and whether the proposed advertisements impact on highway safety.

An existing non illuminated hanging sign will be removed, the proposed signage will advertise the name of the guest house. One is a wall mounted sign, which is proposed on the front elevation and the other a post mounted hanging sign, which is proposed to be on the side boundary beside an existing wall. The proposed signs are aluminium tray design with powder coating finish. The proposed wall mounted sign is back lit with low voltage LED. The principle of new signage in this location is acceptable.

Amended plans have been received to reduce the size of the wall mounted sign from 2m² to 1.5m². There were no changes made to the post mounted sign. The reduction is appreciated however this change is not sufficient to overcome the concerns raised and the proposals remain contrary to the shopfront design guide. The shopfront design guide recommends that signs within the Conservation Area should be appropriate and sympathetic to the character of the area. Traditional materials which avoid strong colours and shiny finishes should be used. Internal illumination is not appropriate, the careful use of a spotlight may be acceptable.

Harm would be caused due to the overall size location and non-traditional materials proposed.

The officer has requested further changes, to reduce the size of the wall mounted sign by even more and for it to be sited lower on the front elevation so as not to compete with the first floor windows. Also to reduce the height and size of the post mounted sign. The use of traditional materials and a different form of illumination. The applicant has chosen to proceed with the amended wall mounted sign which is of a reduced size and the original post mounted sign.

The applicant has referred to other signs in the area -

Lidl signs - these serve a large modern building, the approved signs are corporate, they have low level externally illuminated signage to the fascia only which is consistent with a shop of this size, the post mounted signs are all non illuminated the building falls outside the Conservation Area.

Parish Council Building, The Grove - these signs are large painted timber signs which are positioned under first floor windows and are non-illuminated. This property is described in the Hythe Conservation Area Appraisal as an important unlisted building, the shop front guide shows the colour of the signs as acceptable.

Relevant policies considered

Policy CS2 of the Core Strategy for the New Forest District outside the National Park (2009) requires new development to be well designed to respect the character, identity, and context of the area's towns, villages and countryside. It also states that new development shall not cause unacceptable effects by reason of visual intrusion, overlooking, shading, noise, light pollution or other adverse impact on local character and amenities. This advice is reflected in the emerging Local Plan, namely Policy 13 - Design quality and local distinctiveness.

The National Planning Policy Framework (2019) in Chapter 12 (Achieving well-designed places) puts strong emphasis on delivery of good design which helps to create "better places in which to live and work and helps make development acceptable to communities" (para. 124). The Framework also calls for "a high standard of amenity for existing and future users" (para. 127).

National Planning Policy Framework:

Paragraph 190 requires LPAs to take account of the significance of affected heritage assets when considering the impact of a proposal, to avoid or minimise any conflict between the heritage asset's conservation and any aspect of the proposal;

Paragraph 193 requires great weight to be attached to the conservation of designated heritage assets, irrespective of the level of potential harm.

Paragraph 194 Any harm to or loss of, the significance of a designated heritage asset, including its setting, requires clear and convincing justification,;

Paragraph 196 requires less than substantial harm to designated heritage assets to be weighed against the public benefits of the proposal; and

LPAs to have regard to the desirability of preserving the building or its setting or any features of special **Section 16 (2) and 66 (1)** of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires architectural or historic interest which it possesses.

Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires special attention shall be paid to the desirability of preserving or enhancing the character or appearance of that area.

Relevant Considerations

Highway safety

Highways have been consulted and comment that there would be no harm to public safety subject to restrictions on illumination levels.

Visual Amenity

The character on this side of the road is predominantly residential, there are no other large or illuminated signs in close proximity, with which to compete as would be the case in a high street context. Next door there are a small group of listed buildings that are important to consider as they form the context of this proposal. The site is located within the Conservation Area although close to its boundary.

The wall mounted sign due to its size (1.5m x 1.5m) and position on the building, illumination and materials is considered to be out of keeping with the locality. Due to being located between the first floor windows it would be prominent within its context drawing attention to its overall size and inappropriate materials

The post sign would be non illuminated, the sign is 800 x 600 on a post of 2.4m due to its forward location is remote from the building, the size, overall height and non-traditional materials would add visual clutter to the street scene. As such it would appear prominent and visually intrusive within its setting and would detract from the character and appearance of the Conservation Area

12 CONCLUSION ON THE PLANNING BALANCE

The application has been considered against all relevant material considerations including the development plan, relevant legislation, policy guidance, government advice, and the views of consultees and interested 3rd parties. On this occasion, having taken all these matters into account, it is considered that significant harm would result from the proposals and a refusal is justified in this instance.

13 OTHER CONSIDERATIONS

Crime and Disorder

No relevant implications

Local Finance

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

Human Rights

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.

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.

14. RECOMMENDATION

REFUSE ADVERTISEMENT CONSENT

Reason(s) for Refusal:

1. By reason of the excessive size, siting, inappropriate materials and illumination of the wall mounted sign, coupled with the height, size and materials and the forward position of the post mounted sign, the proposals would be harmful to the visual amenity of the Hythe Conservation Area. As such the proposals would be contrary to Policy CS2 and CS3 of the Core Strategy for the New Forest District outside the National Park, DM1 of the Local Plan part 2 sites and development management plan, National Planning Policy Framework. Shopfront Design Guide.

Notes for inclusion on certificate:

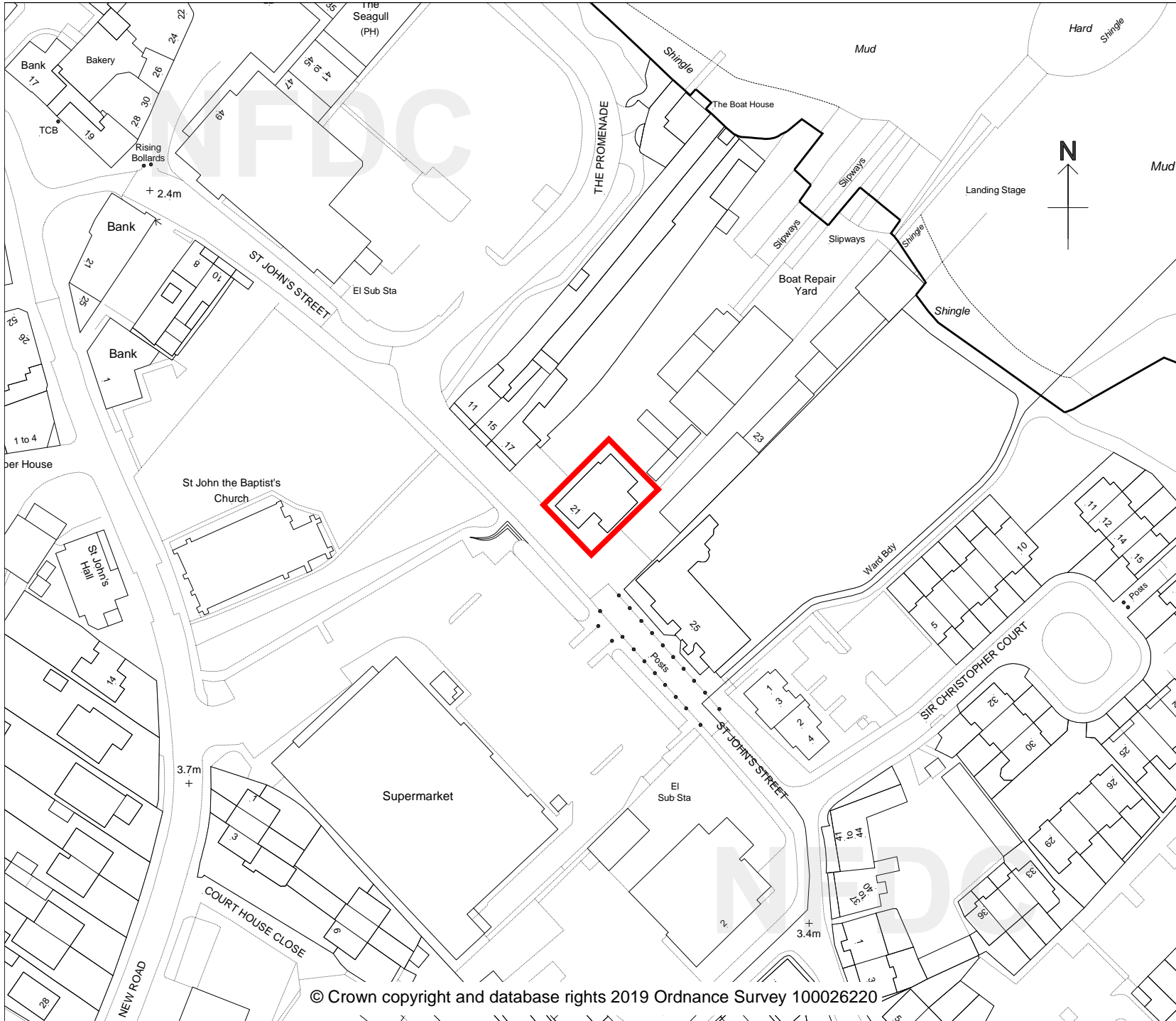
1. In accordance with paragraph 38 of the National Planning Policy Framework and Article 35 of the Town and Country Planning (Development Management Procedure) (England) Order 2015, New Forest District Council takes a positive and proactive approach, seeking solutions to any problems arising in the handling 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 application was acceptable as submitted, concerns were raised and amended plans were submitted, further amendments were requested but declined by the applicant.

Further Information:

Jacky Dawe

Telephone: 023 8028 5588



New Forest

DISTRICT COUNCIL

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

Claire Upton-Brown
 Chief Planning Officer
 Planning
 New Forest District Council
 Appletree Court
 Lyndhurst
 SO43 7PA

PLANNING COMMITTEE

September 2019

Item No: 3d

21
 St Johns Street
 Hythe
 19/10690

Scale 1:1250

N.B. If printing this plan from the internet, it will not be to scale.

Application Number: 19/10720 Full Planning Permission

Site: 7 CHARNWOOD CLOSE, TOTTON SO40 2QB
Development: Use as residential garden land and erect fence (Retrospective)

Applicant: Miss St John

Target Date: 14/08/2019

Extension Date: 13/09/2019

Link to case file: [view online here](#)

1 SUMMARY OF THE MAIN ISSUES

The following are considered to be the main issues to be taken into account when determining this application. These, and all other relevant considerations, are set out and considered in Section 11, of this report after which a conclusion on the planning balance is reached.

- 1) Impact of the proposal on the character of the area and the street scene
- 2) Impact of the proposal on the amenity of neighbouring properties

This matter is being considered by Committee at the request of Councillor Arthur Davis

2 THE SITE

The application site. Is part of an established residential development with properties of a similar design, there are large areas of green space within this residential estate which give an open feel to the area. The frontages of properties have been designed to be open with cars and garages to the rear

3 THE PROPOSED DEVELOPMENT

The application seeks retrospective planning permission for a 1m high close board fence around the front boundary, a 2.1m high fence to the side of the property adjacent to a footpath. The side fence encloses an area of land that is currently a landscape strip, this is a change of use of land to residential garden land.

4 PLANNING HISTORY

Proposal	Decision Date	Decision Description	Status
NFR/XX/15449/13 15 houses and garages.	19/07/1971	Granted Subject to Conditions	Decided
XX/NFR/15449/7 Residential and associated development.	25/11/1970	Granted Subject to Conditions	Decided
XX/NFR/15449/6 Roads and pedestrian ways, public open space, site for church and 2 shops, 318 housing units, 281 garages and 75 parking spaces.	11/06/1970	Granted Subject to Conditions	Decided

XX/NFR/15449/4 Spine road and surface water drainage. 07/07/1969 Granted Subject to Conditions Decided

XX/NFR/15449 Residential and associated development 05/12/1967 Granted Subject to Conditions Decided

5 THE DEVELOPMENT PLAN AND OTHER NFDC GUIDANCE

Core Strategy

CS2: Design quality

The Emerging Local Plan

Policy 13:
SO3: Built Environment and Heritage

6 RELEVANT LEGISLATION AND GOVERNMENT ADVICE

Relevant Legislation

Section 38 Development Plan
Planning and Compulsory Purchase Act 2004

Relevant Advice

National Planning Policy Framework (2019)
Chapter 12: Achieving well-designed places

7 PARISH / TOWN COUNCIL COMMENTS

Totton & Eling Town Council

The application is retrospective and aims to keep the fence which has been erected around the property. The issue comes with the impact of this fence on the open design of the front gardens and how this close boarded fence will significantly diminish this open relationship with the public areas. While there are examples scattered around the area, it remains important to retain this feature and not set a precedent. In addition recent applications have been rejected nearby for similar fences. Councillors deliberated for both sides of the debate, with some stating that as there were already plenty of fences in the area and the precedent had already been set. While others believed that lapses in planning in the past should not impact the current matter and if everyone were to have a fence such as this then the street scene and appearance of the houses in the area would be detrimentally impacted upon. There was also the further issue of the site fence which impacts the path negatively. If the land were deemed to be part of this buffer zone like that of the front then this should also be reduced in size or set back so that this relationship can continue.

RECOMMENDATION - REFUSAL, but would accept the decision reached by the District Council's Officers under their delegated powers

8 COUNCILLOR COMMENTS

- If recommended for refusal then should go before Committee

Comments in full are available on website.

9 CONSULTEE COMMENTS

The following is a summary of the representations received which can be read in full via the link set out at the head of this report.

Environmental Health Contaminated Land: no concerns

Comments in full are available on website.

10 REPRESENTATIONS RECEIVED

The following is a summary of the representations received.

2 letters of support have been received commenting that the proposal;

- Improvement to the overall area
- makes clear area of path
- own application refused - advised to plant hedge
- there are other examples of fences
- no enforcement action taken
- situation dealt with unfairly

1 letter of objection on the grounds;

- own application for close board fence refused
- everyone should be treated the same
- application for picket fence approved

11 OFFICER COMMENTS

Introduction

The main issues for consideration in the determination of this application are the impacts of enclosing the front garden and the loss of the strip of land between the existing brick wall and the footpath on the open character of the area and the street scene and whether the proposal would have an adverse impact on neighbour amenities.

Relevant Considerations

The original consent XX/NFR/15449/6 sort to achieve a development that had areas of landscape and front gardens that were not enclosed by fencing so that they created a sense of openness. Accordingly Condition 2, was attached to the permission to ensure that this planning objective was retained the condition states –

Notwithstanding the provisions of the Town and Country Planning General Development Order 1963, no building, structures or erection of any kind including walls, fences, hedges, trees, shrubs and drainage works, shall be constructed or planted on the area coloured green on the approved plan without the consent of the Local Planning Authority.

Character of the area:

There are a few historic examples where fencing has been erected. Whilst the fence to the front is only 1m in height the main character of the immediate area

and beyond remains open and consideration has been given to the harm created due to the further erosion of this front garden and the resulting change to the spatial character of this area. The fence to the side boundary is 2m in height, it does replace an existing brick wall, however the fence is placed tight along the side of the footpath. The resulting loss of a strip of land adjacent to the footpath would create an unacceptable sense of enclosure of the footpath making it feel less secure and being detrimental to users of this footpath. The front and side fence erode the spatial character of the immediate area and are prominent within the street scene.

Neighbour amenity

The fence to the front is low and would not overly affect neighbour amenity, the side fence is higher but there are no neighbours on this side of the dwelling.

Comments received

The main issue raised between supporters and objectors is that the Council should be fair in their decisions, previous applications for close board fences in this area have been refused. The Estate was designed as an open plan estate with the front gardens of individual properties playing a significant role in creating this sense of open space. Throughout the estate there are areas of land that are not part of the gardens of properties all of which play a role in the open character of the estate. The Condition on the original consent was imposed in order to retain these features.

12 CONCLUSION ON THE PLANNING BALANCE

The application has been considered against all relevant material considerations including the development plan, relevant legislation, policy guidance, government advice, and the views of consultees and interested 3rd parties. Having taken all these matters into account, it is considered that the loss of open space and the enclosure of the front garden in the way proposed would detract from the open plan nature of the estate leading to a detrimental impact on the character of the area.

13 OTHER CONSIDERATIONS

Crime and Disorder

No relevant implications

Local Finance

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

Human Rights

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.

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.

14. RECOMMENDATION

Refuse

Reason(s) for Refusal:

1. By reason of the loss of the landscape strip adjacent to the footpath through its change of use to enclosed garden and the height and close proximity of the 2.1m fence to the footpath the fence forms an intrusive and overbearing development resulting in an unacceptable sense of enclosure of the footpath to the detriment of its function and to users of this footpath. , For these reasons the development is contrary to Policy CS2 of the Core strategy for the New Forest outside the National Park and Chapter 12 of the National Planning Policy Framework.
2. The location and solid form of the front fence which is visible within the wider street scene, results in a harsh boundary treatment that is visually intrusive and out of keeping within the street scene, detracting from and erodes the predominantly open character of the area, for these reasons the development is contrary to Policy CS2 of the Core strategy for the New Forest outside the National Park and Chapter 12 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.

In this case all the above apply and as the application was acceptable as submitted no specific further actions were required.

Further Information:

Jacky Dawe

Telephone: 023 8028 5588



New Forest
DISTRICT COUNCIL

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

Claire Upton-Brown
Chief Planning Officer
Planning
New Forest District Council
Appletree Court
Lyndhurst
SO43 7PA

PLANNING COMMITTEE

September 2019

Item No: 3e

7
Charnwood Close
Totton
19/10720

Scale 1:1250

N.B. If printing this plan from the internet, it will not be to scale.

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Application Number: 19/10889 Full Planning Permission

Site: Land of ORCHARD HOUSE, NEW VALLEY ROAD,
MILFORD-ON-SEA SO41 0SA

Development: Detached dwelling with integral garage; hard surfacing; detached garage

Applicant: D2 Projects

Target Date: 06/09/2019

Link to case file: [view online here](#)

1 SUMMARY OF THE MAIN ISSUES

The following are considered to be the main issues to be taken into account when determining this application. These, and all other relevant considerations, are set out and considered in Section 11, of this report after which a conclusion on the planning balance is reached.

- 1) the principle of residential development
- 2) impact of the proposal on the visual amenities of the area including the adjacent Conservation Area
- 3) impact of the proposal on the residential amenities of adjoining occupiers
- 4) highways matters
- 5) Habitat Mitigation
- 6) Housing land supply

This matter is before Committee at the request of Cllr Christine Hopkins

2 THE SITE

The site is formed from much of the existing garden area to Orchard House which is partly laid to lawn with substantial planted areas and significant changes in level. Towards the north of the site, it is wooded and drops down to the Danes Stream, the other side of the which is a Local Nature Reserve and SINC. An area between this and the adjacent property, Foxgloves, would be retained by the owners of Orchard House. The Milford on Sea Conservation Area abuts the front boundary of Orchard House although there are no works proposed within the part of the site which falls within this designation.

3 THE PROPOSED DEVELOPMENT

The application entails the demolition of a large detached garage building to enable access through into the main site area for the provision of a split level 2-storey house comprising hall, WC, bed 4 with ensuite and large open plan kitchen/dining area at ground floor level with utility room and double garage at lower ground level. At first floor level would be three bedrooms (one with ensuite and dressing area) and a family bathroom with study and living room above the utility/garage element to the north.

The existing access to Orchard House would be used as the access into this property which would have a parking and turning area behind gates. A single garage would be provided for the host dwelling partially covering the existing

garage footprint.

4 PLANNING HISTORY

None relevant

5 THE DEVELOPMENT PLAN AND OTHER NFDC GUIDANCE

Core Strategy

CS2: Design quality

CS3: Protecting and enhancing our special environment (Heritage and Nature Conservation)

CS15: Affordable housing contribution requirements from developments

CS24: Transport considerations

Local Plan Part 2 Sites and Development Management Development Plan Document

DM1: Heritage and Conservation

DM3: Mitigation of impacts on European nature conservation sites

The Emerging Local Plan

Policy 13: Design quality and local distinctiveness

Supplementary Planning Guidance And Documents

SPG - Milford-on-Sea - A Conservation Area Appraisal

SPD - Mitigation Strategy for European Sites

SPG - Milford-on-Sea Village Design Statement

SPD - Parking Standards

6 RELEVANT LEGISLATION AND GOVERNMENT ADVICE

Relevant Legislation

Section 38 Development Plan Planning and Compulsory Purchase Act 2004

National Planning Policy Framework

Chap 12: Achieving well designed places

NPPF 109: The National Planning Policy Framework 2019 Chapter 9 "Promoting sustainable transport" advises that development should be prevented if there would be an unacceptable impact on highway safety.

NPPF 124 :The National Planning Policy Framework 2019 Chapter 12 "Achieving well designed places" acknowledges (in Para 124) that the creation of a high quality built environment is fundamental to what the planning and development process should achieve. Good design is a key aspect of sustainable development in creating better places to live and work. Being clear about design expectations is essential to achieving this goal.

NPPF 127 : The National Planning Policy Framework 2019 Chapter 12 "Achieving well designed places" requires in Para 127 requires development to be sympathetic to local character, respect surrounding built environment and maintain a strong sense of place in terms of building gaps, spaces and materials

NPPF 155 : The National Planning Policy Framework 2019 Chapter 14 "Meeting the challenge of climate change, flooding and coastal change" requires in Para 155 development to be located away from areas at highest risk.

7 PARISH / TOWN COUNCIL COMMENTS

Milford On Sea Parish Council

The Parish Council has some concerns related to overlooking the adjacent property from the upper floor windows and would like to see energy efficient solar panels included within the design.

PAR5: Happy to accept the decision reached by the DC Officers under their delegated powers

8 COUNCILLOR COMMENTS

No comments received

9 CONSULTEE COMMENTS

The following is a summary of the representations received which can be read in full via the link set out at the head of this report.

New Forest Ecologist - no objection, suggest condition

Waste Management (NFDC) - Comment Only

NFDC Tree Team - no objection

Southern Water - comments awaited

Comments in full are available on website.

10 REPRESENTATIONS RECEIVED

The following is a summary of the representations received.

For: 2

Neutral: 1

Against: 1

The concerns raised are:

- the proposed dwelling is out of context with the character of the area
- it would be an invasive form of backland development
- it would have no active frontage
- adverse impact on residential amenity
- there has been a recent loss of trees within the site
- impact on the Pleasure Grounds

- there are sewage problems in the area

The letters of support raise the following:

- the dwelling is designed to minimise impact on residential amenity
- it is a preferable option to several dwellings
- the garage needs to be replaced
- large gardens for host and proposed dwellings would be retained

11 OFFICER COMMENTS

Introduction

The site is formed from much of the existing garden area to Orchard House which is partly laid to lawn with substantial planted areas and significant changes in level. Towards the north of the site, it is wooded and drops down to the Danes Stream, the other side of the which is a Local Nature Reserve and SINC. An area between this and the adjacent property, Foxgloves, would be retained by the owners of Orchard House. The Milford on Sea Conservation Area abuts the front boundary of Orchard House although there are no works proposed within the part of the site which falls within this designation.

The proposal would involve the removal of a dilapidated garage to the host dwelling and its replacement with a single garage together with the provision of a large detached dwelling which would take account of the levels within the site. Parking and turning would also be provided.

Relevant Considerations

The Principle of development on this site

The site is within the built up area of Milford on Sea and subject to no significant harm to the amenities of the area or other issues detailed below, there are no objections to the principle of a new dwelling in this location. Some concern has been expressed in relation to the site being a backland plot although there are dwellings to the east, west and south of the site. The size of the site is such that it would not result in a cramped form of development. The principle of development is accepted .

Visual Amenity and impact on the adjoining Conservation Area

Although the proposed dwelling would be sited outside of the Conservation Area, the overall proposal would have some impact on views from the Conservation Area. At present, the existing garage can be seen from the Conservation Area along the drive. This view would be altered through the provision of a smaller garage and access gates into the garden area for the new dwelling. The street scene drawing submitted in support of the application indicates that the new dwelling would be visible from the Conservation Area although this would be some 50m from the road. Given this distance, the reduced size of the garage and potential space for planting vegetation including trees, it is not considered that the proposal would have an impact on the character or appearance of the Conservation Area.

The dwelling has been designed to take account of the changes in level within the site and includes the provision of gabled roof forms to reflect similar features on adjoining dwellings. Both the host dwelling and Foxgloves to the north of the

access drive have gabled roof forms and the proposal would be appropriate in this respect. In terms of the proposed materials, it is noted that Orchard House is a rendered building and there is timber cladding to the gables of Foxgloves. The proposed render to the ground floor with timber cladding above is therefore considered to reflect the materials used on adjoining dwellings. The Village Design Statement suggests that 'New buildings should have the same impression of space around them as surrounding ones.' It is considered that the proposal would have an appropriate level of spaciousness given the size of the plot and the distance from other dwellings being over 20m from the nearest property Orchard House.

At present, there is a strip of grass and planting along the access drive to Orchard House. This include an old fruit tree which would be removed as part of the proposals. The drawing shows that a green strip would be retained in this location and together with the alterations at the end of the drive where the garage is to be removed, there is scope for planting to occur which would result in a softer impact. Given that this is a single dwelling it is not considered necessary or appropriate to seek to approval internal landscaping within the curtilage of the existing dwelling Orchard House.

Residential Amenity

With regard to residential amenity, the proposed dwelling is sufficiently far enough away from the neighbouring dwellings not to give rise to an adverse impact on privacy. These distances are stated on the submitted site plan showing 21.6m to Orchard House, 32.2m to 10, Woodland Way, 36.9m to Woodlands and 30.2m to Foxgloves. In addition to this, the orientation of the proposed dwelling would mean that the main windows would face either north or south and not towards neighbouring properties. Where windows are at first floor level in the east/west elevations, they are 22m from the first floor French windows of an adjoining dwelling to the host dwelling, 34m to Foxgloves and 42m to the rear of Woodlands which cannot presently be seen from the site due to the vegetation. It is proposed that two windows on the east elevation of the proposed dwelling would have timber louvres fitted to the windows and a third window which serves a bathroom would be obscure glazed.

It is considered that the respective distances between the proposed dwelling and existing dwellings is such that there would be no loss of amenity in terms of overlooking or overbearing impact. Concern has been expressed about the proximity of the new dwelling to the boundary with 10, Woodlands Way. There is a distance of 6.8m from the side elevation of the proposed dwelling and its boundary with 10 Woodland Way this is considered to be a satisfactory separation to ensure that there is no adverse impact on 10 Woodlands Way.

The proposed garage would have no impact on adjoining dwellings.

Highway Issues

The access drive is wide enough to enable two cars to pass and no alterations are necessary to the access onto New Valley Road. It is not considered that the additional dwelling would give rise to unacceptable impacts on highway safety in this location thus complying with paragraph 109 of the NPPF. Within the proposed plot for the new dwelling is adequate space to provide an appropriate level of car parking spaces and turning away from the host dwelling which would also retain adequate parking space.

Housing Land Supply

The Local Planning Authority 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.

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 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. An informative would be applied to any consent to this effect.

Other Matters

The northern most part of the site is within Flood Zones 2 and 3. There are no building works proposed within this area and standing advice from the Environment Agency requires development to be a minimum of 20m from this area. The proposed dwelling would be in excess of this distance and elevated from these zones. As such, it is not considered that the proximity of the dwelling to the Danes Stream is of concern in this respect and it complies with paragraph 155 of the NPPF which requires development to be located away from areas at risk of flooding.

North of the site is a Local Nature Reserve and SINC. The application has been supported with an Ecological Appraisal and Bat Survey and concludes that the proposal would have a limited impact on these sensitive designations. There are recommendations within the report which can be secured through a suitably worded condition.

One response makes reference to there having been sewage issues in the area. The extent or location of this has not been provided but it is noted that a sewage pipe runs through the site. In terms of construction, the proposed dwelling is sufficiently far enough away from the pipeline not to cause problems.

12 CONCLUSION ON THE PLANNING BALANCE

The proposal would provide an additional dwelling in this varied part of Milford on Sea without adversely affecting the residential amenities of the neighbouring properties. The proposed dwelling would be set within a spacious plot and would be in keeping with the overall character of the area.

Adequate parking and turning would be provided for both the existing and proposed dwellings and the limited impact on the sensitive designations to the north can be controlled through the suggested conditions.

13 OTHER CONSIDERATIONS

Crime and Disorder

N/A

Local Finance

If this development is granted permission, the Council will receive a New Homes Bonus of £1224 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 £24,877.38.

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

Human Rights

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.

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.

CIL Summary Table

Type	Proposed Floorspace (sq/m)	Existing Floorspace (sq/m)	Net Floorspace (sq/m)	Chargeable Floorspace (sq/m)	Rate	Total
Dwelling houses	294	39.75	254.25	254.25	£80/sqm	£24,877.38*

Subtotal:	£24,877.38
Relief:	£0.00
Total Payable:	£24,877.38

* 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 2019 this value is 1.22

14. RECOMMENDATION

Grant Subject to Conditions

Proposed Conditions:

1. The development hereby permitted shall be begun before the expiration of three years from the date of this permission.

Reason: To comply with Section 91 of the Town and Country Planning Act 1990 as amended by Section 51 of the Planning and Compulsory Purchase Act 2004.

2. The development permitted shall be carried out in accordance with the following approved plans: 105A, 103A, 08, 05, 04D, 06B and 07B.

Reason: To ensure satisfactory provision of the development.

3. Before development commences, exact details of the facing and roofing materials to be used shall be submitted to and approved in writing by the Local Planning Authority. The development shall only be implemented in accordance with the approved details.

Reason: To ensure an acceptable appearance of the building in

accordance with policy CS2 of the Core Strategy for the New Forest District outside the National Park.

4. Before development commences, the proposed slab levels in relationship to the existing ground levels set to an agreed datum shall be submitted to and approved in writing by the Local Planning Authority. Development shall only take place in accordance with those details which have been approved.

Reason: To ensure that the development takes place in an appropriate way in accordance with policy CS2 of the Local Plan for the New Forest District outside the National Park (Core Strategy).

5. Before development commences a scheme of landscaping of the site shall be submitted for approval in writing by the Local Planning Authority. This scheme shall include:

- (a) the existing trees and shrubs which have been agreed to be retained;
- (b) a specification for new planting (species, size, spacing and location);
- (c) areas for hard surfacing and the materials to be used;
- (d) other means of enclosure;
- (e) a method and programme for its implementation and the means to provide for its future maintenance.

The details should include any ecological enhancements as recommended in the Ecological Appraisal and Phase 1 Bat Survey dated July 2019. No development shall take place unless these details have been approved and then only in accordance with those details.

Reason: To ensure that the development takes place in an appropriate way and to comply with Policy CS2 of the Local Plan for the New Forest District outside the National Park (Core Strategy).

6. 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 without express planning permission first having been granted.

Reason: To ensure the dwelling remains of a size which is appropriate to its location within the countryside and to comply with Policy DM20 of the Local Plan for the New Forest District outside the National Park. (Part 2: Sites and Development Management).

or

In view of the physical characteristics of the plot, the Local Planning Authority would wish to ensure that any future development proposals do not adversely affect the visual amenities of the area and the amenities of neighbouring properties, contrary to Policy CS2 of the Local Plan for the New

Forest District outside the National Park (Core Strategy).

7. 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

8. The works hereby approved shall be undertaken in strict accordance with the Conclusions and Recommendations within the Ecological Appraisal and Phase 1 Bat Survey dated July 2019 unless otherwise first agreed in writing with the Local Planning Authority.

Reason: To safeguard protected species in accordance with Policy CS3 of the Local Plan for the New Forest District outside of the National Park (Core Strategy) and Policy DM2 of the Local Plan for the New Forest District outside the National Park (Part 2 : Sites and Development Management).

9. No development shall be carried out until proposals for the mitigation of the impact of the development on the New Forest and Solent Coast European Nature Conservation Sites have been submitted to and approved in writing by the local planning authority, and the local planning authority has confirmed in writing that the provision of the proposed mitigation has been secured. Such 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.

Notes for inclusion on certificate:

1. In discharging condition No.9 above the Applicant is advised that appropriate mitigation is required before the development is commenced, either by agreeing to fund the Council's Mitigation Projects or otherwise providing mitigation to an equivalent standard. Further information about how this can be achieved can be found here <http://www.newforest.gov.uk/article/16478/>
2. 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.

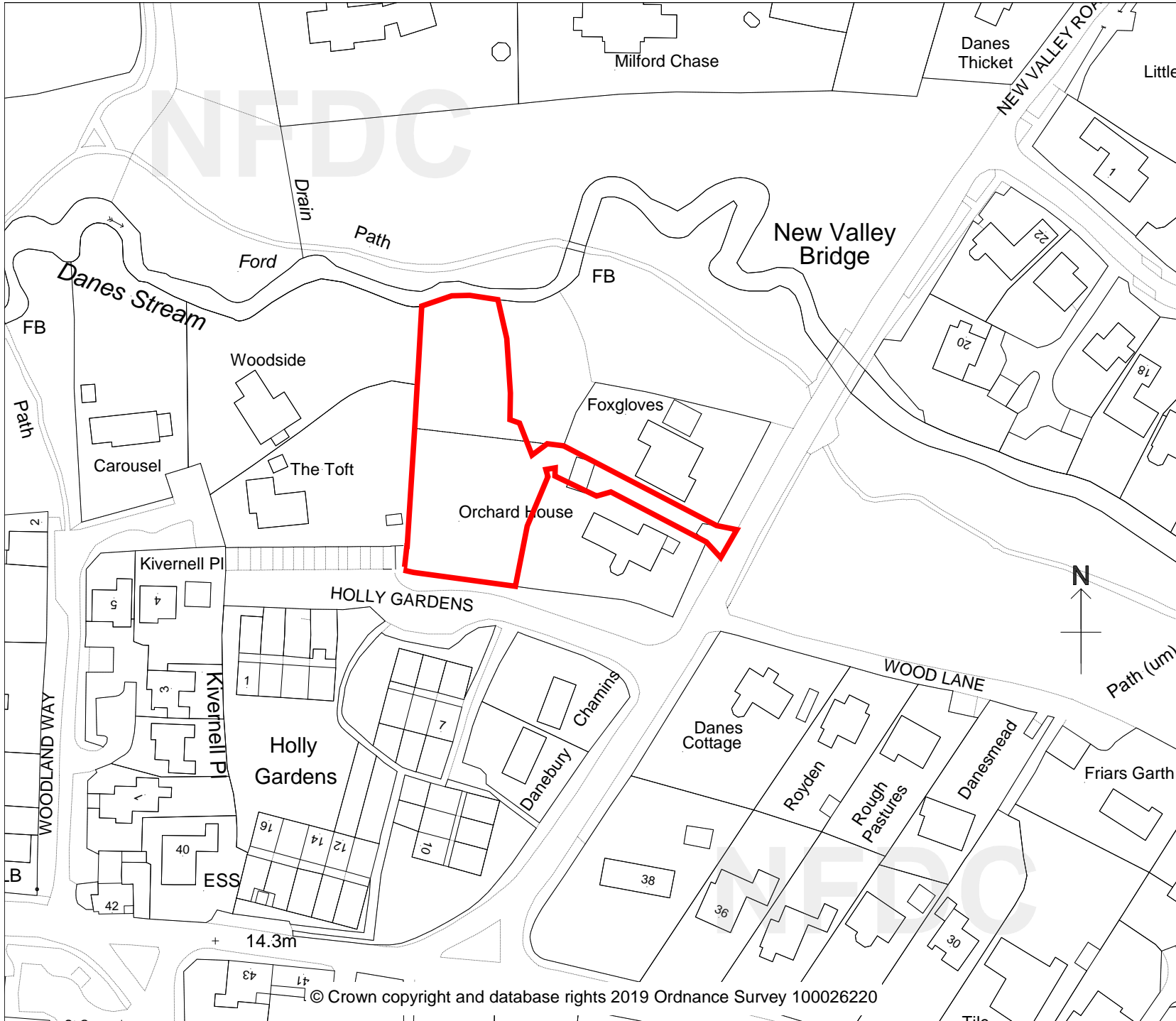
3. In accordance with paragraph 38 of the National Planning Policy Framework and Article 35 of the Town and Country Planning (Development Management Procedure) (England) Order 2015, New Forest District Council takes a positive and proactive approach, seeking solutions to any problems arising in the handling 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 an amended plan was requested to clarify the proposed landscaping along the access drive. No specific further actions were required.

Further Information:

Vivienne Baxter

Telephone: 023 8028 5588



New Forest
DISTRICT COUNCIL

Tel: 023 8028 5000
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Claire Upton-Brown
Chief Planning Officer
Planning
New Forest District Council
Appletree Court
Lyndhurst
SO43 7PA

PLANNING COMMITTEE

September 2019

Item No: 3f

Land of Orchard House
New Valley Road
Milford on Sea
19/10889

Scale 1:1250

N.B. If printing this plan from the internet, it will not be to scale.

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