

NOTICE OF MEETING

Meeting: PLANNING COMMITTEE

Date and Time: WEDNESDAY, 14 OCTOBER 2020, AT 10.00 AM*

Place: SKYPE MEETING - ONLINE

Enquiries to: Email: karen.wardle@nfdc.gov.uk
Tel: 023 8028 5071

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 Planning Administration on Tel: 023 8028 5345 or E-mail: PlanningCommitteeSpeakers@nfdc.gov.uk no later than 12.00 noon on Monday, 12 October 2020. This will allow the Council to provide public speakers with the necessary joining instructions for the Skype Meeting. The Council will accept a written copy of a statement from registered speakers who do not wish to join a Skype Meeting, or are unable to. The statement will be read out at the meeting and should not exceed three minutes.

Claire Upton-Brown
Chief Planning Officer

Appletree Court, Lyndhurst, Hampshire. SO43 7PA
www.newforest.gov.uk

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 9 September 2020 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 at Merlin, Lymington Road, Milford-On-Sea (NB: Proposed Legal Agreement) (Application 19/11439) (Pages 7 - 28)**

Demolition of existing residential property; redevelopment of land to provide 4 residential units; associated parking; landscaping

RECOMMENDED:

Chief Planning Officer authorised to grant permission subject to the completion of a Section 106 agreement and conditions.

- (b) **Fulwood, Park Lane, Milford-On-Sea (NB: Proposed Legal Agreement) (Application 20/10433) (Pages 29 - 40)**

Construction of two houses with associated parking, access and landscaping (existing house to be retained) Alternative scheme to planning permission ref 19/10787

RECOMMENDED:

Chief Planning Officer authorised to grant permission subject to the completion of a Section 106 agreement or a unilateral undertaking and conditions.

- (c) **Site of the Rise and three Neighbouring Properties, Stanford Hill, Lymington (Application 20/10481) (Pages 41 - 62)**

Demolition of existing buildings and the erection of 44 sheltered apartments for the elderly with associated access, mobility scooter store, refuse bin store, landscaping and 34 parking spaces

RECOMMENDED:

Refuse

- (d) **1 Melbury Close, Lymington (Application 20/10601) (Pages 63 - 74)**

Change of use of C3 dwelling to letting rooms in association with the adjacent 8 Highfield Bed & Breakfast accommodation

RECOMMENDED:

Chief Planning Officer to authorised to grant permission subject to the completion of a Section 106 agreement and conditions.

(e) **Haven Marine Park, Undershore Road, Boldre (Application 20/10628) (Pages 75 - 92)**

Variation of conditions 3 (approved plan numbers),5 (landscaping),7 (ecology) & 8 (parking layout) of 18/10541 to allow amended plans reflecting the relocation and increase in size of the SINC area, provide additional car parking

RECOMMENDED:

Grant the variation of conditions

(f) **Barberry House, Wildground Lane, Hythe (Application 20/10656) (Pages 93 - 100)**

Change of use of the building from a dwelling house to care home for up to four residents

RECOMMENDED:

Grant subject to conditions

(g) **2 Hobson Way, Holbury, Fawley (Application 20/10663) (Pages 101 - 106)**

Boundary fencing to site (retrospective)

RECOMMENDED:

Refuse

(h) **4-6 Rumbridge Street, Totton (NB: Proposed Legal Agreement) (Application 20/10695) (Pages 107 - 120)**

Demolition of the existing building and construction of a commercial unit (Use class A1, A2 or B1(a)) and 7 apartments (Outline application with details of access, appearance, layout & scale)

RECOMMENDED:

Chief Planning Officer to authorised to grant permission subject to the completion of a Section 106 agreement and conditions.

(i) **Land of Hathaway House, Lower Pennington Lane, Pennington (Application 20/10724) (Pages 121 - 132)**

Variation of condition 2 of planning permission 20/10335 to allow amended plans to allow a double garage and enlargement to the kitchen

RECOMMENDED:

Chief Planning Officer to authorised to grant permission subject to the completion of a Section 106 agreement and conditions.

Please note, that the planning applications listed above may be considered in a different order at the meeting.

4. ANY OTHER ITEMS WHICH THE CHAIRMAN DECIDES ARE URGENT

Please note that all planning applications give due consideration to the following matters:

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.

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.

NEW FOREST DISTRICT COUNCIL – VIRTUAL MEETINGS

Background

This meeting is being held virtually with all participants accessing via Skype for Business.

A live stream will be available on YouTube to allow the press and public to view meetings in real time and can also be found at the relevant meeting page on the Council's website.

Principles for all meetings

The Chairman will read out Ground Rules at the start of the meeting for the benefit of all participants. All normal procedures for meetings apply as far as practicable, as the new Government Regulations do not amend any of the Council's existing Standing Orders.

The Ground Rules for all virtual meetings will include, but are not limited to, the following:-

- All participants are reminded that virtual public meetings are being broadcast live on YouTube and will be available for repeated viewing. Please be mindful of your camera and microphone setup and the images and sounds that will be broadcast on public record.
- All participants are asked to mute their microphones when not speaking to reduce feedback and background noise. Please only unmute your microphone and speak when invited to do so by the Chairman.
- Councillors in attendance that have not indicated their wish to speak in advance of the meeting can make a request to speak during the meeting by typing "RTS" (Request to Speak) in the Skype chat facility. Requests will be managed by the Chairman with support from Democratic Services. The Skype chat facility should not be used for any other purpose.

- All participants should note that the chat facility can be viewed by all those in attendance.
- All participants are asked to refer to the report number and page number within the agenda and reports pack so that there is a clear understanding of what is being discussed at all times.

Voting

When voting is required on a particular item, each councillor on the committee will be called to vote in turn by name, expressing their vote verbally. The outcome will be announced to the meeting. A recorded vote will not be reflected in the minutes of the meeting unless this is requested in accordance with the Council's Standing Orders.

By casting their vote, councillors do so in the acknowledgement that they were present for the duration of the item in question.

Technology

If individuals experience technical issues, the meeting will continue providing that it is quorate and it is still practical to do so. The Chairman will adjourn the meeting if technical issues cause the meeting to be inquorate, the live stream technology fails, or continuing is not practical.

Public Participation

Contact details to register to speak in accordance with the Council's Public Participation Procedures are on the front page of this agenda.

In order to speak at a virtual meeting, you must have the facility to join a Skype for Business Meeting. Joining instructions will be sent to registered speakers in advance of the meeting.

The Council will accept a written copy of a statement from registered speakers that do not wish to join a Skype Meeting, or are unable to. The statement will be read out at the meeting and should not exceed three minutes. Please use the contact details on the agenda front sheet for further information.

To: Councillors:

Christine Ward (Chairman)
Christine Hopkins (Vice-Chairman)
Ann Bellows
Sue Bennison
Hilary Brand
Rebecca Clark
Anne Corbridge
Kate Crisell
Arthur Davis
Barry Dunning

Councillors:

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

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Planning Committee 14 October 2020 **Item 3 a**

Application Number: 19/11439 Full Planning Permission

Site: LAND AT MERLIN, LYMINGTON ROAD, MILFORD-ON-SEA
SO41 0QR (PROPOSED LEGAL AGREEMENT)

Development: Demolition of existing residential property; redevelopment of land
to provide 4 residential units; associated parking; landscaping

Applicant: Trustees of Brooke, DSWT and HFT

Agent: Arcadis

Target Date: 22/01/2020

Case Officer: Richard Natt

1 UPDATE REPORT

Introduction

Members will recall that this application was previously considered at the February 2020 Committee. The application relates to a development of 4 dwellings on land known as 'Merlin'. The Committee resolution was to grant permission subject to the completion of a Section 106 agreement to secure habitat mitigation and the imposition of conditions.

It is important to note that the minutes from the February Committee meeting state the following:

'Members noted the public safety concerns raised by the objectors of the application in relation to the access arrangements to and from the site. Hampshire County Council had raised no objection to the application on highway grounds. The Committee agreed that a planning condition should be added to require both points of access and the passing point to be provided, in accordance with the submitted plans, prior to occupation of the residential units.'

The Section 106 Agreement is progressing to secure the habitat mitigation, but has not been completed. However, following the Committee resolution, the applicant has stated that whilst they are content with regard to the additional condition requested by Members to provide both points of access as shown on the plans prior to occupation, the applicant does not want the reference in the condition to 'passing places'.

As such, the applicant has submitted an amended plan removing the 'passing place' from the proposed site layout. The applicant has stated that whilst they have a legal right over this land, it is third party ownership and therefore, they are not in a position to mark out a specific passing bay. The applicant considers that the condition would prohibit the deliverability and implementation of the development.

Accordingly, this application is being brought back to Committee to specifically remove the 'passing places' from the plans and to approve the re- wording of the condition by removing the reference to 'passing places'. Moreover, it should be

noted that following the submission of an amended plan removing the 'passing place', the application was re-advertised and the following comments have been received.

Comments received following re-advertised

Highway Authority: No objection subject to condition

We noted that the revised site layout plan shows that passing places have been removed. As stated in our previous highway response "*Notwithstanding this, the agreement in principle of the less than 10% increase was without the provision of a passing place, and therefore the Highway Authority would not look to object to the application without this feature.*"

Having regards to the above, the Highway Authority would recommend no objection, subject a condition.

Milford On Sea Parish Council:

We recommend refusal.

The Parish Council maintains its previous objections to this application on the grounds of inadequate and therefore dangerous access routes. This has now been exacerbated by one of the proposed access routes from the site onto Barnes Lanes being blocked off. In addition, the removal of the passing place on the Lymington Road access will mean that the pedestrians will have an even more dangerous route to traverse down this single track and there will also be increased congestion given the increased number of expected vehicle movements the proposed development will bring.

The Parish Council still has concerns about the lack of access for emergency vehicles and refuse lorries.

The Parish Council maintains that the visibility when turning onto the Lymington Road is very poor, being on a blind bend and therefore hazardous to all road users. Visibility splays as indicated on the plans are inadequate and to make them safe would require purchasing more land from neighbouring properties which is likely to be costly and impractical.

The Parish Council requests that HCC Highways reconsiders its original comment and investigates these issues more closely given the altered circumstances of the location.

The Parish Council strongly requests this application be refused.

Representees:

7 letters of objection concerned with the following:

- Access is totally unsuitable for the proposed development and there are serious concerns in relation to public highway safety.
- The removal of the passing places will only worsen the situation
- Increase in pollution
- Boundary dispute issues

Assessment/ consideration of the amendment

The key issue for Members to consider is whether the removal of the 'passing place' from the plans, would result in an unsatisfactory access into the site to serve the development that would result in significant harm to public highway safety.

For the avoidance of doubt, the proposal seeks to utilise two existing accesses into the site, one from the west of the site from Barnes Lane which would serve the detached dwelling (unit 4) and the eastern access from the High Street to serve the terraced dwellings (units 1-3). The issue being referred back to Committee only relates to the eastern access, which would serve three proposed houses (net increase in two dwellings) the decision to resolve to grant planning consent for 4 dwellings on the site having been made.

The plans considered at the February Committee illustrated a passing place to be created along the eastern access, used by the Dentist. Whilst the 'passing place' has never been a requirement of the Highway Authority, the applicant had shown this on the plans to help create a betterment of the existing situation. The applicant had stated that the access to the site is not owned, but they do have a right of way legally documented in their Title, that predates the existence of the surgery or indeed any property in that location, from the public highway.

It is widely accepted that the eastern access that currently serves the application property, Nos 1-6 South Court Flats and the dentist is not ideal. Indeed, this access is only single vehicle width, unmade and narrow, however, it is important to note that it is already used by existing dwellings and the dentist and the proposal only seeks to increase the use of the existing access by two additional houses.

In assessing the removal of the 'passing place' from the plans, there are two important points to raise. The first point is that the applicant does not have full control over this area and as such, the 'passing places' should not have been shown on the plans, and imposing a condition requiring this space to be available at all times as a 'passing place' is not achievable or deliverable. As such, imposing a condition would fail to meet the test under Paragraph 55 of the NPPF in that the condition would not be enforceable and reasonable in all other aspects.

The second point is that Hampshire County Council Highways confirmed in its consultee response, *"The passing point suggested is considered a betterment of existing. However it is noted that local comments have indicated that this is not under the ownership of the applicant. Notwithstanding this, the agreement in principle of the less than 10% increase was without the provision of a passing place, and therefore the Highway Authority would not look to object to the application without this feature".* Moreover, the Inspector in the appeal decision made no reference that the eastern access requires a 'passing place' stating *"I have also considered representations regarding the suitability of the means of access. Neither access is perfect in terms of visibility, gradient and pedestrian segregation. However, both accesses already serve existing developments, so the increase in usage as a result of the proposals would not be significant"*.

Officers have carefully considered the concerns raised by Members at the February Committee and whilst a 'passing place' would improve the access arrangements, it is not a requirement that 'tips' the balance of the proposed development being acceptable or unacceptable in planning terms. The

Committee must therefore give significant weight to the professional advice received from the relevant highway consultee, and the appeal decision, together with the test under Paragraph 55 of the NPPF.

In summary, Officers consider that the 'passing place' should not have been shown on the submitted plans and importantly, the requirement for the 'passing place' is not necessary or justified to make the proposed development acceptable in planning terms. Officers continue to maintain that the proposed access is acceptable and consider that by removing the 'passing place' from the plans would not result in an increase in danger to public highway safety.

As such, the original recommendation at the February Committee still stands, with the removal of the 'passing place' from both the plans and condition.

ORIGINAL REPORT TO FEBRUARY 2020 COMMITTEE

2 THE SITE

The site lies within the built-up area of Milford-on-Sea, to the north of the buildings that front the High Street. The site currently accommodates a large flat-roofed 2-storey house, which is located towards the higher, northern part of the site. The large garden of the dwelling has become overgrown and there are a number of trees along the southern part of the site, which conceal the house from most viewpoints. As a result, the site provides a verdant backdrop on the rising land behind the frontage development in the High Street. Further up the slope, beyond the northern boundary of the site, there are large houses in spacious gardens.

The property sits on a spacious plot which is heavily overgrown with shrubs and trees. The property has limited space to the rear, but has its main garden and amenity area to the front of the building. The main vehicular access is gained from the High Street, and comprises a narrow track which also serves 6 flats at South Court and a dentist. There is a second access from Barnes Lane.

The site is irregular in shape. The southern boundary spans across the rear boundaries of properties fronting into the High Street. There is also a noticeable change in site levels, in which the gradient of the site increases as it extends to the north.

The site lies in a sustainable location close to the village centre where there are a mixture of amenities and facilities. The site lies within a predominantly residential area, although the High Street provides a mixture of facilities which are typical in a village centre. The site lies just outside the conservation area which joins the southern boundary of the site, to the rear of the existing buildings fronting onto the High Street.

3 THE PROPOSED DEVELOPMENT

This application is identical to a proposal recently determined for 1 terrace of 3 houses, detached house, demolition of existing, parking and landscaping (under reference 18/11022). That application was refused and dismissed on appeal.

The proposal seeks to demolish the existing dwelling and replace it with 4 dwellings, comprising a terrace of three and a detached dwelling. The proposed terrace of three dwellings would be sited to the north of the site, broadly in the same position as the existing dwelling utilising the existing access currently

shared with the properties at South Court and the dentist. Car parking would be provided in front of the dwellings. The proposed terrace of three dwellings would have short rear garden areas, with the two end units having side gardens. It is also proposed to retain an open area within the site to the south west which would be used by residents.

The proposed detached dwelling would be to the south of the site utilising the existing access to the west from Barnes Lane. The proposed dwelling would front onto the access road to the west and would have its garden area to the north. The proposed dwelling would be sited on a lower ground level compared to the neighbouring bungalow at Ilex Cottage and the proposed terrace of three.

4 PLANNING HISTORY

Development comprised 1 terrace of 3 houses, detached house, demolition of existing, parking and landscaping (18/11022) Refused on the 14th November 2018. An appeal was lodged and subsequently dismissed.

5 THE DEVELOPMENT PLAN AND OTHER CONSTRAINTS

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

DM1: Heritage and Conservation

DM3: Mitigation of impacts on European nature conservation sites

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 the Examination has been concluded. The Local Plan Review sets a housing target of 525 dwellings per annum and will allocate sufficient land to meet this new housing target. The Local Plan Inspectors have indicated that, subject to modifications, the plan be made sound. Public consultation on modifications will be completed at the end of January 2020. It is therefore a material consideration which can be given weight in decision-making.

Policy 1 Achieving Sustainable Development

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

Policy 11 (Saved DM1) Heritage and Conservation

Policy 13 Design quality and local distinctiveness

Supplementary Planning Guidance and other Documents

SPD - Housing Design, Density and Character
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 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 (LBCA) requires that special attention shall be paid to the desirability of preserving or enhancing the character or appearance of the conservation area.

Habitat Regulations 2017

63 – assessment of implications for European sites etc.
64 – considerations of overriding public interest

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.

Relevant Advice

National Planning Policy Framework 2019

Para 7 - Sustainable development

Paras 102 to 109 - Promoting sustainable transport

Paras 117-119 - Making effective use of land

Para 120 - Achieving appropriate densities

Paras 124-131 - Achieving well designed places

Paras 184-192 - Conserving and enhancing the historic environment

7 PARISH / TOWN COUNCIL COMMENTS

Milford On Sea Parish Council: AR 4: We recommend refusal

The Parish Council considers all access routes to this property as inadequate. The driveway to the Lymington Road is a narrow single track with no provision for pedestrians to safely walk, especially given the increased number of expected vehicle movements the proposed development will bring.

The passing place indicated on the plans is not part of the development site and is used by the neighbouring busy dental practice. The Parish Council also has concerns about the lack of access for emergency vehicles and refuse lorries.

The Parish Council maintains that the visibility when turning onto the Lymington

Road is very poor, being on a blind bend and therefore hazardous to all road users.

The access onto Barnes land is the subject of a legal dispute over rights of access and cannot be relied upon to provide safe access to the development site.

Visibility splays as indicated on the plans are inadequate and to make them safe would require purchasing more land from neighbouring properties which is likely to be costly and impractical.

Should the application be granted, the Parish Council requests without prejudice, that the following conditions be imposed before development can commence:

1. One-way system from the dental practice access, exiting onto Barnes Lane.
2. Through access with alternative entrance/exit from Barnes Lane or Lymington Road. Although not shown on the application drawings there is sufficient space to achieve this and for Highway safety reasons, in case of accident or blockage in either direction, an alternative should be available.

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.

Hampshire County Council Highway Engineer: no objection subject to condition.
Trees Officer: no objection subject to condition.

Ecologist: no objection subject to condition.

10 REPRESENTATIONS RECEIVED

The following is a summary of the representations received.

Against: 23

23 letters of objection concerned that this new Planning Application has not addressed any of the concerns regarding the safety of its pedestrians and drivers using a shared narrow drive. This poor access has only room for a single vehicle which restricts traffic both entering and leaving. The splays and sight lines across land not owned by the applicant create poor visibility to the West and are in direct conflict with the requirements laid down by Highways. The proposal is an overdevelopment of the site out of character with the area. Loss of wildlife, trees and greenery. The proposed dwellings are too tall. The proposal fails to comply with the Council's Housing, Design, Density and Character Supplementary Planning Document and policy which states that development should be appropriate and sympathetic in scale, appearance, materials, form, siting and layout and shall not cause unacceptable effects by reason of visual intrusion, overlooking, shading and effects on local amenities. Impact on living conditions including loss of light, outlook and privacy. Additional noise and disturbance in a tranquil area. The

proposed dwelling identified as unit 4 is sited very close to Ilex Cottage and would be overbearing and would result in an unacceptable loss of light into the garden and a loss of privacy. Concern over impact on public highway safety. The visibility splay onto the roads is currently poor and any increase in the use of the access would lead to public highway safety issues. Concerns raised over the ownership/ legal rights of way of the accesses to the site, including the proposed passing places which are currently used for parking for staff and customers for the dentist. The Ecological Report is out of date. The proposal should provide a bio diversity net gain, to include a number of ecological enhancement including bat/ bird boxes and for swifts. The landscaping proposed should be native.

11 OFFICER COMMENTS

Introduction

- 11.1 This planning application is identical to a application that was refused and dismissed on appeal last year under reference 18/11022. The reason for refusal was as follows:

The proposed development would be detrimental to the character of the area by reason of its height, depth, layout and scale along with the associated loss of greenery and verdant setting which would be inappropriate and unsympathetic to the surrounding pattern of development. In addition the proposed dwelling on plot 4 would have a detrimental impact on the dwelling at Ilex Cottage by reason of overlooking and its close proximity to this neighbour which would have an overbearing impact. As a result the proposals would be contrary to Policy CS2 of the Local Plan for the New Forest District outside the National Park (Core Strategy).

- 11.2 In dismissing the appeal, the Inspector did not accept the Councils case that the proposed development would be harmful to the character and appearance of the area, or on the living condition of the adjoining neighbouring properties or on public highway safety.
- 11.3 The Inspector did however, consider that the Councils approach to mitigate against recreational impacts on the designated European Nature Conservation sites through the use of a negatively worded condition is not acceptable in that it would not accord with the CIL Regulations and the Planning Practice Guidance. Consequently, the Inspector concluded that there was no certainty, at the decision making stage, that appropriate habitat mitigation will be securely delivered and was unable to conclude that the proposal will not affect the integrity of the European sites.
- 11.4 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 could guarantee delivery of mitigation prior to development.

- 11.5 The Mitigation Strategy for European Sites SPD adopted in June 2014 specifies projects within the district to relieve the recreational pressure from residential development. Whilst some of these are specific to the earlier part of the plan period, there are further schemes which relate to the current plan period 2019-2026. In Milford On Sea, there are schemes to enhance recreational walking routes from Lymington Road/ School Lane to the village centre using contribution money secured through S.106 Agreements. The application site is sited within the village centre.
- 11.6 Historically, the Council has dealt with securing the provision, management and monitoring of mitigation projects through the imposition of a negatively worded condition which has, for smaller sites such as this, required the completion of a S.106 Agreement prior to the commencement of any development. In view of the substantial CIL liability for this particular proposal, the provision of the offsite recreational mitigation projects can be covered through the CIL payment, leaving the monitoring and management of the projects needing to be secured through a properly executed legal agreement.
- 11.7 At the appeal for the previous scheme, the Inspector did not consider that the imposition of a negatively worded condition was an appropriate way forward in securing such provision. In response to this, the Council is recommending that the contribution is secured through the completion of a S.106 Agreement prior to issuing any permission. This is considered to address the Inspector's concern that the necessary mitigation is secured and would comply with Policy DM3 of the Local Plan Part 2 and Policy 10 of the Emerging Local Plan.
- 11.8 A copy of the Inspectors Decision Notice is attached as an Appendix.

Relevant Considerations

- 11.9 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 adjacent Conservation Area, 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 and ecological matters.

Principle of development

- 11.10 This planning application is identical to the application that was refused and dismissed at appeal under reference 18/11022. In dismissing the appeal, the Inspector did not accept the Council's case that the proposed development would be harmful to the character and appearance of the area, or on the living condition of the adjoining neighbouring properties or on public highway safety.
- 11.11 In principle therefore new residential development can be acceptable within the built up area such as this subject to there being no adverse impact on the residential or visual amenities of the area of the area, highway safety, ecological matters and designated European sites.

Effect on the character and appearance of the area

- 11.12 In dismissing the appeal, the Inspector considered that *'the proposals would not be harmful to the appearance and character of the area'*. On

the basis that this is an identical application, there have been no changes in circumstances at the site or material changes in policy, it is considered that the proposal is acceptable in character terms. Nevertheless, in light of the objections received and the Parish Council, an assessment has been provided below.

- 11.13 In assessing the effect on the character and appearance of the area, the Inspector raised no objection to the proposed terrace to the north of the site and considered that the proposed density of the development to be sympathetic to the townscape and the terrace would be in keeping with the general pattern of the development to the rear of the frontage buildings. In particular, the Inspector stated that *'the terrace would occupy a position, and would be of a scale, that would be appropriate to its surroundings'*.
- 11.14 Equally the Inspector raised no objection to the proposed detached dwelling and felt that *'it would be largely hidden behind the frontage development'*. The Inspector noted some *'tree removal would be necessary to accommodate this house and substantial clearance of overgrown vegetation would be required to create the parking area for the overall development'*. In summarising his comments, the Inspector stated that most of the trees along the southern boundary would be retained, which means that the site would still provide a green backdrop to the High Street and a suitable landscaping scheme could be secured by a planning condition.
- 11.15 The Inspector concluded on this issue that there would be no adverse impact on the character of the area and given that there has been no material changes in policy or circumstances at the site, it would not be reasonable to reach a different conclusion on this.

Effect on the living conditions of the adjoining neighbouring properties

- 11.16 In dismissing the appeal, the Inspector considered that *'the proposals would not have a harmful effect on the living conditions of the occupants of Ilex Cottage through loss of outlook or privacy'*. On the basis that this is an identical application, there have been no changes in circumstances at the site or material changes in policy, it is considered that the proposal is acceptable in amenity terms. Nevertheless, consideration of these objections has been made below.
- 11.17 Ilex Cottage is a long narrow bungalow there is a small garden area and conservatory on the southern end of the bungalow that is enclosed by a two-metre close boarded fence. The Inspector noted that the proposed house, on the southern part of the site, would be orientated at right angles to Ilex Cottage and would be at a lower level and designed with a hipped roof. As such, the Inspector stated that *'the proposed house would not have a harmful impact on the outlook for occupants of the conservatory or would be a visually dominant feature'*.
- 11.18 In relation to overlooking of Ilex Cottage the Inspector stated that *'two of these windows serve bathrooms, so they could be obscure glazed and the nearest bedroom window would have an oriel window, with an obscure glazed west facing pane, so it is not possible to look out towards Ilex Cottage'*.

- 11.19 The Inspector concluded that there would be no adverse impact on the living conditions of Ilex Cottage and given that there has been no material changes in policy or circumstances at the site, it would not be reasonable to reach a different conclusion other than the proposed development would have no adverse impact on the other neighbouring properties, to the north of the site at Tower House or to the east at Nos 1 and 2 South Court.

Car parking and public highway safety matters

- 11.20 In dismissing the appeal, the Inspector considered the representations regarding the suitability of the means of access and stated that *'neither access is perfect in terms of visibility, gradient and pedestrian segregation. However, both accesses already serve existing developments, so the increase in usage as a result of the proposals would not be significant'*. On the basis that this is an identical application, there have been no changes in circumstances at the site or material changes in policy, it is considered that the proposal is acceptable in transportation terms. Nevertheless, given the significant concerns raised by the representees and parish council, an assessment has been provided below.
- 11.21 The proposal seeks to utilise two existing accesses into the site, one from the west of the site from Barnes Lane which would serve the detached dwelling (unit 4) and the eastern access from the High Street to serve the terraced dwellings (units 1-3).
- 11.22 In relation to the eastern access, this is a narrow unmade private road which currently serves the application property, Nos 1-6 South Court Flats and the dentist. This access is only single vehicle width. The proposal is to utilise the existing access, but it is important to note that this access already serves the existing dwelling. Accordingly the proposal seeks to increase the use of the existing access by two additional houses
- 11.23 A Transport Statement accompanies the application in which speed surveys and traffic count surveys were carried out from the site. The traffic count survey concluded that the proposed development would have a marginal increase in traffic generation and would be no more than 10% of the base traffic flows surveyed. The right visibility when existing the access onto the High Street is in part over third party land, however, the current area includes a rockery and low lying landscaping. On this basis, the applicant states that the visibility will be maintained. Because planting encroaches on the proposed visibility, the Highway Authority accepted a relaxation of the visibility based on low traffic levels and no local accident history.
- 11.24 The Transport Statement states that although a Fire Tender vehicles can access the site, all properties will be provided with sprinkler systems. This will avoid the need for a Fire Tender vehicle to access the site. In terms of refuse collection, a bin store would be provided at the entrance to the site (in front of the flats at South Court) and the refuse vehicle would be stationed on the High Street and refuse bags collected by hand. This would avoid refuse vehicles entering the access.

- 11.25 The submitted plans illustrate a passing place to be created along the access. Whilst this is not a requirement of the Highway Authority, this is clearly a betterment of the existing situation. The applicant states that access to the site is not owned, but they do have a right of way legally documented in their Title, that predates the existence of the surgery or indeed any property in that location, from the public highway.
- 11.26 The dimensions of the right of way are not specified but the route is shown on the Title plan and is evident on the ground. The right provides for access at "*all times and for all purposes*". This access also serves the dentist and South Court flats. The car parking to the rear of the surgery is informal with no marked parking bays or similar. This informal arrangement coupled with a clearly evident access route "on the ground" already provides for vehicle use. Accordingly, it is considered that the passing place has been provided to improve highway safety along the access road and has been strategically placed to maximise forward visibility and make the current passing arrangement along much of the safer for all users.
- 11.27 In relation to the access onto Barnes Lane to serve the detached dwelling, it is noted that Barnes Lane is lightly trafficked with no accident history. In addition, the visibility splay to the west exceeds the requirements and the trimming of the vegetation only improves the visibility.
- 11.28 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.
- 11.29 The Highway Authority is satisfied with the access into the site including the visibility splays provided and consider that the proposal would result in a marginal increase in the use of the access. As set out in the Transport Statement, refuse vehicles and a Fire Tender do not need to enter the access track. In terms of car parking, for the proposed terrace of three (Units 1-3), based upon the Councils adopted car parking standards, a total of 7.5 car parking spaces is recommended, which equates to 2.5 car parking spaces per dwelling. In this case, the proposed layout entails two on site car parking spaces per dwelling, together with three visitor car parking spaces. The proposed detached dwelling would also benefit from at least 2 on site car parking spaces. Moreover, the National Planning Policy Framework states that the car parking spaces to be provided should be considered against the sustainable nature of the site and the type of use. In this case, the application site is located in a very sustainable location, close to the village centre where there are a mixture of shops, community uses and other facilities.
- 11.30 In relation to the western access from Barnes Lane, it should be noted that the application site currently has a vehicular access off this track. The western access currently serves 6 dwellings and a restaurant. The Highway Authority are satisfied with this access into the site. The proposed detached dwelling has space for up to three cars to be parked on site, which would accord with the car parking standards. The proposed layout also shows sufficient space for cars to turn within the site.

- 11.31 A number of representations are concerned over the ownership of the accesses. In response to these concerns, the application forms state the applicant has served notice on the relevant land owners under Certificate B and the applicant has confirmed that they have a legal right of way over the access. The applicants agent has stated that the dimensions of the right of way are not specified but the route is shown on the Title plan and is evident on the ground. The right provides for access at “*all times and for all purposes*”. This access also serves the dentist and South Court flats. Accordingly, if planning permission is granted it would be for the applicant to ensure that they have a right of access to the approved development.

Ecological matters

a) On site ecological matters

- 11.32 Concerning ecological matters, the Ecologist does not raise any objections and considers that the ecology report which accompanies the application is acceptable and makes suitable recommendations for on-site mitigation to avoid harm to wildlife and avoid wildlife offences being committed (e.g. clearance of vegetation outside of bird nesting season). Although enhancements have been outlined they are not in any detail and accordingly a planning condition can be imposed for further details to be submitted for ecological mitigation and other suitable habitat features be included in the landscape design. Such measures are necessary to demonstrate accordance with NPPF and Local Plan Policies CS3 and DM2.

b) Off-site recreational impact

- 11.33 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 conclude 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.

c) Nitrate neutrality and impact on the Solent SPA and SACs

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 which includes an element of new residential overnight accommodation would adversely affect the integrity of the New Forest and Solent Coast European sites, in view of that site's conservation objectives having regard to nitrogen levels in the River Solent catchment. The Assessment concludes that the proposed development would, in combination with other developments, have an adverse effect due to the impacts of additional nitrate loading on the River Solent catchment unless nitrate neutrality can be achieved, or

adequate and effective mitigation is in place prior to any new dwelling being occupied. In accordance with the Council Position Statement agreed on 4th September 2019, these adverse impacts would be avoided if the planning permission were to be conditional upon the approval of proposals for the mitigation of that impact, such measures to be implemented prior to occupation of the new residential accommodation. These measures to include undertaking a water efficiency calculation together with a mitigation package to addressing the additional nutrient load imposed on protected European Sites by the development. A Grampian style condition has been agreed with the applicant and is attached to this consent.

12 CONCLUSION AND THE PLANNING BALANCE

In summary, this application is identical to a proposal that was dismissed on appeal only on the grounds that the Inspector did not agree with the Councils approach in securing habitat mitigation. The Inspector did not agree with the Councils case that the proposal would have an unacceptable impact on the character and appearance of the area, living conditions of the neighbouring properties or public highway safety. As set out above, an appropriate condition can be secure habitat mitigation.

Moreover, whilst there are significant concerns from representations and the Parish Council in relation to the poor accesses into the site and danger to public highway safety, it is accepted that the situation is not ideal. However, no objections have been raised by the Highway Authority and the Planning Inspector, in dismissing the appeal, also raised no concerns. Accordingly, a reason for refusal on these grounds would not be sustainable on appeal.

13 OTHER CONSIDERATIONS

Crime and Disorder

N/A

Local Finance

If this development is granted permission, the Council will receive New Homes Bonus £3672 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 £33,519.23

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

5 year land supply

The Council has now progressed the Local Plan Review 2016-2036 Part 1: Planning Strategy to a very advanced stage. The Inspectors examining the Local Plan 2016-2036 Part 1 have confirmed that they consider that the Local Plan can be found 'sound' subject to main modifications being made. Public

consultation on the Main Modifications will take place between 13 December 2019 and 31 January 2020. The Local Plan 2016-2036 Part 1 is anticipated to be adopted in Spring 2020. The Local Plan 2016-2036 Part 1 is thus at a very advanced stage and as proposed to be modified is a significant material consideration in the determination of planning applications. The Council has published a Housing Land Supply Statement which sets out that the Council is able to demonstrate a five year housing land supply based on the Local Plan 2016-2036 Part 1 (as modified) for the period 2020/21-2024/25 and so will be able to demonstrate a five year housing land supply upon adoption of the Local Plan.

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	564.17	238.01	326.16	326.16	£80/sqm	£33,519.23 *
Subtotal:	£33,519.23					
Relief:	£0.00					
Total Payable:	£33,519.23					

* 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 2020 this value is 1.28 (rounded)

13 RECOMMENDATION

Chief Planning Officer authorised to Grant Consent subject to:

- i) the completion of a Section 106 Agreement to secure habitat mitigation in a timely manner
- ii) the imposition of the conditions set out below.

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: 7165 (08) 01 Rev C, 7165 (08) 02 Rev A, 7165 (08) 03 Rev A, 7165 (08) 04 Rev A, 1807/34/AIA

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 buildings in accordance with Policy ENV3 of the Local Plan Review 2016-2036 Part One: Planning Strategy for the New Forest District outside of 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 and to comply with Policies ENV3 and ENV4 of the Local Plan Review 2016-2036 Part One: Planning Strategy for the New Forest District outside of the National Park.

5. 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 carried out without express planning permission first having been granted.

Reason: 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 ENV3 of the Local Plan Review 2016-2036 Part One: Planning Strategy for the New Forest District outside of the National Park.

6. 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) and Policy 13 of the Emerging Local Plan Part 1 Review.

7. All planting, seeding or turfing comprised in the approved details of landscaping (as approved within condition 6) shall be carried out in the first planting and seeding seasons following the occupation of the buildings or the completion of the development, whichever is the sooner. Any trees or plants which within a period of 5 years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size or species, unless the Local Planning Authority gives written consent to any variation.

Reason: To ensure the appearance and setting of the development is satisfactory and to comply with Policies ENV3 and ENV4 of the Local Plan Review 2016-2036 Part One: Planning Strategy for the New Forest District outside of the National Park.

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 ENV3 of the Local Plan Review 2016-2036 Part One: Planning Strategy for the New Forest District outside of the National Park and the New Forest District Council and New Forest National Park Authority Strategic Flood Risk Assessment for Local Development Frameworks.

9. The development hereby permitted shall not be occupied until the spaces shown on plan (08)01 Rev C for the parking of motor vehicles have been provided. The spaces shown on plan(08)01 Rev C for the parking or motor vehicles shall be retained and kept available for the parking of motor vehicles for the dwellings hereby approved at all times.

Reason: To ensure adequate parking provision is made in the interest of highway safety and in accordance with Policies ENV3 and CCC2 of the Local Plan Review 2016-2036 Part One: Planning Strategy for the New Forest District outside of the National Park.

10. The development hereby permitted shall not be occupied until:

- a) A water efficiency calculation in accordance with the Government's National Calculation Methodology for assessing water efficiency in new dwellings has been undertaken which demonstrates that no more than 110 litres of water per person per day shall be consumed within the development, and this calculation has been submitted to, and approved in writing by, the Local Planning Authority; all measures necessary to meet the agreed waste water efficiency calculation must be installed before first occupation and retained thereafter;

- b) A mitigation package addressing the additional nutrient input arising from the development has been submitted to, and approved in writing by, the Local Planning Authority. Such mitigation package shall address all of the additional nutrient load imposed on protected European Sites by the development when fully occupied and shall allow the Local Planning Authority to ascertain on the basis of the best available scientific evidence that such additional nutrient loading will not have an adverse effect on the integrity of the protected European Sites, having regard to the conservation objectives for those sites; and
- c) All measures forming part of that mitigation package have been provided to the Local Planning Authority.

Reason: There is existing evidence of high levels of nitrogen and phosphorus in the water environment with evidence of eutrophication at some European designated nature conservation sites in the Solent catchment. The PUSH Integrated Water Management Strategy has identified that there is uncertainty as to whether new housing development can be accommodated without having a detrimental impact on the designated sites within the Solent. Further detail regarding this can be found in the appropriate assessment that was carried out regarding this planning application. To ensure that the proposal may proceed as sustainable development, there is a duty upon the local planning authority to ensure that sufficient mitigation for is provided against any impacts which might arise upon the designated sites. In coming to this decision, the Council have had regard to Regulation 63 of the Conservation of Habitats and Species Regulations 2017.

- 11. The trees on the site which are shown to be retained on the approved plans shall be protected during all site clearance, demolition and building works in accordance with the measures set out in the submitted Oakwood Arboricultural Method Statement (1807/34/AMS) dated 12 July 2018 and Tree Protection Plan (1807/34/TPP) dated July 2018 while in accordance with the recommendations as set out in BS5837:2012.

Reason: To ensure the retention of existing trees and natural features and avoidance of damage during the construction phase in accordance with Policies ENV3 and ENV4 of the Local Plan Review 2016-2036 Part One: Planning Strategy for the New Forest District outside of the National Park.

- 12. Prior to the commencement of development, and notwithstanding the measures outlined in the Peakecology Limited Ecology Report dated 11th August 2016 further details of biodiversity mitigation and Bio-diversity Enhancement Plan, compensation, enhancement including site vegetation management shall be submitted to, and approved in writing by the Local Planning Authority. The Bio diversity Enhancement plan should include as a minimum provision of 4 in built swift bricks ('Action For Swifts' Model 1a or equivalent as agreed) and a 'Habi-bat' or equivalent bat roost feature. In addition, measures for native planting and maintenance of hedgehog gaps in boundary treatment. All works shall then proceed in accordance with the

details and recommendations as approved in the strategy with any amendments agreed in writing. Thereafter, unless otherwise agreed in writing by the Local Planning Authority, the mitigation measures shall be permanently maintained and retained in accordance with the approved details.

Reason: To safeguard protected species in accordance with Policies ENV3 and ENV4 of the Local Plan Review 2016-2036 Part One: Planning Strategy and Policies DM1, DM2 and DW-E12 of the Local Plan for the New Forest District outside the National Park (Part 2: Sites and Development Management).

13. The first floor bathroom window on the front [west] elevation and the west side of the first floor oriel window serving the bedroom as shown on the approved plans on unit 4 shall at all times be glazed with obscure glass.

Reason: To safeguard the privacy of the adjoining neighbouring properties in accordance with Policy ENV3 of the Local Plan Review 2016-2036 Part One: Planning Strategy for the New Forest District outside of the National Park.

14. The first floor windows on the side elevations of the approved units 1 and 3 shall be obscurely glazed and fixed shut at all times unless the parts that can be opened are more than 1.7m above the floor.

Reason: To safeguard the privacy of the adjoining neighbouring properties in accordance with Policy ENV3 of the Local Plan Review 2016-2036 Part One: Planning Strategy for the New Forest District outside of the National Park.

15. Notwithstanding the provisions of the Town & Country Planning General Development Order 2015 nothing over 600mm in height shall be placed or permitted to remain on the land shaded green on the approved plan.

Reason: In the interest of highway safety and in accordance Policies ENV3 and CCC2 of the Local Plan Review 2016-2036 Part One: Planning Strategy for the New Forest District outside of the National Park.

16. No development shall start on site until plans and particulars showing details of the provisions of cycle storage within the site have been submitted to and approved in writing by the Planning Authority. The development shall be carried out in accordance with the approved details before the use of the development is commenced and shall be retained thereafter.

Reason: To ensure adequate provision within the site in accordance with Policies ENV3 and CCC2 of the Local Plan Review 2016-2036 Part One: Planning Strategy for the New Forest District outside of the National Park.

17. No development hereby permitted shall commence until a Construction Traffic Management Plan, to include details of provision to be made on site for contractor's parking, construction traffic access, the turning of delivery vehicles and lorry routeing 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 before the development hereby permitted is commenced and retained throughout the duration of construction.

Reason: In the interest of Highway Safety in accordance Policies ENV3 and CCC2 of the Local Plan Review 2016-2036 Part One: Planning Strategy for the New Forest District outside of the National Park.

18. The development hereby permitted shall not be occupied until the points of access shown on plan Reference Number (08) 01 Rev C are provided for access arrangements. The points of access shown on plan Reference Number (08) 01 Rev C shall be retained and kept available for the access arrangements for the dwellings hereby approved at all times.

Reason: To ensure adequate parking provision is made in the interest of highway safety and in accordance with Policies ENV3 and CCC2 of the Local Plan Review 2016-2036 Part One: Planning Strategy for the New Forest District outside of the National Park.

Further Information:

Richard Natt
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

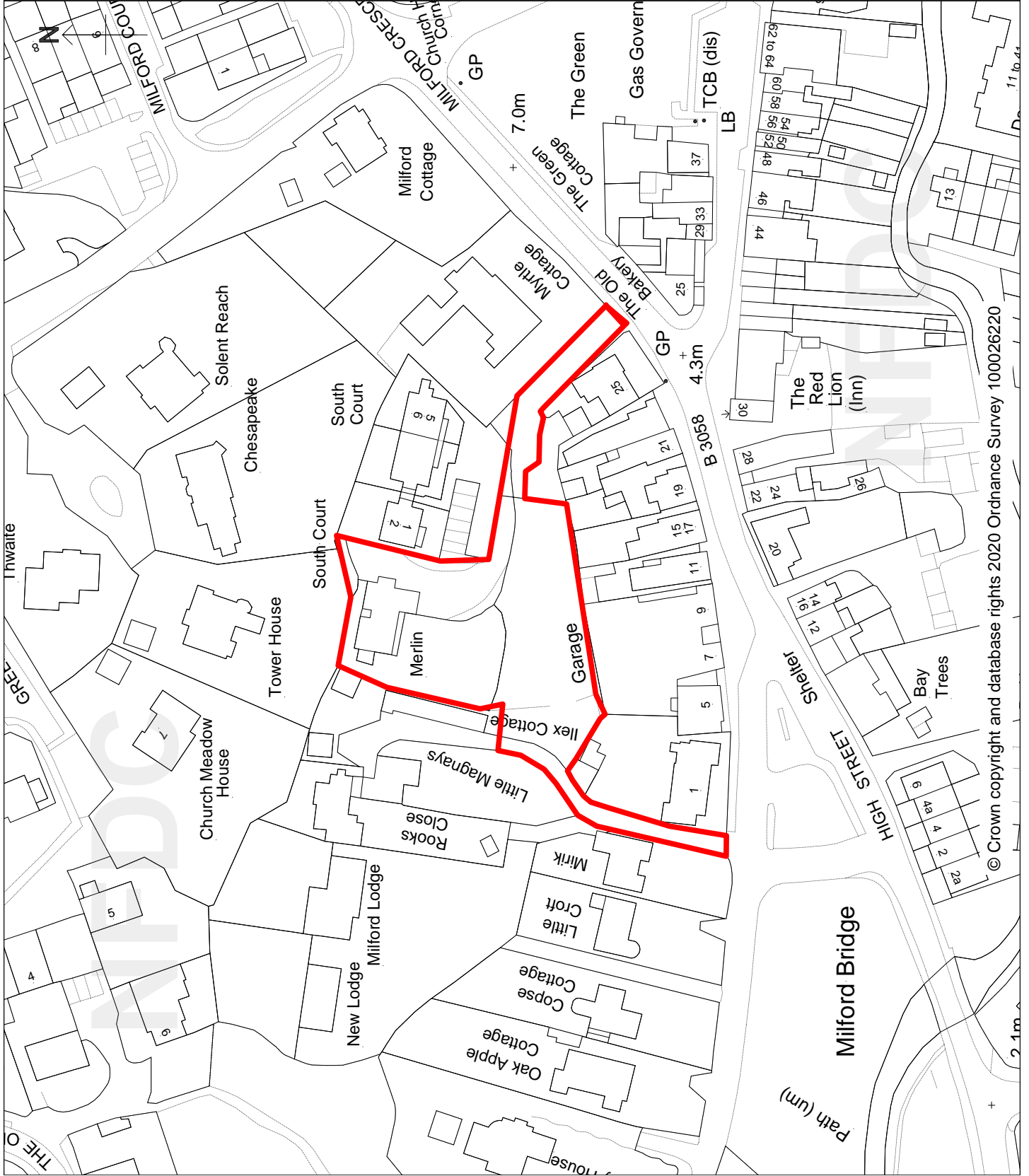
PLANNING COMMITTEE

October 2020

Land at Merlin, Lymington Road
Milford On Sea
SO41 0QR
19/11439

Scale 1:1250

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



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Planning Committee 14 October 2020 **Item 3 b**

Application Number: 20/10433 Full Planning Permission

Site: FULWOOD, PARK LANE, MILFORD-ON-SEA SO41 0PN
(PROPOSED LEGAL AGREEMENT)

Development: Construction of two houses with associated parking, access and landscaping (existing house to be retained) Alternative scheme to planning permission ref 19/10787

Applicant: Mrs Killeen and Mr Morton on behalf of The Estate of C
Westwood

Agent: Spruce Town Planning Ltd

Target Date: 22/06/2020

Case Officer: Vivienne Baxter

Extension Date: 14/08/2020

1 SUMMARY OF THE MAIN ISSUES

The key issues are:

- 1) principle of the development
- 2) impact on the character and appearance of the area
- 3) Impact on residential amenities of the area
- 4) impact on protected trees
- 5) impact on highway safety
- 6) impact on flood risk

This application is to be considered by Committee because of a contrary view expressed by the Parish Council.

2 SITE DESCRIPTION

The site lies within the built up area of Milford on Sea in a residential area and comprises the access to and rear garden of a detached two storey property set within mature landscaped grounds. Trees at the front of the site are subject to a group Tree Preservation Order. The property is elevated from Park Lane with the levels of the site rising to the west.

The site is surrounded by predominantly detached dwellings set in varying size plots. There is a good degree of separation between existing and proposed development by virtue of the distance between properties and from the screening afforded by existing landscaping. The existing dwelling is situated higher than the road and the land drops significantly to a stream to the east.

3 PROPOSED DEVELOPMENT

Planning permission was granted on this site for 2 detached dwellings in 2019. The proposal is for the erection of two detached 4-bed dwellings and a detached car port on land to the rear of the , Fulwood. The new dwellings would be accessed via the existing entrance serving the site, however the driveway would be extended and

realigned to lead down the eastern side of the Fulwood to a parking and turning area to its rear. To accommodate the new access arrangements a number of trees along the site's eastern side would be removed however the proposal indicates additional landscaping.

The proposed development differs from the approved scheme in the following ways;

- Plot 1 and Plot 2 footprints have changed
- Plot 1 has been moved towards the west to allow a 2.6m distance between the west boundary and Plot 1
- Plot 2 footprint has moved towards the west to increase the distance between the eastern boundary and plot 2
- The proposed dwelling on Plot 2 has been handed
- First floor accommodation is proposed over the ground floor rear projection

- Plot 2 had the attached garage to the east of the site and the dwelling with the attached garage is now proposed to be plot 1 to the west of the site.

4 PLANNING HISTORY

19/10787 Two detached houses; associated parking; carport; access and landscaping	19/12/2019	Granted Subject to Conditions	Decided
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5 PLANNING POLICY AND GUIDANCE

Local Plan 2016-2036 Part 1: Planning Strategy

Policy STR1: Achieving Sustainable Development
Policy ENV3: Design quality and local distinctiveness
Policy CCC1: Safe and healthy communities
Policy CCC2: Safe and sustainable travel
Policy ENV1: Mitigating the impacts of development on International Nature Conservation sites
Policy IMPL1: Developer Contributions

Local Plan Part 2 Sites and Development Management Development Plan Document

DM2: Nature conservation, biodiversity and geodiversity
DM5: Contaminated land

Supplementary Planning Guidance And Documents

SPD - Mitigation Strategy for European Sites
SPG - Milford-on-Sea Village Design Statement
SPD - Parking Standards

Relevant Legislation

Section 38 Development Plan
Planning and Compulsory Purchase Act 2004
Section 197 Trees
Town and Country Planning Act 1990

Relevant Advice

Chap 12: Achieving well designed places

Constraints

Flood Zone
Aerodrome Safeguarding Zone
Historic Land Use

Conservation Area: Milford-on-Sea Conservation Area - front of site only

Tree Preservation Order: 102/02/G4

Plan Policy Designations

Built-up Area

6 PARISH / TOWN COUNCIL COMMENTS

Milford on Sea Parish Council - recommend refusal and would not accept a delegated decision.

These plans are a re-working of original plans submitted in 2019. At this time, the Parish Council and the Case Officer both considered the scheme to be "cramped?". The Parish Council also had concerns about flood risk issues, particularly to neighbouring properties in Danestream Close. The scheme was subsequently scaled down and received planning permission.

However, the original concerns still apply to this current application. The Parish Council considers it to be overdevelopment of the plot with increased ridge heights which will impact on neighbouring houses and the character of the area. In addition, flood issues are still a concern ? not to this site per se but the effect it will have on neighbouring properties and the lake that often forms at the end of Lucerne Road in times of wet weather.

The Parish Council requests this application be refused.

7 COUNCILLOR COMMENTS

No comments received

8 CONSULTEE COMMENTS

Comments have been received from the following consultees:

Environmental Health Contaminated Land : no concerns

HCC Highways: no objection subject to conditions

NFDC Tree Team: no objection subject to previously agreed condition

Conservation Officer - raises concerns in respect of the impact on the Conservation Area and the scale of the proposed dwellings.

Environment Agency - no objection subject to condition

Southern Gas Networks - offer advice

Scottish and Southern Electricity Networks - offer advice

9 REPRESENTATIONS RECEIVED

Objections have been received from three local residents concerned with the following:

- flooding could be worse as a result of the proposal
- proposal is bulkier than approved scheme
- proposal appears to reflect plans superseded on the previous application
- boundary fence appears excessively high
- loss of light due to increased size of garage

Re-consultation has been undertaken on the amended plans and any further comments will be reported to Committee as an update.

10 PLANNING ASSESSMENT

Introduction

The application follows the granting of permission for 2 similar dwellings at the end of last year under planning ref 19/10787. The main changes are:

- swapping the dwellings over so that with the attached garage is on plot 1 to the west rather than to the east as previously approved,
- the addition of a 4th bedroom to each property
- associated changes to the floor plans at both ground and first floor level.

Externally, the first floor side windows have been deleted together with a dormer window to the front of each dwelling with the dormer replaced with a roof light. A low cill rooflight is proposed to the side of the rear projections serving bedroom 2.

Principle of Development

There is an extant permission for two similar houses on the site. The site lies within the built up area where new residential development can be acceptable subject to there being no adverse impacts.

Design, site layout and impact on local character and appearance of area

Although the Milford on Sea Conservation Area boundary abuts the front boundary of the site, it is not considered that the proposed dwellings would have a significant impact on its setting being at the lower end of less than substantial harm. Whilst several trees are proposed to be removed from the site, the majority, particularly to the front of the site within the group tree preservation order, will remain and provide a verdant setting for the proposal. There would be limited views of the dwellings from the road.

The design of the dwellings is of a chalet style which compliments the variety of dwellings in the area which includes bungalows, chalets and full two storey houses. The indicative materials suggest dark timber cladding which would offer a modern alternative to the dark tile hanging found on many properties in the area.

The change to the layout from the approved scheme would have a limited impact on the character or appearance of the area. The main ridge heights would be further apart creating a greater sense of space between the two dwellings which is welcomed.

Landscape impact and trees

The site includes part of an area TPO to the front of the site which covers a group containing 2 Oaks, 2 Ash, 4 Beech, 2 Monterey Cypress, 1 Horse Chestnut and a Willow to the frontage of Fulwood. Some of these fall within the site area. There are several other trees within the site in addition to these although none of them are considered worthy of additional protection.

Many trees (15) are proposed to be removed in order to facilitate the development and in the majority of cases, there is adequate space to provide alternative screening or retain other vegetation where appropriate. One of the trees proposed to be removed is covered by the TPO although it is stated in the tree report as being heavily reduced with advanced decay and on this basis, there are no objections to its removal. The retention of apple trees to the rear boundary is welcomed as this also provides screening between the new dwellings and the bungalow to the rear. This was accepted previously in granting planning permission.

The slight changes to the footprint of the dwellings, with the dwellings being moved away from the boundaries would not impact on vegetation or increase tree loss over and above the extant scheme and adequate space would remain for landscaping. It is therefore considered acceptable.

Highway safety, access and parking

The proposal would utilise the existing access point into the site, realigning it slightly in order to provide adequate turning for cars and other vehicles as required by the Highway Authority. The proposal includes two parking spaces for each proposed dwelling as well as two visitor parking spaces to the front of the existing dwelling. It is considered that this is an acceptable level of parking provision for the proposal and the access arrangements are satisfactory.

The Highway Authority has not raised any issues with the slight change to the access arrangements in view of the differing position of the attached garage subject to conditions as per the previous permission.

It is noted that the plans indicate the removal of the timber lean-to currently attached to the existing garage and provision of a new area of drive in front of the garage. These changes do not form part of the application site and providing the drive area is constructed in porous materials or any run off is appropriately discharged within the curtilage, permission is not required to implement them.

Residential amenity

The rear of the site is surrounded by a variety of dwellings with those either side of a similar orientation to those proposed and that immediately to the rear of the site, a single storey dwelling with no windows facing the site. The extant permission did not include any side facing windows.

There is now proposed east facing low cill roof lights which are set back from the boundaries. These roof lights would be 9m from the boundary with plot 2 and 8m from the boundary with 2, Danestream Close which has a first floor side window facing the site. Although the distance between the actual windows would be around 16m and at an angle, there is potential for the proposed low cill roof light to look across the rear garden area of the adjacent dwelling and for this reason, it is considered reasonable therefore that a condition is place on any approval to ensure the lower part of the window is obscured and fixed shut.

It is unlikely that the low cill roof light would impact as significantly on plot 2 as it would face a blank wall/roof. The distance between the proposed rear dormers - including the additional one over the garage - and adjacent property is in excess of 21m.

Given the distance between the existing and proposed dwellings it is not considered that the development would result in an unacceptable loss of privacy or overlooking. The host dwelling has several first floor rear windows although as the siting of plot 1 is 24m away from these, with the proposed dormer bedroom window partially screened by the proposed car port, it is not considered that there would be an unacceptable relationship between the existing and proposed dwelling.

The changes to the plots has resulted in a two storey flank wall closest to 2, Danestream Close although given the siting of the proposed dwelling to the north west of this property, it is not considered that the proposal would give rise to unacceptable living conditions. It is understood that the adjacent property has a drive running immediately to the east of this boundary and coupled with the vegetation which will be maintained, this change would no have a harmful impact.

Ecology

An ecology report has been provided as part of the application documentation. The details indicate provision for mammals including bat and swift boxes to each new dwelling in order to address biodiversity issues. The extant scheme secured these provisions through a suitably worded condition and it is considered appropriate to impose this condition again.

Flood Risk

The application is supported with a Flood Risk Assessment and Emergency Flood Plan in view of concerns raised locally and the proximity of the Danestream. As with the previous scheme, the details included within these documents are adequate subject to an appropriately worded condition relating to slab levels.

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 such adverse impacts would be avoided if the applicant were to enter into a Section 106 legal agreement or unilateral undertaking to secure a habitat mitigation contribution in accordance with the Council's Mitigation Strategy. In this case, the applicant has agreed to enter into a Section 106 legal agreement, which secures the required habitat mitigation contribution. The document also includes a contribution towards Air Quality Monitoring.

Nitrate neutrality and impact on Solent SAC and SPAs

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 which includes an element of new residential overnight accommodation would adversely affect the integrity of the New Forest and Solent Coast European sites, in view of that site's conservation objectives having regard to nitrogen levels in the River Solent catchment. The Assessment concludes that the

proposed development would, in combination with other developments, have an adverse effect due to the impacts of additional nitrate loading on the River Solent catchment unless nitrate neutrality can be achieved, or adequate and effective mitigation is in place prior to any new dwelling being occupied.

In accordance with the Council Position Statement agreed on 4th September 2019, these adverse impacts would be avoided if the planning permission were to be conditional upon the approval of proposals for the mitigation of that impact, such measures to be implemented prior to occupation of the new residential accommodation. These measures to include undertaking a water efficiency calculation together with a mitigation package to addressing the additional nutrient load imposed on protected European Sites by the development. A Grampian style condition has been agreed with the applicant and is attached to this consent.

Developer Contributions

As part of the development, the following will be secured via a Section 106 agreement:

- air quality monitoring
- habitat mitigation

As part of the development, subject to any relief being granted the following amount Community Infrastructure Levy will be payable:

Type	Proposed Floor space (sq/m)	Existing Floor space (sq/m)	Net Floor space (sq/m)	Chargeable Floor space (sq/m)	Rate	Total
Dwelling houses	373.96		373.96	373.96	£80/sqm	£38,431.58 *

Subtotal:	£38,431.58
Relief:	£0.00
Total Payable:	£38,431.58

11 CONCLUSION

The proposal is similar to the extant permission and would not give rise to unacceptable impacts as a result of the differences between the two schemes. Permission is therefore recommended subject to conditions and the prior completion of a legal agreement.

12 OTHER CONSIDERATIONS

N/A

13 RECOMMENDATION

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

- i) the completion of a S.106 Agreement or Unilateral Undertaking to secure Habitat Mitigation and Air Quality Monitoring financial contributions, and
- ii) the imposition of the conditions set out below.

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: SL.01 rev.C, SE.01 rev.D, P1.e rev.C, P1.p rev.C, P2.e rev.C, P2.p rev.C, CP.pe rev.A, DBML.01 rev.A, LP.01 rev.A, Preliminary Ecological Appraisal (Sept 2019), Emergency Flood Plan, Flood Risk Assessment (Nov 2019), Design and Access Statement; *Arboricultural Impact Assessment and Tree Protection Scheme, Foul and Surface Water Drainage Strategy dated September 2019,*

Reason: To ensure satisfactory provision of the development.

3. 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. These details shall include the levels of the driveway. 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 ENV3 of the Local Plan Part 1 for the New Forest District outside the National Park (Planning Strategy).

4. 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 ENV3 of the Local Plan Part 1 (Planning Strategy) for the New Forest District outside the National Park.

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 ENV3 of the Local Plan Part 1 for the New Forest District outside the National Park (Planning Strategy).

6. The development hereby permitted shall not be occupied until:

- a) A water efficiency calculation in accordance with the Government's National Calculation Methodology for assessing water efficiency in new dwellings has been undertaken which demonstrates that no more than 110 litres of water per person per day shall be consumed within the development, and this calculation has been submitted to, and approved in writing by, the Local Planning Authority; all measures necessary to meet the agreed waste water efficiency calculation must be installed before first occupation and retained thereafter;
- b) A mitigation package addressing the additional nutrient input arising from the development has been submitted to, and approved in writing by, the Local Planning Authority. Such mitigation package shall address all of the additional nutrient load imposed on protected European Sites by the development when fully occupied and shall allow the Local Planning Authority to ascertain on the basis of the best available scientific evidence that such additional nutrient loading will not have an adverse effect on the integrity of the protected European Sites, having regard to the conservation objectives for those sites; and
- c) All measures forming part of that mitigation package have been provided to the Local Planning Authority.

Reason: There is existing evidence of high levels of nitrogen and phosphorus in the water environment with evidence of eutrophication at some European designated nature conservation sites in the Solent catchment. The PUSH Integrated Water Management Strategy has identified that there is uncertainty as to whether new housing development can be accommodated without having a detrimental impact on the designated sites within the Solent. Further detail regarding this can be found in the appropriate assessment that was carried out regarding this planning application. To ensure that the proposal may proceed as sustainable development, there is a duty upon the local planning authority to ensure that sufficient mitigation for is provided against any impacts which might arise upon the designated sites. In coming to this decision, the Council have had regard to Regulation 63 of the Conservation of Habitats and Species Regulations 2017.

7. The development hereby permitted shall not be occupied until the spaces shown on plan SL.01 rev.C for the parking of motor vehicles have been provided. The spaces shown on plan SL.01 rev.C for the parking of motor vehicles shall be retained and kept available for the parking of motor vehicles for the dwellings hereby approved at all times.

Reason: To ensure adequate parking provision is made in the interest of highway safety and in accordance with Policy CCC2 of the Local Plan Part 1 for the New Forest outside of the National Park (Planning Strategy).

8. The works hereby approved shall be undertaken in strict accordance with the biodiversity measures stated within the Preliminary Ecological Appraisal dated September 2019 prior to the occupation of the dwellings.

Reason: To safeguard protected species in accordance with Policy ENV3 of the Local Plan Part 1 for the New Forest District outside of the National Park (Planning Strategy) and Policy DM2 of the Local Plan for the New Forest District outside the National Park (Part 2 : Sites and Development Management).

9. The trees/hedges on the site which are shown to be retained on the approved plans shall be protected during all site clearance, demolition and building works in accordance with the measures set out in the submitted Hearne Arboriculture Arboricultural Impact Assessment, Method Statement (JH/AIA/18/061/2) dated 18 June 2019 and Tree Protection Plan (JH-TTP-17-6-19.1) while in accordance with the recommendations as set out in BS5837:2012.

Reason: To ensure the retention of existing trees and natural features and avoidance of damage during the construction phase in accordance with Policy ENV3 of the Local Plan Part 1 for the New Forest District outside of the National Park (Planning Strategy).

10. 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 the New Forest District Council and New Forest National Park Authority Strategic Flood Risk Assessment for Local Development Frameworks and the NPPF.

11. The development shall be carried out in accordance with the submitted Flood Risk Assessment (FRA) (ref 19195, titled "Fulwood, Park Lane, Milford on Sea, Flood Risk Assessment", Revision 3, dated November 2019) and compiled by Godsell Arnold Partnership Ltd) and the following mitigation measures it details:

Finished floor levels shall be set no lower than as detailed below:

- o For Plot 1, the finished floor levels shall be set no lower than 4.6 metres above Ordnance Datum (AOD).
- o For Plot 2, the finished floor levels shall be set no lower than 3.52 metres above Ordnance Datum (AOD).

These mitigation measures shall be fully implemented prior to occupation and subsequently in accordance with the scheme's timing/phasing arrangements. The measures detailed above shall be retained and maintained thereafter throughout the lifetime of the development.

Reason: To reduce the risk of flooding to the proposed development and future occupants and to comply with New Forest District Council and New Forest National Park Authority Strategic Flood Risk Assessment for Local Development Frameworks and the NPPF.

12. The lower part of the first floor window on the east elevation of plot 2 shall be obscurely glazed, and non-opening at all times unless the parts that can be opened are more than 1.7m above the floor.

Reason: To safeguard the privacy of the adjoining neighbouring properties in accordance with Policy ENV3 of the Local Plan Review 2016-2036 Part One: Planning Strategy for the New Forest District outside of the National Park.

Further Information:

Vivienne Baxter

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

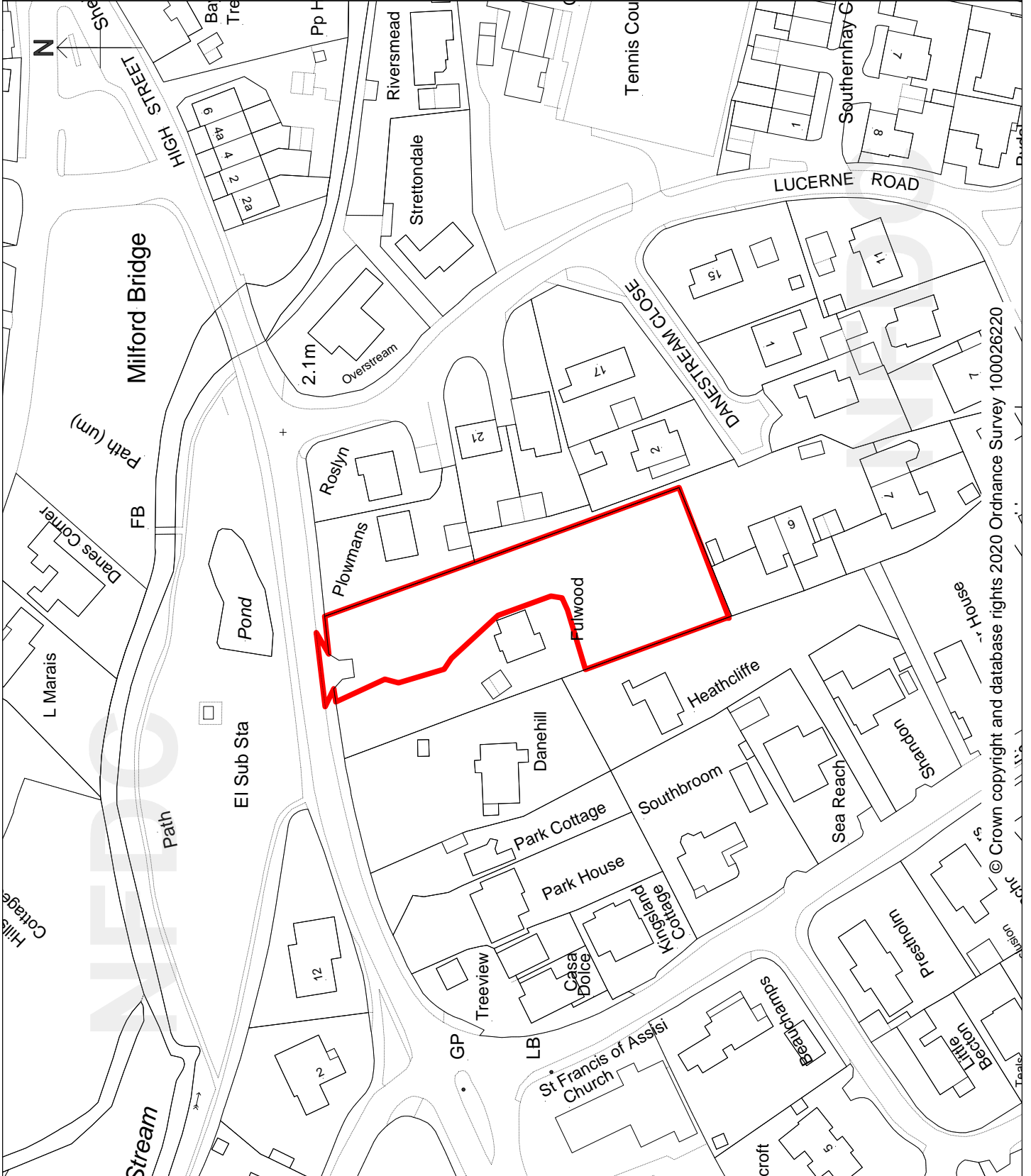
October 2020

Item No:

Fulwood, Park Lane
Milford on Sea
SO41 0PN
20/10433

Scale 1:1250

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



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Application Number: 20/10481 Full Planning Permission

Site: SITE OF THE RISE AND THREE NEIGHBOURING
PROPERTIES, STANFORD HILL, LYMINGTON SO41 8DE

Development: Demolition of existing buildings and the erection of 44 sheltered
apartments for the elderly with associated access, mobility scooter
store, refuse bin store, landscaping and 34 parking spaces.

Applicant: Renaissance Retirement Limited

Agent: Pegasus Planning Group Ltd

Target Date: 04/08/2020

Case Officer: Stephen Belli

Extension Date: 09/09/2020

1 SUMMARY OF THE MAIN ISSUES

The key issues are:

1. Principle of development, sustainability and wider policy implications including affordable housing and other development related contributions
2. Highway access/egress and parking
3. Impact on local character, appearance and setting of designated Heritage Assets, including matters relating to site layout and design
4. Impact on local residential amenities
5. Biodiversity on-site and off-site ecological mitigation
6. Nitrate neutrality and potential ecological harm
7. Surface water drainage

This application is to be considered by Committee because of the differing views of the Town Council.

2 SITE DESCRIPTION

The application site lies roughly on a north-south alignment and adjoins the A337 road known locally as Stanford Hill, located within the built-up area of Lymington and within the identified settlement boundary as set out in the NFDC Local Plan Part 2. The site is located within 300 metres to the north east of Lymington High Street. The site lies immediately adjacent to the Lymington Conservation Area the boundary of which runs along the party boundary with Bucklers Court a development of sheltered housing built in the early 1990s on land formerly occupied by a builder's yard. The Conservation Area doglegs along the eastern boundary of the property known as The Rise (one of four dwellings currently occupying the site). Bucklers Court comprises a 2 to 2.5 storey building block extending along the

highway with development in depth running to the rear of the site. The current development site occupies a prominent and elevated position on the edge of the Conservation Area with a pronounced drop in levels as one proceeds in a southerly direction away from the High Street and on towards Pennington.

The site at present is occupied by four detached dwelling houses of varying 20th century age of 1.5 to 2.5 storey height all fronting onto the highway with individual vehicular access points. To the east of the site lies further residential development. To the west lies an open green area fronting the A337 with a further modern estate development well set back beyond the green. To the north-west of the site lies an area of housing known as Highfield which is orientated to look south towards Pennington and the A337. Six of these dwellings are Listed as being of special architectural interest. The row of housing on Highfield is also included within the Conservation Area.

The site occupies a transition area between the higher density development to the north in the Conservation Area and running then into the High Street and town centre, and the lower density of individual houses occupied by the site and its general environs. Each of the dwellings contained within the site has an extended linear garden running to the east away from the road of some 25-40 metres in length containing a number of small trees, shrubbery and some larger boundary trees.

3 PROPOSED DEVELOPMENT

The proposed development is for full planning permission for the demolition of the four existing dwellings and the erection of a part 4 storey, part 3 storey block along the A337 with a further 3 storey block at a right angle running to the rear.

The development for sheltered housing will provide a total of 44 self-contained apartments for persons over the age of 60. The proposal is for 29 no. 2 bed apartments and 15 no. 1 bed apartments. The apartments will be provided with a total of 34 car parking spaces (including visitor spaces) arranged in a linear strip along the road in one block of parking, with a further rear courtyard in the north eastern corner of the site. The car parking areas will be accessed via two new access points with a one way in and out system. The access into the site will be directly adjacent to the Bucklers Court development with an egress point onto the A337 in the southern corner of the site. The façade of the building will be faced in a mixture of mostly render with some facing brick in a neo-Georgian style with the building broken into various elements of varying height.

The applicant's agent in their planning statement set out the changes to the revised proposals presented in this application and summarise them as follows:

- Revised access arrangement to Stanford Hill;
- Loss of 1 no. apartment (and subsequently revised mix to 15 no. one-bed apartments and 29 no. two-bed apartments);
- Reduction in height and massing to the rear of the building;
- Obscure glazing introduced on terrace and landscaping enhanced to improve amenity to 'Concorde' (adjacent property);
- Proportionate increase in car parking;
- Increased landscaping;

- Revised drainage strategy to incorporate 'bio bubble' on-site treatment apparatus to reduce nitrate output.

4 **PLANNING HISTORY**

NFDC/92/50342 53 units of sheltered accommodation & access alts (demolish existing) (Site to north of current application site) – Approved October 1993

19/11180 – 45 apartments refused December 2019 - appeal lodged

5 **PLANNING POLICY AND GUIDANCE**

Local Plan 2016-2036 Part One: Planning Strategy

STR1 Achieving sustainable development
 STR2 Protection of the countryside
 STR3 Strategy for locating new development
 STR4 Settlement hierarchy
 STR5 Meeting our housing need

ENV1 Mitigating impact - International Nature Conservation sites
 ENV3 Design quality and local distinctiveness

HOU1 Housing type, size and choice
 HOU2 Affordable housing
 HOU3 Residential accommodation for older people

CCC2 Safe and sustainable travel

IMPL1 Developer contributions
 IMPL2 Development standards

Local Plan Part Two 2014

DM1 Heritage and conservation
 DM2 Nature conservation and biodiversity

Supplementary Planning Guidance And Documents

SPD Mitigation Strategy for European Sites

SPD Parking standards

SPD Housing design, density and character

SPD Lymington Local Distinctiveness

Central Government advice _

National Planning Policy Framework 2019

- Section 2 Achieving sustainable development and the tests and presumption in favour Including tilted balance
- Section 5 Delivering a sufficient supply of homes
- Section 9 Promoting sustainable transport
- Section 11 Making effective use of land including appropriate densities

- Section 12 Achieving well designed places
- Section 15 Conserving and enhancing the natural environment
- Section 16 Conserving and enhancing the historic environment

National Design Guide 2019

6 PARISH / TOWN COUNCIL COMMENTS

PAR4: Recommend Refusal.

- The proposal is over-development of the site. The development impacts on the approach to Lymington. It does not match the nearby Conservation area. The conservation report is very critical. The design quality does not support local distinctiveness. Ridge heights higher than the established make the building over-dominant. Proposed development is too bulky and large. The application proposes a structure whose mass is inappropriate on the boundary of the urban / suburban approach to Lymington, especially given the local character in proximity to listed buildings and the Conservation Area. Development is contrary to Core Strategy Policy CS2 and CS3, Policy 11 and 13 of the Emerging Local Plan Review Part 1 and the Lymington Local Distinctiveness SPD together with government advice as set out in the NPPF 2019.
- Does not meet housing needs. Does not address affordable housing needs. Will not address the needs of local older people. Whilst there is ample provision of residential accommodation for older people (Policy 18 of the new Local Plan) there is an acute shortage of affordable housing (Policy 17) in the town. Therefore Policy 17, which sets a target of 50% affordable housing, must take precedence. A development plan for this site should be able to meet the requirements of Policy 17 and make a substantial contribution, whereas this applicant proposes to make none.
- There is a surplus of housing in the area for the elderly. Lymington has a higher proportion of age 60 - 74 residents than other local areas. There is a concern that this application may draw in more people in that age bracket instead of accommodating local residents who would be moving out of housing stock locally, thereby freeing up housing stock for younger families.
- Number of parking spaces is inadequate and does not meet NFDC guidelines.
- Highways have not visited the site or taken the traffic issues into account. Concern remains over the entry and exit points onto the A337 and associated junctions nearby. There are safety issues with two streams of traffic approaching the dropped kerb entrance/exit of the development from Highfield and Lymington town.
- Trees on the site are threatened.
- There is no mitigation for existing flooding problems on Stanford Hill and Belmore Road.
- In support of NHS concerns and cannot see the benefit of this development to the local economy.

- Overbearing large building block in such close proximity to residents of Bucklers Mews, particularly no.14 and no.15. Results in a loss of privacy. Unacceptable location with dominance over property 'Concorde. Location of sub-station impinges and impacts on residents and their right to quiet living without background noise and emissions.
- The ecology report recommends refusal of the package treatment plant as it is not appropriate for mitigating nitrate and will not meet Environmental Agency regulations. Dwellings do not meet nitrate-neutral requirements. Does not support Conservation species & Habitat Reg 2017.

7 COUNCILLOR COMMENTS

No comments received

8 CONSULTEE COMMENTS

Comments have been received from the following consultees: Full details are available to view on line.

NFDC Ecologist

Initial comments – Objects as on site waste treatment plant unacceptable and contrary to guidance. Adverse impact on protected areas and nitrate neutrality not proven. Biodiversity net gain not proven (BNG); concerned regarding impact on protected bat species; bird species adequately catered for in suggested enhancement scheme.

Updated comments 18 August - I am content based on the evidence presented that the >10% BNG can be delivered on-site with the amendments made to landscaping at ground level and incorporating appropriately specified and sized green roofs – I would be willing to condition the approval of the final specification. I am likewise reassured and content that there is a suitable mechanism approach for ensuring the green roofs are maintained in the long term. I can confirm that my query with respect to bat potential in trees proposed to be felled has been satisfactorily addressed.

I will defer to you on the issue of the certainty regarding nitrate mitigation. I note that the calculations have been updated with the occupancy rates as per my e-mail of 06/08/2020 which from my perspective is accepted.

NFDC Conservation

Objected previously to earlier scheme. Noted revised proposals but maintains objections regarding impact on Conservation Area and setting of nearby Listed Buildings. See detailed response letter dated 8 June 2020.

NFDC Trees

No objections on tree grounds to this proposal, subject to condition requiring tree protection during all construction works.

The submitted Arboricultural Assessment & Method Statement by Barrell Tree Consultancy Ref: 19028-AA-PB dated 17/04/20 and accompanying Tree Protection Plan provide sufficient measures to show that these trees can be adequately protected though out the construction of this development.

Hampshire County Council Highways

No objections subject to conditions - Detailed comments set out in response letter dated 12 June 2020. In essence no objection to revised traffic access arrangements. Parking provision is a matter for the District Council to satisfy itself on. No objections on traffic generation grounds as was the case previously. Stage 1 safety audit on new access arrangements has been undertaken and any necessary changes can be dealt with via planning conditions and a later S278 Highways Agreement. Recommend conditions - Construction Management Plan, wheel cleaning scheme, car parking areas to be provided prior to occupation, all highway works completed prior to occupation including all new signage.

Hampshire County Council Lead Local Flood Risk Authority

Initial comments – objects as insufficient information has been submitted to demonstrate that surface water drainage is adequate or appropriate to serve this development. See detailed response letter dated 1 June 2020

Update comments 3 September

In summary, while we accept that there is a viable outfall, the information provided is not sufficient to demonstrate that flood risk will not be increased on or off site and therefore we consider our response to be a holding objection on the grounds of insufficient information.

Further update 24 September

No objections subject to conditions being imposed to deal with surface water issues.

Natural England

Object - On site waste water treatment plant is not acceptable particularly because of high failure rates, fluctuation in efficiency, and issues around long term management as well as potential discharges into local sewers. Nitrate neutrality not secured and impact on protected areas cannot be ruled out. Alternative mitigation proposals are therefore required.

No objection to habitat mitigation impact from additional recreational pressure subject to contributions being secured.

Biodiversity net gain should be secured on site.

Southern Water Authority

No objections subject to conditions requiring full details of foul and surface water drainage scheme to be agreed. However, package on site treatment plan is not acceptable. See detailed comments in our letter dated 4 June 2020.

9 REPRESENTATIONS RECEIVED

Objections _

21 letters received raising the following issues

- Traffic and access impact – very busy area. Development will exacerbate current problems, and congestion in the area

- Proposed new access provisions still dangerous
- Inappropriate location and design having an adverse impact on heritage assets and character of the town as you enter and leave, urban sprawl, no local distinctiveness
- Insufficient demand for this type of accommodation, Lymington is already saturated
- Impact on amenity of nearby residents from building blocks so close, overlooking and location of electricity substation, increase in noise and disturbance
- Lack of adequate health services exacerbated by additional older residents
- 'Brownfield' development of this nature should not include gardens and inappropriate redevelopment of existing dwellings.

In addition

- Lymington Society objected to earlier scheme and see no great improvement with this proposal.
- Bournemouth and Christchurch Hospitals NHS Foundation Trust consider that a contribution of £63,633.00 is required to meet additional care costs required as a direct result of any permission granted. Objection raised otherwise. Evidence provided to support their claim.

In support or neutral comments

Two letters raising making the following comments

- No real harm to Listed Buildings or Conservation Area
- Parking needs to be increased, charging points, consider needs of future residents not current, affordable housing for young families needed, concerned about infrastructure being able to cope

In addition

- Hampshire Swifts recommend appropriate mitigation be put in place in the event of an approval to encourage protected species.

10 PLANNING ASSESSMENT

The current application is a revised scheme following the refusal of application 19/11180 for 45no. dwellings issued on 20th December 2019. Members are referred to the earlier officer report which sets out the issues and reasons for refusal in full. That application is now the subject of an appeal held in abeyance awaiting the outcome of the current application. The following link can be used to access the earlier report.

<https://newforest.gov.uk/article/1051/View-or-Comment-on-a-Planning-Application>

There were 10 reasons for refusal which in brief were as follows

1. The proposal does not represent sustainable development under Paragraph 11d of the NPPF;

2. The proposed design is unacceptable by virtue of detailed design, site layout, mass, bulk, height and scale;
3. The impact on Lymington Conservation area and the Grade II Highfield listed buildings result in less than substantial harm that is not off-set by public benefits;
4. The proposed access is not safe and adequate and will result in an unacceptable impact on highway safety;
5. The relationship with neighbouring properties at Concord and Nos. 14 and 15 Bucklers Mews would result in unacceptable overlooking and overbearing impact;
6. The proposal would result in unacceptable impacts upon protected species within the site;
7. The proposals have insufficient bio-diversity enhancement and retention of existing features of nature conservation value,
8. The scheme represents a potential for adverse impact from increased nitrate discharge into the Solent and there is no appropriate assessment to demonstrate compliance with the Habitat Regulation's 2017;
9. No affordable housing is secured against the development;
10. Inadequate details to demonstrate satisfactory surface water drainage.

Principle of Development and housing policy assessment

a) General principle

The site lies in one of the largest towns in the District in what might be considered as a sustainable location within easy walking distance of a range of facilities such as retail, health care and other community facilities. The site also lies close to public transport opportunities. However, the definition of sustainable development as set out in the National Planning Policy Framework 2019 covers matters relating to environmental, social and economic development. Consequently, whilst the site is located in an area where new residential development is usually permitted this is subject to wider considerations than just the site's general location.

In their Planning Statement the applicants set out the benefits that would be derived from this development. In particular the applicants point to the current need for housing for the elderly within the Council's area, as well as helping to meet the Council's current lack of supply in general terms. The design they claim will also make a positive contribution to the appearance of the area. There will also be other related benefits such as employment during the build stage and on-site employment for those staff needed to run the facility (3 full time employees). New housing of this type may also free up other market housing albeit there is no guarantee that the new units will be occupied by local people and it is highly unlikely that any freed-up units will be affordable. There is a need therefore to balance the applicant's suggested benefits of the scheme against any adverse impacts.

b) 5-year housing land supply

The applicants contend that the Council does not have a 5 year housing land supply. Since the adoption of the new Local Plan however this position has now changed. The Council has published both a report setting out its 5 year supply and confirmation from Central Government that the Housing Delivery Test has been met with a current supply of 6.1 years. Where a LPA cannot demonstrate an adequate 5 year housing land supply then the NPPF requires a tilted balance to allow the development unless it is proven that the harm significantly and demonstrably outweigh the benefits when assessed against the policies in the NPPF taken as a whole.

c) Affordable Housing

Policy HOU2 now requires developments outside the Waterside area of 11 dwellings or over to provide 50% affordable housing on site with a tenure mix target of 70% affordable rent and 30% intermediate or affordable home ownership including shared ownership. The NPPF provides a wider definition of affordable housing which includes discount market sales and starter homes.

There are two ways in which affordable housing is normally realised i.e. on-site delivery or off-site financial contribution to acquire a serviced plot. The applicant's submission that on-site provision is difficult because of the particular housing model for assisted living is generally borne out with other schemes throughout the Council's area. That leaves consideration that an off-site financial contribution should be made. In this case the calculation for off-site contribution is of the order of £750,000.

This proposal however offers no affordable housing on site citing the difficulty of mixing tenures where sheltered housing of the type proposed is to be provided. The applicants also offer no off-site contribution either citing viability issues. The applicants have submitted a viability statement setting out their reasons. In terms of development costs the applicants point to the cost of acquiring the four properties currently occupying the site which when added to build and other costs makes the scheme not viable if affordable housing is included. Independent valuation puts the four dwellings having a total valuation of the order of £3.7million. In assessing costs the developer also includes CIL and habitat mitigation which between them amount to some £430,000

The Council have assessed the viability case through their own independent assessment. The Council's policy requirements are clear through the Local Plan policy but both the Local Plan and Government policy as expressed through the NPPF and Planning Practice Guidance recognise that affordable housing may not always be viable at the policy compliance target or indeed not at all given the development costs associated with a proposal.

The Council's advisors have produced a report which can be found on the web site in the documents list for this application. The summary of that report concludes that whilst there may be some difference of opinion on build costs, the justification put forward by the developer is generally sound. The benchmark land value, existing use value and developer's profit are all considered reasonable. Given this position Officers have concluded that the developer's case of nil affordable housing is reluctantly accepted.

d) Older person housing needs

The new Local Plan expresses an evidence based approach which indicates that the Council's area includes a population which is ageing and likely to be in need of older person accommodation both in terms of specialist housing and purpose designed housing types that allow occupiers to maintain their independence. The Plan states it is likely that over the plan period up to 2036 an increase of 12,800 persons will be over the age of 75. Policy HOU3 encourages housing types designed to be suitable for older persons be included in development proposals where appropriate, along with more specialist extra care and C2 care home type facilities. The supporting text to the policy states the significant need in this sector is likely to be more towards specialist care rather than the type of sheltered accommodation proposed here but nevertheless officers have no evidence to rebut the applicant's proposal. Anecdotal evidence from local residents who have responded to the application is not of such weight as to warrant a refusal on these grounds. The market demands will be a factor in the provision of such accommodation and this rests with the developer to ascertain.

Design, site layout and impact on local character and appearance of area

The Council has a range of policy advice covering design, local distinctiveness and local impact. Policy ENV3 has replaced the earlier Core Strategy policy CS2, and the Lymington Local Distinctiveness SPD are key considerations in this case along with Section 12 of the NPPF and the more recent Government Design Guidance.

The previous application contained the following reason for refusal

The proposal is considered to be contrary to Core Strategy Policy CS2 and CS3, Policy 11 and 13 of the Emerging Local Plan Review Part 1 and the Lymington Local Distinctiveness SPD, together with government advice as set out in the NPPF 2019, with particular reference to paragraphs 127 and 130, and Government Design Guidance. The proposal by virtue of its site layout, scale, mass, and position in a prominent location does not positively contribute to local distinctiveness and sense of place. The proposal is considered to be unsympathetic in terms of its overall design and site layout, mass, bulk, height and scale in this key and sensitive location in Lymington.

Policy ENV3 does not diminish the requirements to provide a high quality development that is appropriate in its design, scale, mass, location and sensitive to this part of Lymington.

The views of the Council's Conservation and Building Design Officer indicate that the development is not appropriate in design terms and that the amendments made do not go any near far enough to warrant a positive recommendation. Both the Case Officer and the Conservation Officer have consistently expressed the view that this size of building in this particular location is not appropriate. In addition, the chosen design represents a panoply of different design styles without any coherence and with a massive and deep floor plan extending along the site frontage and in depth into the rear verdant area of the site. The minor changes to the earlier submission do not overcome the earlier objections.

Impact on Lymington Conservation Area and Listed Buildings including their setting

The Council in assessing and determining proposals which affect the character, appearance and setting of designated heritage assets (in this case the Lymington Conservation Area and the Grade II Listed Buildings at Highfield) are required to consider the following matters under the Listed Buildings and Conservation Areas Act 1990

- S66 duty - special regard to desirability of preserving the building or its setting etc.
- S72 duty – special attention to the desirability of preserving or enhancing the character or appearance of the area

Significance of the heritage asset

Setting - wider rather than narrower meaning

Substantial harm (complete loss) – exceptional circumstances

Less than substantial harm – weighed against the public benefit

The views of the Conservation and Urban Designer are set out in his detailed consultee response. The previous application resulted in a refusal reason as follows based on the impact on heritage assets

By virtue of its scale, mass, position and height in a key location near to and impacting on the setting of Designated Heritage Assets, the proposed development fails to satisfy the statutory tests as set out in the Listed Buildings and Conservation Areas Act 1990 as set out in Section 66 and 72. The proposal does not preserve or enhance the setting of the Lymington Conservation Area or the Listed Buildings at Highfield causing less than substantial harm which is not offset by any public benefits that might accrue from the development. The proposal is considered to be contrary to Core Strategy Policy CS2 and CS3, Local Plan Part 2 Policy DM1, Policy 11 and 13 of the Emerging Local Plan Review Part 1, the Lymington Local Distinctiveness SPD, and with government advice as set out in the NPPF 2019.

The applicant's agent has rebutted the views expressed and considers the relevant assessment on impact on the significance of the heritage assets has not been properly carried out. He asserts the level of impact on the significance of the assets will be neutral. In addition, photo montages of the development and its impact have also been provided. Neither of these documents change officer views in that the significance of the assets is harmed and that the level of this harm is not outweighed by the perceived benefits of the scheme as set out in the NPPF para 196 test.

NPPF para 192 requires a LPA in determining applications to take account of in this case the desirability of new development making a positive contribution to local character and distinctiveness.

NPPF para 193 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 asset's conservation irrespective of whether any potential harm amounts to substantial harm, total loss or less than substantial harm to its significance.

The NPPF provides a definition of sustainable development being one which achieves, economic, social and environmental objectives. Given the objections raised both on design grounds and in respect of the harm to the significance of designated heritage assets officers consider that the earlier refusal on the grounds that the development should not be considered as sustainable development still applies.

Highway safety, access and parking

a) Highway access and internal site layout

The previous application was refused for the following reason

The proposal is contrary to Core Strategy Policy CS2, Policy 13 of the Emerging Local Plan Review Part 1 and Section 9 and 12 of the NPPF 2019 in that it proposes an access and egress from the site which could potentially conflict with other road users given the current circulation pattern of traffic and local junction arrangements. The proposal does not demonstrate a safe and adequate access into and out of the site. It is considered that there would be an unacceptable impact on highway safety based on the plans as submitted.

The earlier scheme has now however been significantly amended to create two access points one in only and one out only very much as shown previously but with the addition of a right turn lane and alterations to the current highway to be included with the new application. The Highway Authority have been pointed to the concerns expressed but have commented that they have no objections subject to conditions and the necessary Section 278 Agreement to deal with alterations to the public highway. No objections are raised to the internal arrangements or to pedestrian and vehicular access routes, nor to provision for service vehicles such as refuse lorries.

b) Trip generation and highway capacity

The Highway Authority are satisfied that the development can be accommodated. They raised no concerns previously and this remains their position.

c) Car and cycle parking

The proposed development puts forward a total of 34 car parking spaces and no cycle parking other than within an enclosed storage area dedicated to motorised buggies. The standard for this size of development is 1 space per unit. Cycle spaces should also be provided on a ratio of 1 space per unit for long stay and 1 loop/hoop per every 2 units for short stay. The standards confirm part of the cycle parking can be dedicated to motorised buggies instead. That said some cycle parking should be shown on the plans

The Highway Authority point out that parking standards are a matter for the LPA taking into account the location and accessibility of the site to other facilities and public transport options. In this case the site is located close to local facilities and transport opportunities so an adherence to the standard is not considered essential.

Local Plan policy IMPL2 now requires electric charging points within parking areas. A reasonable number of such points should be made available to serve the development. None are shown at present.

Notwithstanding the concerns raised by the Town Council and local objectors there are no substantive highway safety grounds to refuse this amended scheme subject to the imposition of the conditions as suggested by the Highway Authority and to cover the issues relating to electric charging and cycle parking noted above. In terms of the site access the detailed Section 278 Agreement should be based on the submitted plans. Any significant variation in the details of the new access may trigger the need for a new permission or variation of condition. The Highway Authority also suggest a construction method statement and wheel cleaning facility for construction traffic along with other details.

Residential amenity

The last application was subject of a refusal reason as set out below

The proposal is considered to be contrary to Core Strategy Policy CS2 and Policy 13 of the Emerging Local Plan Review Part 1 which requires an acceptable relationship between any development proposal and its immediate neighbours and not to cause a loss of privacy, amenity or to be generally inappropriate in terms of the relationship between buildings. The proposal is also considered to be contrary to the advice contained in Section 12 of the NPPF 2019 which requires well designed places. The impact of the development is particularly unacceptable in terms of the relationship of the buildings to Concord to the south and Nos. 14 and 15 Bucklers Mews to the north east by virtue of the extent of overlooking and loss of privacy, and the closeness and oppressive impact of a large building block in such close proximity.

The applicants have sought to address the issues raised last time with this amended proposal. In particular the building closest to 14-15 Bucklers Mews has been reduced in height from a three storey building with accommodation on each floor to a single storey building with a flat roof. The impact on the properties adjoining has been markedly reduced along with any overlooking to what is now an acceptable level. That still leaves no 14 Bucklers Mews with the prospect of having a new electricity substation located less than 2 metres from the front wall of that property. This is considered un-neighbourly and creating an unacceptable amenity loss. The substation should therefore be moved and parking re-arranged if necessary. There should be a landscape buffer strip between the main car park and these two properties of at least 2 metres depth measured from the common boundary. This will also reduce noise impact of parking so close to the front elevation of the two properties and provide a better relationship.

The other property referred to in the earlier refusal reason Concord now has an improved relationship with the new development by virtue of privacy screens to balconies at first floor level. That still leaves a second lounge window to flat 33 and a bedroom window to flat 34 directly facing Concord and creating some overlooking but at the distance involved this is not considered to be so harmful as to warrant a recommendation of refusal... The applicants have shown some tree planting on this boundary and this should provide an effective screen from such a high level.

Objections have also been received from some property owners to the east on Belmore Road but given the limited windows on the rear elevation block and the 50 metre plus distance between those windows and the dwellings on Belmore Road there are no substantive grounds to object.

Subject to the above matters being resolved any impact on adjoining amenity can be considered at an acceptable level. A reason for refusal has been put forward to cover the unacceptable impact on 14 and 15 Bucklers Mews in respect of the proximity of an electricity substation and noise and disturbance from car parking close to the boundary.

Impact on trees

Members are referred to the views of the Council's Tree Officer set out below. Currently this site consists of four separate dwellings on generous garden plots. The majority of trees within these gardens are small ornamental garden species with no public amenity value. However, to the rear of High Bank is a maturing oak tree which has good form and character. To the rear of Hill View are Cedar trees,

the public amenity value of these trees is currently restricted but if this development was to be constructed then these trees would be important features to this site and therefore are considered a constraint to development.

The submitted Arboricultural Assessment & Method Statement by Barrell Tree Consultancy Ref: 19028-AA-PB dated 17/04/20 and accompanying Tree Protection Plan provide sufficient measures to show that these trees can be adequately protected through out the construction of this development.

No objections are raised by officers subject to a condition that the works are carried out in accordance with the arboricultural statement.

Notwithstanding the comments made by the Town Council there are no substantive grounds to refuse this application based on impact on trees of importance.

Ecological impact

a) Biodiversity Net Gain (BNG)

BNG essentially is measured using a DEFRA metric as the site currently exists. It is then re-measured in accordance with a development proposal. The site as developed needs to show a 10% net gain in biodiversity value over the site as exists and undeveloped. This can be achieved in a number of ways such as planting and introduction of bird and bat boxes for example. This concept has been recently introduced through the Environment Bill, and more recently through the new Local Plan and Cabinet Report of July this year which requires schemes of this size to demonstrate BNG. This has pre-empted the Environment Bill enshrining the need to demonstrate BNG into law. Policy STR1 of the Local Plan refers.

The revised proposal has provided a detailed landscaping plan and set of proposals to illustrate how BNG can be achieved. This has been the subject of consultation with the Council's ecologist who has now withdrawn his earlier objection. The BNG scheme must be implemented and maintained over a 30 year period following the completion of the development. The mechanism for monitoring it is suggested should be through either a S106 legal agreement or a Unilateral Undertaking setting out a management regime. The applicants have agreed to a long term monitoring regime with the mechanism to be confirmed in the event of an appeal against any refusal. The Council will require this to be effectively demonstrated in the event of an appeal.

b) On site protected species

In this case the existing dwellings within the site do have nature conservation importance in that there is a destruction of known bat roosts and other features which exhibit the potential for accommodating bats. The Council in determining such applications where this issue arises must engage with the Habitat Regulations. There is a separate need for a European Protected Species license to be granted prior to any works taking place.

In his earlier response to the previous application the Council's Ecologist has provided further information on another planning application case where the same issues arose to clarify the requirements and duties imposed on the planning authority or competent authority in the event of an appeal against a refusal.

The reference to Habitats Regulations in my response is in relation to the protection afforded to species which is separate from protected sites such as SPA/SAC

In reaching a planning decision, a competent authority such as the Council must have regard to the requirements of the Habitats Directive

The Directive only allows unlawful activity such as loss or disturbance of the resting places of species in cases where there are imperative reasons of overriding public interest why the operation should be carried out, and decision makers should also be satisfied that there is no satisfactory alternative, and that any action licensed will not be detrimental to the maintenance of the population of the species at favourable conservation status in its natural range. These criteria are often referred to as the 'three tests'.

1. That the purpose of the work meets one of those listed in the Habitats Regulations – in this case overriding public interest;
2. That there is no satisfactory alternative; and
3. That the action authorised will not be detrimental to the maintenance of the population of the species concerned at a favourable conservation status (FCS) in their natural range.

Guidance suggests that need and alternatives can be demonstrated by development being acceptable in planning terms (e.g. in accordance with policies).

These tests are also applied by Natural England when assessing an application for a Protected Species Licence - such licences are required when resting places are disturbed or destroyed by activities such as development, irrespective of whether planning consent is required or not.

In reaching a planning decision a LPA should be reasonably confident that a licence is likely to be capable of being issued.

It is advisable for a case officer to record their decision in respect of the tests, preferably as part of their report

An application for a species licence is normally required to provide evidence of how planning permission has considered the tests in order to assist Natural England's considerations.

Notwithstanding the recommendation below is one of refusal, the Council at this stage considers that the mitigation strategy put forward is acceptable and that the third test, i.e. maintenance of the population of the species concerned at a favourable conservation status can be met and that the necessary wildlife protection can be dealt with as part of a European Protected Species Mitigation Licence. The Council's Ecologist raises no objection in this regard. The on-site presence of protected bat species will require a European Protected Species Mitigation License before works can begin. The timing of the works also needs to be controlled and mitigation measures put in place to replace the lost roost facilities on site.

That said the Council at this time does not consider the Habitat Directive tests have been satisfied and will retain its reason for refusal as set out previously. The Council considers that tests 1 and 2 have not been satisfied. In the event of an appeal an Inspector will be required to carry out the duty imposed by the Directive.

In our function as a Local Planning Authority we are required to consider the likelihood of a licence being granted (by the licensing authority – Natural England

and 'have regard for the Habitats Directive'). It should be noted that Natural England applies the tests on a proportionate basis; thus the justification required increases with the severity of the impact on the species or population concerned. The roosts identified would be considered to be low conservation status. That said the first two tests still need to be complied with.

c) Habitat Mitigation and off-site recreational impact

Recreational impact from the occupiers on protected areas and species can be managed by a Unilateral Undertaking offering to pay the appropriate contributions. The applicants have agreed to do so in the event of an approval recommendation. Subject to a Unilateral Undertaking being submitted in the event of any appeal no objections are raised.

d) Nitrate neutrality and impact on Solent SAC and SPAs

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 which includes an element of new residential overnight accommodation would adversely affect the integrity of the Solent Coast European sites, in view of that site's conservation objectives having regard to nitrogen levels in the River Solent catchment. The Assessment concludes that the proposed development would, in combination with other developments, have an adverse effect due to the impacts of additional nitrate loading on the Solent catchment unless nitrate neutrality can be achieved, or adequate and effective mitigation is in place prior to any new dwelling being occupied. In accordance with the Council Position Statement agreed on 4 September 2019, these adverse impacts would be avoided if the planning permission were to be conditional upon the approval of proposals for the mitigation of that impact, such measures to be implemented prior to occupation of the new residential accommodation. These measures to include undertaking a water efficiency calculation together with a mitigation package to addressing the additional nutrient load imposed on protected European Sites by the development. A Grampian style condition has been used in the past.

At the present time the Council does not have any projects in place and cannot either be certain of the level of contribution required on a pro rata basis dependant on the quantum of development proposed. It is likely the Council will not be in a position to do so until Autumn of 2020. This information has been shared with the applicant. They have declined to accept a Grampian condition because of the uncertainty created.

The applicant has responded to suggest an alternative approach using a habitat mitigation scheme that is already set up on the Isle of Wight. This works by the developer buying nitrate credits dependant on the measured impact of their scheme. The scheme then allows the developer to buy credits on the mitigation land. The land in question will be taken out of active farming and planted with woodland. This will then act as a compensatory drop in nitrate enrichment into the same catchment area on the Solent (in this case the mitigation land lies on the western part of the island facing Lymington). Such schemes have already been successfully used by developers in the Fareham Borough Council area and have been part of the extensive discussion and work that has been undertaken on nitrates through the Partnership for Urban South Hampshire (PUSH). The scheme can be regulated by a Section 106 Agreement entered into between the developer, the current application site owners, the mitigation land owner (on the Isle of Wight), the LPA, and the LPA who are the enforcing Authority which in this case is the Isle of Wight Council. A model agreement has been provided to demonstrate the principles of how this would work. Natural England have been advised of this new

approach and their response is anticipated prior to the Committee meeting, they have been party to the work through PfSH.

On the basis that such a scheme will need a separate Appropriate Assessment under the Habitat Regulations, the LPA should carry out such an Assessment. A Shadow Appropriate Assessment has been submitted by the developers Natural England has been consulted for comment though the LPA are the Competent Authority. Subject to their comments this shadow assessment could be adopted by the LPA. As the application has a number of issues that have led to a recommendation of refusal it has not been appropriate for your officers to progress the drafting of the Section 106. . The LPA whilst confirming the principle of this new approach is acceptable will need to include a reason for refusal referencing the lack of a mechanism for securing this mitigation.

Surface water drainage

Members are referred to the current holding objection of the Hampshire Local Lead Flood Authority. The applicants The applicants have discussed these matters with the LLFA and provided further details. The LLFA have now withdrawn their objection subject to conditions being imposed on any permission.

Developer contributions

As part of the development, subject to any relief being granted the following amount Community Infrastructure Levy will be payable:

Type	Proposed Floorspace (sq/m)	Existing Floorspace (sq/m)	Net Floorspace (sq/m)	Chargeable Floorspace (sq/m)	Rate	Total
Dwelling houses	4535	720	3815	3815	£80/sqm	£392,064.62 *
Subtotal:	£392,064.62					
Relief:	£0.00					
Total Payable:	£392,064.62					

11 CONCLUSION

Whilst some of the earlier reasons for refusal have now been overcome it is still considered that there are objections to the proposal based on the design, scale and mass and location of the building, together with its impact on designated heritage assets and two adjoining properties. In addition, the Council is obliged to offer reasons for refusal based on potential harm to European protected species and areas. In that regard the Council is not convinced that the benefits of the scheme in bringing housing forward is outweighed by these objections. Neither is there considered to be an overriding social benefit given the complete lack of affordable housing. The balance on this occasion is therefore judged to be one of refusal.

12 OTHER CONSIDERATIONS

Bournemouth and Christchurch NHS Trust

Throughout the preparation of the Council's Local Plan Review 2016-2036 Part One: Planning Strategy we have not received any indication from the Southampton NHS Trust of a requirement for increased service delivery based on the proposed housing delivery within the plan area. As the proposals do not meet the definition for infrastructure then any contribution would need to be secured via a S106 agreement.

For a contribution to be legally secured it would need to meet the tests of Regulation 122 of the CIL Regulations 2010 (as amended) namely:

- *necessary to make the development acceptable in planning terms;*
- *directly related to the development; and*
- *fairly and reasonably related in scale and kind to the development*

Their request states it to be required for service delivery but it is not clear how this would be achieved in relation to this specific development. The contribution requested does not appear to meet the test of Regulation 122

The response provided indicates some evidence to support their claim that a contribution of is required to make the development acceptable. The Council needs therefore to take a view on whether or not this is reasonable and required on this occasion taking into account the particular circumstances of this application and the other potential benefits that will flow from the development.

The Council considers that the development is not able to provide any off-site financial contribution towards affordable housing as the applicants consider the scheme is not viable because of other costs. The Council considers that the development is not able to provide the key policy-based requirement on this occasion and that other non-policy-based requirements should not take precedence.

13 RECOMMENDATION

Refuse

Reason(s) for Refusal:

1. The proposed development is not considered to constitute sustainable development as set out in NPPF section 2 and Policy STR1 of the New Forest Local Plan Part One: Planning Strategy (2016-2036). The proposal is limited in terms of the benefits in economic terms with no significant social benefits, and directly results in demonstrable environmental harm.

2. The proposal is considered to be contrary to New Forest Local Plan Policy (2016-2036) ENV3 and the Lymington Local Distinctiveness SPD, together with government advice as set out in the NPPF 2019, with particular reference to paragraphs 127 and 130, and Government Design Guidance. The proposal by virtue of its site layout, scale, mass, and position in a prominent location does not positively contribute to local distinctiveness and sense of place. The proposal is considered to be unsympathetic in terms of its overall design and site layout, mass, bulk, height and scale in this key and sensitive location in Lymington.
3. By virtue of its scale, mass, position and height in a key location near to and impacting on the setting of Designated Heritage Assets, the proposed development fails to satisfy the statutory tests as set out in the Listed Buildings and Conservation Areas Act 1990 as set out in Section 66 and 72. The proposal does not preserve or enhance the setting of the Lymington Conservation Area or the Listed Buildings at Highfield causing less than substantial harm which is not offset by any public benefits that might accrue from the development. The proposal is considered to be contrary to New Forest Local Plan (2016-2036) Policy ENV3, New Forest Local Plan Part 2 Policy (2014) DM1, the Lymington Local Distinctiveness SPD, and with government advice as set out in the NPPF 2019.
4. The proposal has a direct impact on protected wildlife species within the site and fails to demonstrate that the impact on those species is sufficiently offset by any imperative reasons of overriding public interest, in that there is insufficient social or economic benefits that accrue from the development and the Council is not satisfied that there are no reasonable alternatives to providing this development on this particular site. The applicant has provided no substantive evidence that alternative sites within Lymington have been properly and adequately considered. The proposal does not comply with local and national policy for the reasons set out above and does not pass the required tests as set out in the Conservation of Habitats and Species Regulations 2017. The proposal is therefore considered to be contrary to New Forest Local Plan Policy (2014) DM2 and New Forest Local Plan (2016-2036) Policy ENV1
5. To ensure that the proposal may proceed as sustainable development, there is a duty upon the local planning authority to ensure that sufficient mitigation is provided against any impacts which might arise upon the designated sites. The proposal will result in a new unit of overnight residential accommodation which will potentially have an adverse impact through greater nitrates being discharged into the Solent catchment area thereby having an adverse impact on the integrity of the Solent Special Protection Area (SPA) and Special Areas of Conservation (SAC). A precautionary approach is required to be adopted and in the absence of a completed Section 106 Agreement an adverse impact on the integrity of the SPA and SACs cannot be ruled out. As such, the proposal does not accord with Regulation 63 of the Conservation of Species and Habitats Regulations 2017 in that at present there is inadequate mitigation in place. The proposal is therefore contrary to the provisions of the Conservation of Species and Habitats Regulations 2017, and New Forest Local Plan (2016-2036) Policy ENV1.

6. The proposal is considered to have a detrimental impact on neighbouring amenity in particular with regard to the position of an electricity sub station close to the boundary of Nos. 14 and 15 Bucklers Mews, together with the close proximity of car parking. These create an unacceptable relationship between the development and the adjoining properties and is considered to be contrary to Policy ENV3 of the New Forest Local Plan (2016-2036)

Further Information:

Stephen Belli

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

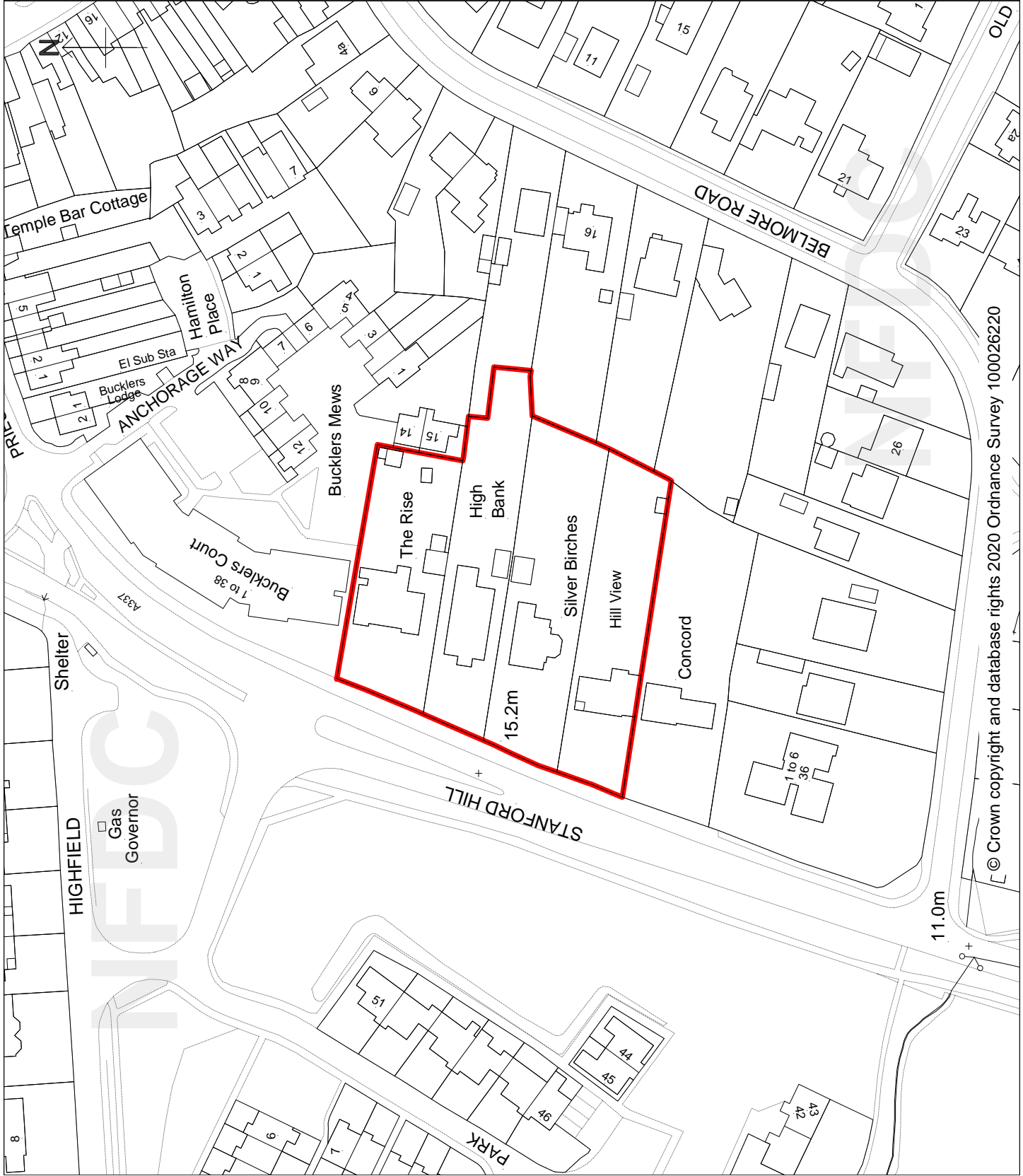
October 2020

Item No:

The Rise and Three
Neighbouring properties
Standford Hill, Lyminster SO41 8DE
20/10481

Scale 1:1250

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



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Application Number: 20/10601 Full Planning Permission

Site: 1 MELBURY CLOSE, LYMINGTON SO41 9HS

Development: Change of use of C3 dwelling to letting rooms in association with the adjacent 8 Highfield Bed & Breakfast accommodation

Applicant: Aquashore Ltd

Agent: Bob Hull Planning

Target Date: 17/08/2020

Case Officer: Arleta Miszewska

1 SUMMARY OF THE MAIN ISSUES

The key issues are:

1. Principle of development
2. Impact on the character and appearance of the area, including the setting of the Lymington Conservation Area
3. Impact on residential amenity
4. Impact on highway safety
5. Impact on ecology
 - a) Ecology on site
 - b) Nutrient neutral development (nitrates)
 - c) Habitats mitigation
6. Impact on air quality
7. Development standards
8. Other concerns

This application is to be considered by Committee following the Town Council's recommendation that the application be refused.

2 SITE DESCRIPTION

The application site is located on the eastern side of Melbury Close and accommodates a two-storey, detached, 3-bedroom dwelling. The dwelling benefits from a rear garden and a fairly ample and wide frontage which serves car parking. The front boundary treatment consists of a wooden panel fence painted brown and planting rising over the top of the fence. The common boundary with 8 Highfield is made of unpainted wooden panel fencing. The property is served by a vehicular access from Southern Road.

In planning policy terms, the application site is located within the built-up area boundary and largely adjacent to the Lymington Conservation Area, with the rearmost parts of the rear garden being located within the Conservation Area. To the south-east of the application site, there is a group of Listed Buildings fronting onto Highfield.

3 PROPOSED DEVELOPMENT

The application seeks planning permission for a change of use of a 3-bedroom detached dwelling to a bed and breakfast business comprising of 6 bedrooms in

association with the bed & breakfast business run at 8 Highfield. The submitted statement explains that the guests accommodated at the application site would have the opportunity to breakfast at 8 Highfield and so an access between the two properties would be provided.

To facilitate the proposed change of use external alterations are also proposed. These mainly concentrate around the fenestration and include additional first floor windows in front and side elevations and further ground floor windows in the rear elevation. It is also proposed to replace an existing garage door with a window.

The proposed used would be served by 6 car parking spaces located within the frontage of the property and accessed via existing vehicular access from Southern Road. No alterations to the existing vehicular access are proposed.

4 PLANNING HISTORY

18/10097 – Part use as bed and breakfast and part use as residential at Abbeyfield House, 8 Highfield. Granted subject to conditions. 10/04/2018.

5 PLANNING POLICY AND GUIDANCE

Local Plan Review 2016-2036 Part One: Planning Strategy

Policy STR1: Achieving sustainable development
Policy STR3: The strategy for locating new development
Policy STR4: The settlement hierarchy
Policy STR6: Sustainable economic growth
Policy STR8: Community services, infrastructure and facilities
Policy ENV1: Mitigating the impacts of development on International Nature Conservation sites
Policy CCC2: Safe and sustainable travel
Policy IMPL1: Developer contributions
Policy IMPL2: Development standards

Core Strategy (saved policies)

CS9: Tourism

Local Plan Part 2: Sites and Development Management (saved policies)

Policy DM1 Heritage and Conservation
Policy DM2 Nature conservation, biodiversity and geodiversity
Policy DM13 Tourism and visitor facilities

Relevant Legislation

Section 38 Development Plan
Planning and Compulsory Purchase Act 2004
Section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990

Relevant Advice

National Planning Policy Framework

6 PARISH / TOWN COUNCIL COMMENTS

Lymington & Pennington Town Council: PAR4: Recommend REFUSAL.
Proposal is not appropriate for a residential area.
Additional car parking and movements will adversely affect residential amenity.
Inappropriate change of use for this property.

7 COUNCILLOR COMMENTS

No comments received

8 CONSULTEE COMMENTS

HCC Highways - no objection.

NFDC Environmental Health (Pollution) - no objection.

NFDC Conservation - no objection.

9 REPRESENTATIONS RECEIVED

12 letters from 10 households have been received objecting to the proposal on the following grounds:

Impact on car parking and road safety: dangerous corner, poor visibility, the development will add to existing dangers, additional congestion, will add to car parking pressure, safety of pedestrians compromised, footpath hazards.

Impact on residential amenity: noise and fume pollution, loss of privacy to 1 Melbury Close, proposed window at front would overlook 1 and 2 St Anne's Gardens, noise and disturbance during early morning and night hours, security lighting should be installed to reduce light pollution from 8 Highfield, boundary treatment should be provided to improve privacy.

Impact on character of the area, including Conservation Area: not in keeping with the character, removal of planting to facilitate access will be in breach with 18/10097 and would have impact on Conservation Area.

Other concerns: loss of residential dwelling, ecology not addressed, no need for another B&B, erodes the sense of community & poses an elevated security risk.

10 PLANNING ASSESSMENT

Principle of development

The application site is located within a built-up area where development is supported in principle, subject to compliance with relevant planning policies, in particular those promoting tourism and safeguarding character of areas, residential amenity, ecology and highway safety.

Saved Policy CS19 Tourism of the adopted Core Strategy encourages tourism and provision for visitors appropriate to the area, including the provision of new as well as enhanced amenities. The policy recognises that improved visitor facilities can increase the economic and environmental benefits arising from tourism. In addition, saved Policy DM13 supports the provision of visitor accommodation and facilities in built-up areas, subject to compatibility with adjoining uses and no unacceptable impacts.

Impact on the character and appearance of the area, including the setting of Lymington Conservation Area

Section 72 (1) of the Planning Act (Listed Buildings and Conservation Areas) Act 1990 requires that in making decisions in a Conservation Area, special attention is paid to the desirability of preserving or enhancing the character and appearance of the area.

It is noted that it is only the rearmost parts of the garden of the application site that are located within the Lymington Conservation Area.

The proposed development involves minor external alterations to the existing dwelling to facilitate changes in the internal layout to provide 6 guest bedrooms.

These changes focus around fenestration to provide each bedroom with an appropriately designed window. As such, these alterations would not harm the appearance and character or the host property or the street scene.

In terms of impacts on the setting of the Lymington Conservation Area, the Council's Conservation Officer has confirmed that the small scale of external alterations would not cause harm to the setting of the Conservation Area. Officers concur with this view.

Concerns have been raised over removal of planting and its impact on the setting of the Conservation Area. However, the NFDC Conservation Officer did not object to this proposal on these grounds and there is no reason to reach a different conclusion on this matter.

The proposal would result in the existing 3-bedroom dwelling being converted into 6 double bedrooms and associated facilities including a store and staff area. Whilst the potential comings and goings would increase in frequency, the application site is located in a residential area where such activity is to be expected. Whilst the frequency of vehicular and pedestrian movement into and out of the property would increase, this is not considered to be harmful to the character of the area. The NFDC Conservation Officer did not raise concerns over the use causing harm to the Conservation Area, namely that it would not preserve or enhance the character or appearance of the Lymington Conservation Area.

In light of this, it is considered that the proposed development would not harm the character and appearance of the surrounding area. Furthermore, insofar as the statutory duties imposed by Section 72 (1) of the Planning Act (Listed Buildings and Conservation Areas) Act 1990 are engaged, their objective of preserving or enhancing the character and appearance of the Lymington Conservation Area are satisfied.

Finally, due to the location of the application site away from the listed buildings located in Highfield, it is considered that their setting would be preserved. Therefore, duties imposed by Section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 are satisfied.

Impact on residential amenity

Third party concerns over privacy of 1 and 2 St Anne's Gardens have been raised. The application proposes to insert an additional first floor window in the front elevation of the existing dwelling. The window would provide a view across the road and onto the properties located opposite. However, in a built-up area, such an arrangement is not untypical and is not considered harmful. The application dwelling already benefits from a first floor level bedroom window in the front elevation. The properties at St Anne's Gardens are readily visible from vantage points alongside the road and pedestrian footpath. It is not considered that the additional window as proposed by this application would materially affect the privacy of the properties located opposite.

It has been suggested in third party comments that a boundary treatment should be provided to improve privacy. The proposal does not include any new clear windows to be inserted in the elevations directly facing no. 2 Melbury Close. There is an existing ground floor window in the rear elevation next to the common boundary. The window currently serves a kitchen. The proposal would change the room to a bedroom and the width of the window would be reduced. In light of this, it is considered that the proposed development would not materially change the degree of overlooking of no. 2 Melbury Close. Furthermore, the potential for more intensified use of the rear garden does not in itself justify a refusal. Subsequently, in planning terms, a condition requesting more robust boundary screening would not be necessary or reasonable.

Concerns have been raised over the proposed development causing noise and disturbance during early morning and night hours as well as noise, fume and light pollution. The existing dwelling could be occupied in a relatively intense manner if a family with adult children or an extended family occupied the current dwelling. There is considered to be no planning harm resulting from the proposed development in terms of additional light, noise or fumes associated with the proposed development. Additional parking is provided as part of the development. However, the design and layout of the parking will ensure that vehicles can access and egress from the spaces with ease, and therefore the level of noise and fumes associated with this parking provision is minimal.

Finally, it is noted that concerns over light pollution from 8 Highfield have been raised. However, this is not a matter relevant to the development under consideration and therefore is not material to the consideration of this application.

Impact on highway safety

In accordance with the adopted Parking Standards, 6 on-site car parking spaces are required (one space per each bedroom). The application demonstrates that the site can accommodate a provision of 6 car parking spaces within the frontage of the property.

Given the sensitive location of the proposal on the boundary with Lymington Conservation Area, the provision should be incorporated in a manner which respects the character and appearance of the Conservation Area and the associated heritage assets, in particular in terms of the amount of necessary hard standing visible from public vantage points. This can be secured by a planning condition.

It is appreciated that many local residents are concerned about the effect of traffic generation from the proposed development on local roads, safety at the existing access due to its location near a bend on the street as well as pedestrian safety due to inadequate provision of pedestrian footpaths near the application site. However, the Highway Authority did not object to the proposal for these reasons and there is no reason to reach a different conclusion on these matters. Therefore, these concerns do not give grounds to refuse this application on highway safety grounds.

Impact on ecology

a) Ecology on site

The scale and nature of the proposed development is not one which would trigger the need for on-site biodiversity enhancement and therefore, the application is considered acceptable in terms of impacts on ecology in accordance with Policy STR1 and DM2.

b) Nutrient neutral development (nitrates)

The site is located within an area where a requirement for a development to be nutrient neutral applies.

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 which includes an element of new residential overnight accommodation would adversely affect the integrity of the New Forest and Solent Coast European sites, in view of that site's conservation objectives having regard to nitrogen levels in the River Solent catchment. The Assessment concludes that the proposed development would, in combination with other developments, have an adverse effect due to the impacts of additional nitrate loading on the River Solent catchment unless nitrate neutrality can be achieved, or adequate and effective mitigation is in place prior to any new dwelling being occupied. In accordance with the Council Position Statement agreed on 4th September 2019, these adverse impacts would be avoided if the planning permission were to be conditional upon the approval of proposals for the mitigation of that impact, such measures to be implemented prior to occupation of the new residential accommodation. These measures to include undertaking a water efficiency calculation together with a mitigation package to addressing the additional nutrient load imposed on protected European Sites by the development.

Relevant information has been submitted to confirm agreement to secure appropriate mitigation prior occupation.

c) Habitats mitigation

Under the requirements of the Habitats Regulations the Council has a duty to ensure that the development proposed in its Plan does not have an adverse effect on the integrity of any European nature conservation designations. The Habitats Regulations Assessment of the Local Plan identified potentially harmful recreational impacts arising from new residential development on both the New Forest European Sites and the Solent Coastal European Sites.

The Habitats Regulations Assessment of the Local Plan Parts 1 & 2 concludes that significant effects on both the New Forest and the Solent and Southampton Water SPA/SAC/Ramsar nature conservation designations associated with recreational impacts from the planned residential development cannot be ruled out. A precautionary approach is appropriate in line with the requirements of the Habitats Regulations until the evidence base is refined. The HRA concludes that mitigation is therefore required for all additional housing development within the Plan Area. The proposed development would, in combination with other developments, have an adverse effect due to the recreational impacts on the integrity of European sites, having regard to their conservation objectives but the adverse impacts would be avoided by securing 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 the applicant entering into such an Agreement.

Impact on air quality

Policy ENV1 of the Local Plan Review 2016-2036 Part One: Planning Strategy requires all new residential development to provide for air quality monitoring, management and mitigation. To ensure that impacts on international nature conservation sites are adequately mitigated, a financial contribution is required

towards monitoring and, if necessary (based on future monitoring outcomes) managing or mitigating air quality effects within the New Forest SPA, SAC and Ramsar site. There is potential for traffic-related nitrogen air pollution (including NOx, nitrogen deposition and ammonia) to affect the internationally important Annex 1 habitats for which the New Forest SAC was designated and, by extension, those of the other International designations. Given the uncertainties in present data, a contribution would be required to undertake ongoing monitoring of the effects of traffic emissions on sensitive locations. A monitoring strategy will be implemented to provide the earliest possible indication that the forms of nitrogen pollution discussed (including ammonia concentrations) are beginning to affect vegetation, so that, if necessary, measures can be taken to mitigate the impact and prevent an adverse effect on the integrity of the SAC habitats from occurring.

At the moment, the contribution amounts to £20 and is secured by a Section 106 Agreement or Unilateral Undertaking. The application is recommended for approval subject to the applicant entering into such an Agreement.

Development standards

In accordance with Policy IMPL2, the development is expected to be designed to enable the provision of plug-in charging points for electric and hybrid vehicles. This is secured by a planning condition.

Other concerns

Concern has been raised that the proposed access between the two properties would be in conflict with the landscaping scheme approved under 18/10097 which granted planning permission for a change of use of parts of 8 Highfield for bed & breakfast business. Whilst this is not a reason to refuse this application, further detail of landscaping can be secured by a condition to ensure adequate landscaping of the application site and 8 Highfield.

Concerns over loss of a residential dwelling are noted. However, there are no policies which prevent the conversion of a dwelling to a non-residential use. Furthermore, the Council can demonstrate a 5 year housing land supply. Therefore, the loss of a residential dwelling does not add weight against the proposal. Whilst views over the lack of need for another B&B are acknowledged, this is for a market to decide on the basis of supply and demand. There are no local policies which prevent a concentration of visitor related facilities or amenities.

In respect of ecology requirements, the application does not propose a new-build which would trigger a requirement for an on-site biodiversity enhancement. However, as described above, the application, if granted would trigger the need for a contribution towards habitat mitigation as well as achieving nitrates neutral development.

Finally, concerns over erosion of the sense of community and an elevated security risk have been taken into consideration. However, given that the application proposes to change the use of a single dwelling, which is located within a residential area and surrounded by other dwellings, the proposal is unlikely to alter the existing strong sense of community as described in third party comments. There is no reason to believe that the use of the dwelling as a B&B would prevent other residents in the vicinity from maintaining their strong community connections. As to security risk, the proposal would function under the same management as the existing business at 8 Highfield and no third party comments were made over incidents at the existing site which would lead to a conclusion that security risk would be elevated as a result of the proposed change of use at the application site.

11 CONCLUSION

The application has been considered against all relevant material considerations including the development plan, relevant legislation, policy guidance, government advice, and the views of interested consultees and 3rd parties. The application is considered to raise no significant issues and the planning balance is for approval.

12 OTHER CONSIDERATIONS

None

13 RECOMMENDATION

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

- i) the prior completion of a Section 106 legal agreement to secure the necessary habitat mitigation measures and air quality monitoring, management and mitigation measures in association with this planning permission;
- ii) the imposition of the conditions set out below.

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:

7711 PL03 REV B PROPOSED PLANS & ELEVATIONS
7711 PL02 REV A EXISTING PLANS & ELEVATIONS
7711 PL 01 LOCATION & SITE PLAN

Reason: To ensure satisfactory provision of the development.

3. Before the development hereby approved commences, a landscaping plan accompanied by scale drawings shall be submitted to and approved in writing by the Local Planning Authority. The plan shall include all of the following details:

- a) details of the landscaping associated with the frontage car parking area;
- b) boundary planting details;
- c) details of the access between the application site and 8 Highfield;
- d) details of the provision of a single plug-in charging point for electric and hybrid vehicles;
- e) cycle storage details;
- f) an implementation and future maintenance plan.

Development shall only proceed in accordance with the approved details.

Reason: In order to secure a satisfactory development, in accordance with Policy ENV3 and IMPL2 of the of the Local Plan Review 2016-2036 Part One: Planning Strategy and Policy DM1 Heritage and Conservation of the Local Plan Part 2: Sites and Development Management.

4. The use hereby permitted shall not commence until:

- a) A water efficiency calculation in accordance with the Government's National Calculation Methodology for assessing water efficiency in new dwellings has been undertaken which demonstrates that no more than 110 litres of water per person per day shall be consumed within the development, and this calculation has been submitted to, and approved in writing by, the Local Planning Authority; all measures necessary to meet the agreed waste water efficiency calculation must be installed before first occupation and retained thereafter;
- b) A mitigation package addressing the additional nutrient input arising from the development has been submitted to, and approved in writing by, the Local Planning Authority. Such mitigation package shall address all of the additional nutrient load imposed on protected European Sites by the development when fully occupied and shall allow the Local Planning Authority to ascertain on the basis of the best available scientific evidence that such additional nutrient loading will not have an adverse effect on the integrity of the protected European Sites, having regard to the conservation objectives for those sites; and
- c) All measures forming part of that mitigation package have been provided to the Local Planning Authority.

Reason: There is existing evidence of high levels of nitrogen and phosphorus in the water environment with evidence of eutrophication at some European designated nature conservation sites in the Solent catchment. The PUSH Integrated Water Management Strategy has identified that there is uncertainty as to whether new housing development can be accommodated without having a detrimental impact on the designated sites within the Solent. Further detail regarding this can be found in the appropriate assessment that was carried out regarding this planning application. To ensure that the proposal may proceed as sustainable development, there is a duty upon the local planning authority to ensure that sufficient mitigation for is provided against any impacts which might arise upon the designated sites. In coming to this decision, the Council have had regard to Regulation 63 of the Conservation of Habitats and Species Regulations 2017.

Further Information:

Arleta Miszewska

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

October 2020

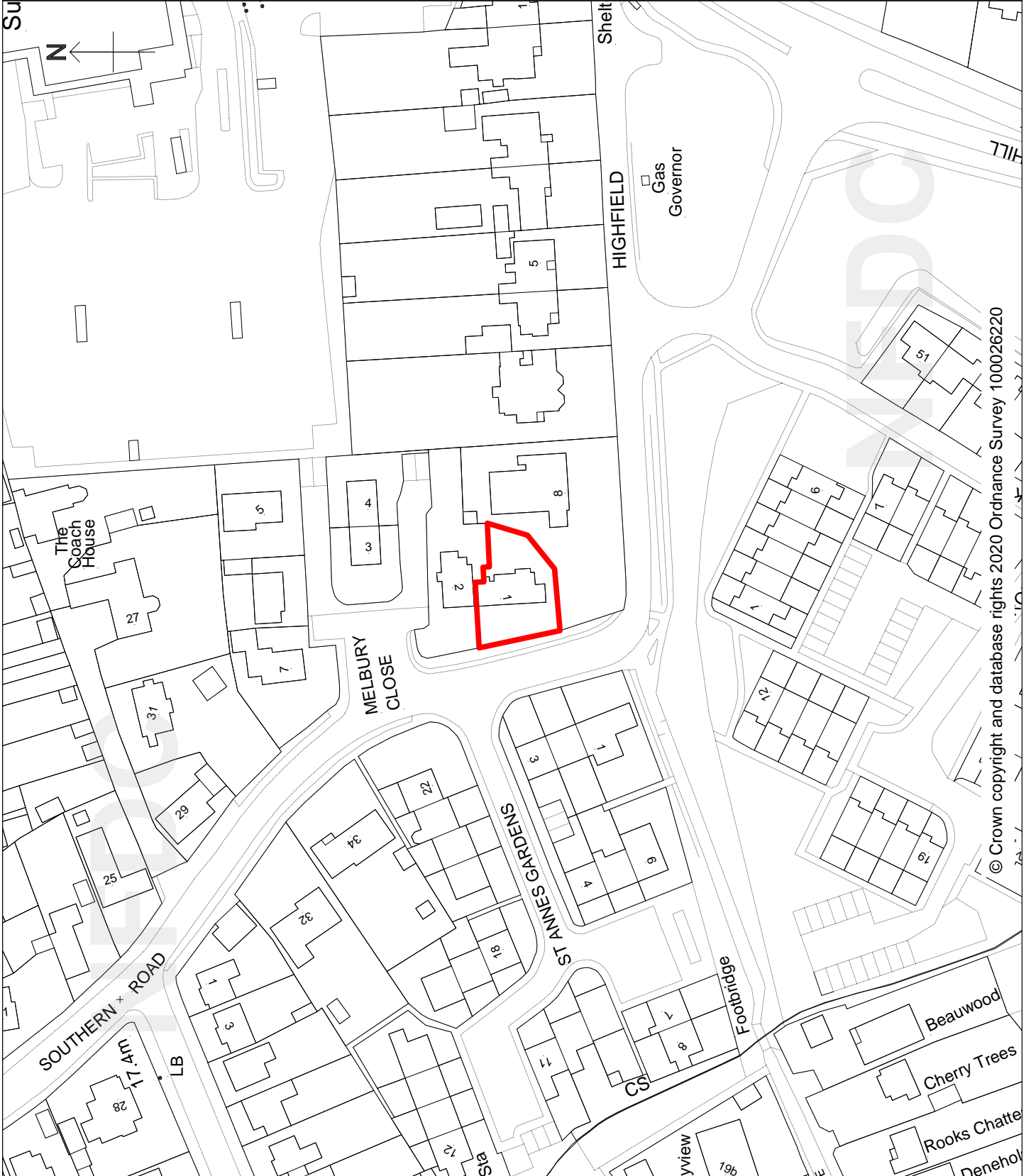
Item No:

1 Melbury Close
Lymington SO41 9HS

20/10601

Scale 1:1250

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



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Application Number: 20/10628 Variation / Removal of Condition

Site: HAVEN MARINE PARK, UNDERSHORE ROAD, BOLDRE SO41 5SB

Development: Variation of conditions 3 (approved plan numbers),5 (landscaping),7 (ecology) & 8 (parking layout) of 18/10541 to allow amended plans reflecting the relocation and increase in size of the SINC area, provide additional car parking.

Applicant: Yacht Havens Group Ltd

Agent: Simpson Hilder Associates

Target Date: 15/09/2020

Case Officer: Judith Garrity

Extension Date: 15/10/2020

1 SUMMARY OF THE MAIN ISSUES

The key issues are:

- 1) Ecological and biodiversity impacts associated with relocating the SINC
- 2) Assessment of proposed landscape changes
- 3) Impact of providing additional parking.

This application is to be considered by Planning Committee due a contrary Parish Council view.

2 SITE DESCRIPTION

Haven Marine Park is an industrial development on the eastern side of the Lymington River in an area that is designated as Green Belt. The existing building on the site, which dates from the 1950s and 1960s, is partly single-storey and partly 2-storey. The site has a long river frontage, and the existing building extends along roughly the southern two-thirds of that river frontage, leaving the northern third of the site as a more open area for boat storage and vehicle parking.

The site is set immediately to the north side of the railway line leading to Lymington Pier. The nearest residential properties to the application site are the flats at Island Point, which is a 3-4 storey block of flats set immediately to the east of the application site. Both these flats and the Haven Marine Park site are currently served by a long gravel access track that leads onto Undershore Road. The land to the east side of Undershore Road is within the New Forest National Park, and also forms part of the Forest East Conservation Area. Closer to the site, the railway bridge almost abuts the south-western corner of the site.

The riverside land that is immediately adjacent to the application site forms part of a Site of Interest for Nature Conservation (SINC). To the south of the site, there are also a Site of Special Scientific Interest (SSSI) and European sites.

3 PROPOSED DEVELOPMENT

The current application is made under Section 73 and seeks variation to conditions 3 (approved plan numbers) 5 (landscaping) 7 (ecology) and 8 (parking layout) of planning permission 18/10541 which was approved in May 2019.

The planning permission 18/10541 grants permission to demolish the existing buildings and erect two buildings to comprise 11 separate units to be used as car parking, storage (Class B8) (Class B1) on the ground floor and first floor offices and light industrial (Class B1), removal of existing car park and boat storage to restore the Site of Importance for Nature Conservation (SINC), boardwalk terraces; bin/cycle storage; access road; parking; landscaping.

The changes now proposed by this variation of condition application involve:

- Re-location of the existing SINC to between units 2 and 3, with a frontage to the Lymington River.
- Increase in the SINC area from 634 sq m to 844 sq m (net increase of 210 sq m)
- Use the existing SINC area for laying out of 13 parking spaces.
- Reposition the 6 parking spaces approved between units 2 and 3 to the new parking area.
- Provide an additional 6 parking spaces to give a total of 61 on the site.
- Revised landscaping to incorporate these layout changes.

No amendment is proposed to the layout, scale and design of the 11 units. The layout of the remainder of the car parking to the eastern boundary with Island Point flats and the central area of the site and its access will also remain unaltered.

4 PLANNING HISTORY

Proposal	Decision Date	Decision Description
18/10541 Two buildings to comprise a total of 11 separate units to be used as car parking, storage (Class B8) including marine based business use (Class B1) on the ground floor and on the first floor as offices and light industrial (Class B1), removal of existing car park and boat storage to restore Site of Importance for Nature Conservation, boardwalk terraces; bin/cycle storage; access road; parking; landscaping; demolition of existing	24/05/2019	Granted Subject to Conditions
17/11625 Access steps to main entrance	06/02/2018	Granted Subject to Conditions
17/10121 14 office / light industrial units in 2 linked blocks with covered boardwalk, (Use Class B1) including marine based use; access road; parking; landscaping; demolition of existing	10/05/2017	Refused

5 PLANNING POLICY AND GUIDANCE

The Local Plan Part 1 Review 2016-2036

Policy CCC2: Safe and sustainable travel

Policy ENV1: Mitigating the impacts of development on International Nature Conservation sites

Policy ENV3: Design quality and local distinctiveness

Policy ENV4: Landscape character and quality

Local Plan Part 2 Sites and Development Management Development Plan Document

DM1: Heritage and Conservation

DM2: Nature conservation, biodiversity and geodiversity

Supplementary Planning Guidance And Documents

SPD - Parking Standards

6 PARISH / TOWN COUNCIL COMMENTS

Boldre Parish Council: Original comment - Happy to accept a delegated officer decision.

Revised comment: Following a detailed review of NFDC 20/10628 Boldre Parish Council (BPC) wishes to update its recommendation to refusal.

The recommendation for refusal is based on the following concerns:

- The proposed variation intrudes into the SINC) area that the applicant has been requested to restore. The proposed exchange is not equitable and leaves the remaining SINC open to further creep from industrial activity. The existing permission creates a clear and enforceable delineation between industrial use and the SINC. BPC believes it is essential that this is maintained to prevent further damage to the SINC.
- BPC notes that the application variation includes drawings that have a mezzanine. This is contrary to approval condition 17 and NFDC's parking guidelines.
- The proposed variation introduces a second entrance to the proposed car parking area. It is not clear why this is required and does not appear to be justified.

Overall, BPC believe that this variation would have significant negative consequences for the remaining SINC and recommends refusal. BPC is concerned that there are significant unanswered questions contained in this variation which need to be addressed by the applicant and the planning authority. This is a long running and complex case, requiring detailed analysis on the overall impact on the SINC and residents in this area.

7 COUNCILLOR COMMENTS

No comments received

8 CONSULTEE COMMENTS

Comments have been received from the following consultees:

Natural England: comment only. Apply previous conditions

Southern Water: comment only. Apply previous conditions

HCC Highways: no objection subject to condition. Comments on revised plans awaited.

NFDC Environmental Health (Pollution): no objection subject to conditions as per original consent

NFDC Environmental Design (Urban & Landscape): no objection.

NFDC Ecologist: no objection subject to conditions

9 REPRESENTATIONS RECEIVED

The following is a summary of the representations received.

For: 1

Against: 1 (on behalf of Nos 1 - 10 Island Point)

Objection:

- Ownership issue
- Use of SINC land would expand industrial operations on land which is Green Belt, creating a precedent for Green Belt and SINC usage.
- No justification for loss of SINC.
- Enforcement was not pursued but SINC restoration was secured as part of previous approval.
- Would legitimise B1/B2 encroachment into the SINC area.
- SINC area is an original drainage channel for surface water to pass under the access road so needs restoring properly
- Revised plans would provide potential for an additional entrance from access lane.
- If approved, the current application would allow removal of SINC and a potential new access
- Original permission was overdevelopment
- Important and prominent location.
- Suggest that the SINC is extended around the boundaries of the site and the current proposed access. Keep existing 6 spaces between unit 2 and 3 with tree planting beside river to screen cars,
- Suggest rejection of the application and provide enforceable safeguards, restore historic integrity of the SINC which maintains B1/B2 to historic land legitimate boundaries
- Variation application is not an equitable green belt trade in terms of quality, quantity or habitat continuity.

Support:

- The proposals will significantly enhance the SINC area and benefit the natural environment of the upper Lymington River.

10 PLANNING ASSESSMENT

The main issues to be considered are:

- 1) Design, site layout and impact on local character and appearance of area
- 2) Ecological and biodiversity impacts associated with relocating the SINC
- 3) Assessment of proposed landscape changes
- 4) Revised parking layout.

Principle of development

The principle of the development was accepted in approving planning application 18/10541 in May 2019. This development was considered acceptable with respect to its effect on the character and appearance of the area and landscape, the effect on the Green Belt, and the impact on the New Forest National Park. The changes now proposed to the parking, landscaping and ecological areas can be dealt with under a S73 application as they relate to conditions attached to this consent and the description and form of the overall development remains unchanged.

The site is located in the Green Belt. The proposed revisions would create an additional 105 sq metres of hard surfaced area within the site when compared to the extant consent (1789 sq m approved 1894 sq m proposed). This increase is not considered to be significant as a proportion of the overall size of this 0.48 hectare site, particularly given the extant consent, the fact that the building footprint would not change and that the site is previously developed land. The use of this area for car parking will be re-located from elsewhere within the site - which is all previously developed land - and would not therefore harm the openness of the Green Belt.

Design, site layout and impact on local character and appearance of area

The design and layout of the buildings remains as previously approved and the development will not have a materially different impact on the character and appearance of the area. Furthermore, it is considered that the changes to the parking layout and its re-location, landscaping and revised ecological areas would allow for potential improvements to the visual impact of the development from across the Lymington River by the removal of the parking area from between units 2 and 3.

There would be a more formalised and extended hard surface on the site for the new parking area. However, this would not be seen from the river frontage. The proposed landscaping will effectively screen this area from the access road so as to make its visual impact acceptable. Furthermore, the planting of trees and native species will be a positive enhancement of this boundary.

Ecological impacts

This application seeks a variation of condition 7 (ecology) of planning approval 18/10541. The proposals are for relocation of the existing SINC to be between units 2 and 3, with a frontage to the Lymington River.

The existing SINC on site forms part of the Walhampton Reedbed and is 634 sq m in size. Land use changes have resulted in the progressive destruction of the SINC through damage resulting from its infilling, its use for storage of container and boats, and an aggregate surface being present on the site. The SINC area that remains is isolated from the remainder of the SINC to the south and east of the access road, which limits the opportunities for its restoration as a reedbed. Ecological surveys undertaken have confirmed the loss of the conservation value of the SINC, which is heavily degraded and is now of low conservation value.

There is no statutory requirement to maintain a SINC or any obligation on a private landowner to manage it. A SINC is a local designation and its selection and designation is to raise awareness of the importance of a site for wildlife, particularly with regard to planning and land management decision making. The principle of the relocation of the existing SINC on this site, given its low conservation value, is therefore considered to be acceptable subject to appropriate biodiversity enhancements being secured.

Proposals are for the creation of a compensatory habitat which would be linked with the intertidal mudflats between the Lymington Pier railway and the road crossing the Lymington River.

A strip of coastal grassland of 844 sq m in size is proposed to create a wildflower rich area along the entire river frontage of the site. As well as improving its functionality this will increase the SINC area on site by 210 sq m. The proposed SINC area would vary in width but it would provide a natural buffer to the edge of the Lymington Mudflats SINC. Most of the new habitat is proposed to be native mixed scrub planting. Some of the grassland will be under the boardwalk to the frontage of the approved buildings on the site. However, the slatted construction of the boardwalk will allow light to penetrate through to the grassland area.

The NFDC ecologists supportive of the relocation and re-creation of this new SINC given that the original habitats have been largely lost. The applicant has undertaken Biodiversity Net Gain (BNG) calculations using the Defra metric, which is welcomed in line with the forthcoming NFDC Interim Position Statement on BNG. These calculations use various baseline assumptions and have factored in the likely varying condition of the habitats that would be created. These calculations include all of the proposed planting on-site, not just that relating to the SINC. The calculations show a biodiversity net gain of over 10% in all of the baseline scenarios put forward, and this is considered acceptable.

A SINC Management and Monitoring Plan is, however, required to include details of the long-term implementation, maintenance and delivery of the biodiversity enhancement plan and this can be secured by a planning condition.

The proposed scheme is unlikely to result in a significant effect on Natura 2000 designated sites which are located approx 300m from the site. The distances between the proposed development and areas of Lymington Mudflat SINC used by SPA birds is over 200m, although birds do feed within 100m of the application site. A condition of the original permission restricted noise levels to prevent disturbance of overwintering birds.

The officers concur with the views of the ecologist. The revised proposals are acceptable in providing a suitable compensatory habitat that connects well to existing inter-tidal mudflats. It has also been demonstrated that biodiversity net gain will be achieved on the site as a result. Furthermore, the future management and maintenance of the newly established SINC can be secured in the future by condition, it was not possible to achieve this through the original permission.

Landscaping impacts:

This seeks a variation of condition 5 (landscaping) of planning approval 18/10541. The new landscaped area would be mainly located between units 2 and 3 and reflects the proposed alterations to the location of the SINC within the site. These changes would result in a more cohesive nature conservation area that would link along the boundaries of the site and Lymington River, with potential benefits as outlined above.

In addition, there are benefits to landscaping on the site and the visual impact of the site when viewed from across the river. A detailed landscape plan had been submitted with the application. This plan reflects the recommendations of the ecology report and would provide a suitable framework to provide an appropriately landscaped site with tree planting that reflects the landscape character landward of the site.

Amended plans have been submitted to close off a "second entrance" originally shown from the access road. This area will now be planted with native species including 3 monetary pines (extra heavy stock). Whilst there is an existing/retained culvert crossing this area, it is considered that the proposed planting scheme can still be achieved. This is considered to be appropriate and the landscaping proposed would be beneficial to the overall development in visual impact terms .

The submitted Landscape Management plan is acceptable and provides certainty about the implementation and management of the landscaping on the site, including internal and boundary planting. The development should be undertaken in accordance with this plan and this can be secured by condition.

Revised parking layout: _

This seeks a variation of condition 8 (parking layout) of planning approval 18/10541. The proposals would increase the number of parking spaces to be provided by 6 to give a total of 61 spaces. This picks up on concerns expressed by some local residents on the previous scheme.

Having reviewed the parking layout, the Highways Authority is satisfied that there is no material impact on the operation or safety of the local highway network as a result. No objection is raised and conditions are as previously recommended on parking and access matters.

Revised plans have been submitted to omit the second entrance to the site. This does not change the layout or number of parking spaces proposed on the site and still allows for adequate turning space. Any further comments received from Highways will be reported to committee as an update.

Other matters

Residential amenity

The form and location of the proposed buildings and parking to the boundary with the Island Point flats has not been changed therefore impact on residential amenity is not a matter for consideration. The addition of 6 extra parking spaces will have no impact on nearby residents. The parking layout has been amended to provide an additional 6 parking spaces on the site closer to the north western boundary. The parking spaces would remain separated from this boundary by between 1.8 m and 7 m with intervening landscaping. They would remain well screened and no adverse impact would result.

The original conditions relating to noise levels, delivery times and open storage would be re-applied. In addition, a construction management plan is required to be submitted and agreed by condition. All of these measures safeguard residential amenity.

Developer Contributions

Not applicable

11 CONCLUSION

This Section 73 application seeks to vary conditions of the original planning approval 18/10541 relating to ecology, landscaping and parking, the principle of the development having been agreed and the planning permission remains extant.

The proposal is to relocate the existing SINC - which is of low conservation value - and for its reinstatement as a more connected and integrated SINC area fronting the Lymington River with associated biodiversity enhancement. As such, the loss of the existing SINC is outweighed by the proposed new ecological area and the biodiversity enhancements on the site. Furthermore, the future management and maintenance of the new SINC can be secured as part of a planning condition. The NFDC ecologist is supportive of this approach and the planning officer concurs with this view.

The proposed changes to the parking layout would result in additional parking spaces on the site, which picks up on concerns expressed by local residents on the earlier scheme. The quality of the associated landscaping would ameliorate the potential visual impact of the increase in hard surface on the site.

Overall, for these reasons, the current proposals are considered to be a betterment when compared to the extant scheme. The recommendation is therefore to vary condition 3, 5, 7 and 8 subject to conditions which largely reflect the original planning approval.

12 OTHER CONSIDERATIONS

The following comments are made in response to matters raised in representations not covered above.

- Land ownership issues have been addressed in the course of the application by publication of a notice and service of corrected ownership certificates. Any associated issues with ownership or encroachment are civil matters.
- Amendments have been made to the plans to address the potential for a second entrance to the site.
- The Biodiversity net gain metric baseline has been clarified by submission of further information.
- The potential for future mezzanine floors would still be controlled by condition.

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.

13 RECOMMENDATION

GRANT the VARIATION of CONDITION

Proposed Conditions:

1. The development hereby permitted shall be begun on or before 23rd May 2022 which is within 3 years of the decision date of the original planning consent 18/10541.

Reason: As this application is made under Section 73 and 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. This decision has been taken in respect of the plans and particulars which were submitted with the application and numbered as follows: 7811 102; 7811 101; 7811 100; 7811 P100; 7811 P102 Rev B; 7811 P103 Rev B; 7811 P104 Rev B; 7811 P105 Rev B; 7811 P106 Rev B; 7811 P107 Rev C; 7811 P108 Rev A, 7811 P110, 7811 P111; 1422 L90-200 Rev G; 1422 L90-201; 7811 P019 Rev B; 7811 P023 Rev B; 7811 P100; 7811 P025; Landscape Management Plan (Landscape Perspective) Rev B AR 11.9.20; Biodiversity Enhancement Report (Jonathan Cox Associates Final Version 16th Sept 2020); and e mail dated 1st October 2020 relating to phases of the development.

Reason: To ensure satisfactory provision of the development.

3. The development hereby approved shall be constructed of the following materials:

Roofing: VM Zinc Cladding Quartz -Zinc Plus
Cladding: Lower section to include Blockwork finish with expressed joints
Kingspan KS1000 AWP rib cladding - Goosewing Grey
Windows: Aluminium Window / Curtain Walling System (RAL7012)
Thermally Broken
Doors: Thermally broken aluminium doors RAL7012
Stainless Steel Balustrade
Aluminium Louvres in RAL7012
Zinc Flashings to match roofing / walling
Polyester Powder Coated Solid Panel in accent colour
Polyester Powder Coated Roller Shutter doors in Goosewing Grey
Aluminium Louvred Vents in RAL7012

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 EVN3 of the Local Plan Part 1 Planning Strategy 2016-2036 for the New Forest District outside the National Park.

4. The development hereby approved shall be constructed in accordance with the slab levels in relationship to the existing ground levels set to an agreed datum as shown on plans existing site levels 7811-100 and proposed finish floor levels 7811-P10. 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 ENV3 of the Local Plan Part 1 Planning Strategy 2016-2036 for the New Forest District outside the National Park.

5. The approved landscaping scheme shall be fully implemented in accordance with the submitted Landscape plan, details and specification set out on Plan 1422-L90-200 Rev G by the end of the planting and seeding season following the first occupation of the buildings or the completion of the development whichever is the sooner. The approved landscaping shall thereafter be managed and maintained in accordance with the submitted Landscape Management Plan (Landscape Perspective) Rev B AR 11.9.20. Any trees or plants which within a period of 5 years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of a similar size or species, unless the Local Planning Authority gives written consent to any variation.

Reason: To ensure that the development takes place in an appropriate way and the future management and maintenance of the landscaping to comply with Policies ENV3 and ENV4 of the Local Plan Review 2016-2036 Part One: Planning Strategy for the New Forest District outside of the National Park.

6. Prior to the commencement of development a SINC management and monitoring strategy shall be submitted to and approved in writing by the Local Planning Authority.

Prior to first occupation of the development hereby approved the new SINC shall be provided on the site in accordance with the approved plans and Jonathan Cox Associates Biodiversity Enhancement Plan (Final Version 16th September 2020).

The SINC on the site shall thereafter be retained, managed and maintained in accordance with the approved management and monitoring strategy and Jonathan Cox Associates Biodiversity Enhancement Plan (Final Version 16th September 2020) at all times.

Reason: To ensure the provision of the SINC is secure and its long term maintenance and management is safeguarded in accordance with Policy ENV1 of the Local Plan Part 1 Planning Strategy 2016-2036 and Policy DM2 of the Local Plan Part 2 for the New Forest District outside of the National Park.

7. Prior to the commencement of each of the phases as identified on plan 7811 P025 and e mail dated 1st October 2020 of the development hereby approved, and in accordance with the submitted Jonathan Cox Ecological Consultancy Biodiversity Enhancement Report final version dated 16th September 2020, which includes measures for biodiversity mitigation and enhancement, a detailed Construction Environment Management Plan (CEMP) shall be submitted to and approved in writing by the Local Planning Authority.

All works shall then proceed in full accordance with the details and recommendations as set out in the submitted Biodiversity Enhancement Report and the approved CEMP, with any amendments agreed in writing prior to the first occupation of the development hereby approved. Thereafter, unless otherwise agreed in writing by the Local Planning Authority, the mitigation measures shall be permanently maintained and retained in accordance with the approved details.

Reason: To safeguard protected species in accordance with Policy ENV1 of the Local Plan Part 1 2016-2036 Planning Strategy and Policy DM2 of the Local Plan Part 2 for the New Forest District outside the National Park.

8. The development hereby permitted shall not be occupied until the spaces shown on Plan 7811 P019 Rev B for the parking and garaging (including the car parking spaces provided within the ground floor of the buildings) of motor vehicles have been provided. The spaces shown on Plan 7811 P019 Rev B for the parking and garaging of motor vehicles shall be retained and kept available for the parking and garaging of motor vehicles for the commercial units hereby approved at all times.

Reason: To ensure adequate parking provision is made in the interest of highway safety and in accordance with Policy ENV3 and CCC3 of the Local Plan Part 1 Planning Strategy 2016- 2036 for the New Forest outside of the National Park.

9. The development permitted by this planning permission shall only be carried out in accordance with the approved Flood Risk Assessment (FRA) produced by (Gyoury Self Partnership, ref: 6029/2.3F, dated December 2015) and the approved Design and Access Statement (Simpson Hilder Associates Ltd, dated April 2018) approved under planning permission 18/10541 and the following mitigation measures:

- a) The finished floor levels of the office space on the first floor of each unit shall be set no lower than 3.6mAOD.
- b) The ground floor of each unit will be used solely as a storage, parking and marine type activities.

The mitigation measures shall be fully implemented prior to first occupation of the development and thereafter retained.

Reason: To minimise the risk of flooding to the proposed development and future occupants and to comply with Chpt 14 of the NPPF in relation to planning for flood risk and climate change.

10. If unexpected contamination other than that identified in the Geotechnical and Phase II Contamination Report dated September 2019 (by Integrale) is found after development has begun, development must be halted on that part of the site affected by the unexpected contamination and an investigation and risk assessment undertaken of the nature and extent of any contamination to the extent specified by the Local Planning Authority in writing until condition 11 relating to the reporting of unexpected contamination has been complied with in relation to that contamination.

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 waters, 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 CCC1 of the Local Plan Review 2016-2036 Part One: Planning Strategy for the New Forest District outside of the National Park and Policy DM5 of the Local Plan For the New Forest District outside the National Park. (Part 2: Sites and Development Management).

11. The detailed contamination remediation scheme to bring the site to a condition suitable for the intended use by removing unacceptable risks to human health, buildings and other property and the natural and historical environment shall be carried out in accordance with

Remediation Method Statement dated November 2019 undertaken by Integrale.

Drawing NO VOC-32, VOC -26, 4092-01, VOC-51, Visqueen Ultimate GeoSeal Identification no. VBP008

If unexpected contamination is identified, works must be halted and a further detailed contamination remediation scheme to bring the site to a condition suitable for the intended use by removing unacceptable risks to human health, buildings and other property and the natural and historical environment shall be carried out and submitted to the Local Planning Authority for written approval. The scheme must include all works to be undertaken, proposed remediation objective and remediation criteria, timescale of works and site management procedures. The scheme must ensure that the site will not qualify as contaminated land under Part 2A of the Environmental Protection Act 1990 in relation to the intended use of the land after remediation.

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 waters, 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 CCC1 of the Local Plan Review 2016-2036 Part One: Planning Strategy for the New Forest District outside of the National Park and Policy DM5 of the Local Plan For the New Forest District outside the National Park. (Part 2: Sites and Development Management)

12. The remediation scheme specified in condition 11 must be carried out in accordance with its term prior to the commencement of development, other than that required to carry out remediation, unless otherwise agreed in writing by the Local Planning Authority. The Local Planning Authority must be given two weeks written notification of commencement of the remediation scheme works. Following completion of measures identified in the approved remediation scheme, a verification report that demonstrates the effectiveness of the remediation carried out must be produced, and is subject to the approval in writing of 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 waters, 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 CCC1 of the Local Plan Review 2016-2036 Part One: Planning Strategy for the New Forest District outside of the National Park and Policy DM5 of the Local Plan For the New Forest District outside the National Park. (Part 2: Sites and Development Management).

13. In the event that contamination is found at any time when carrying out the approved development that was not previously identified it must be reported in writing immediately to the Local Planning Authority. An investigation and risk assessment must be undertaken in accordance with the requirements of condition 11 of planning approval 18/10541, and where remediation is necessary a remediation scheme must be prepared in accordance with the requirements of condition 11, which is subject to the approval in writing of the Local Planning Authority. Following completion of measures identified in the approved remediation scheme a verification report must be prepared, which is subject to the approval in writing of the Local Planning Authority in accordance with condition 12.

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 waters, 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 CCC1 of the Local Plan Review 2016-2036 Part One: Planning Strategy for the New Forest District outside of the National Park and Policy DM5 of the Local Plan For the New Forest District outside the National Park. (Part 2: Sites and Development Management)

14. Where a remediation scheme has been approved in accordance with condition 11, a monitoring and maintenance scheme to include monitoring the long-term effectiveness of the proposed remediation over the period stated in the remediation scheme, and the provision of reports on the same must be prepared, both of which are subject to the approval in writing of the Local Planning Authority. Following completion of the measures identified in that scheme and when the remediation objectives have been achieved, reports that demonstrate the effectiveness of the monitoring and maintenance carried out must be produced, and submitted to the Local Planning Authority. This must be conducted in accordance with DEFRA and the Environment Agency's *'Model Procedures for the Management of Land Contamination, CLR 11'*.

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 waters, 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 outside the National Park (Core Strategy) and Policy DM4 of the Local Plan for the New Forest District outside the National Park. (Part 2: Sites and Development Management).

15. Notwithstanding the provisions of the Town and Country Planning (Use Classes) Order 2005 as amended by The Town and Country Planning (Use Classes) (Amendment) (England) Regulations 2020 and the Town and Country Planning (General Permitted Development) Order 1995 or any subsequent re-enactments thereof, the development hereby approved shall be used on the ground floor as Class B8, Class E (g) (i) (Business) marine activities and car parking, and on the first floor Class E (g) (i) (Business) purposes only and for no other purposes, whatsoever of the Town and Country Planning (Use Classes) Order 2005 as amended by The Town and Country Planning (Use Classes) (Amendment) (England) Regulations 2020 or any subsequent re-enactment thereof, without express planning permission first being obtained.

Reason: To safeguard the amenities of nearby residential properties in accordance with Policy ENV3 of the Local Plan Part 1 Planning Strategy 2016-2036 for the New Forest District outside the National Park.

16. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 or any subsequent re-enactment thereof, no additional floor space by way of the creation of a mezzanine floor shall be formed within the buildings hereby approved, other than that shown on the approved plans.

Reason: To safeguard the amenities of the area, in the interests of highway safety and to comply with Policy ENV3 of the Local Plan Part 1 Planning Strategy 2016-2036 for the New Forest District outside the National Park.

17. No delivery activity shall take place on the site in connection with the approved uses other than between the hours of 7:30am and 21:00 Monday to Fridays, and 8:00 am and 17:00 on Saturdays not including recognised Sundays or public holidays.

Reason: To safeguard the amenities of nearby residential properties in accordance with Policy ENV3 of the Local Plan Part 1 Planning Strategy 2016-2036 for the New Forest District outside the National Park.

18. The combined rating level of noise emitted from all plant and equipment as calculated in accordance with BS4142:2014 (to include any penalties required for tonal or impulsive characteristics) shall not exceed 40dBA LAeq(1hr) between the hours of 07:00hrs and 23:00hrs, and shall not exceed 32dBA LAeq(15mins) between the hours of 23:00hrs and 07:00hrs measured or calculated at a distance of 1m from the façade of the nearest noise sensitive properties.

Reason: To safeguard the amenities of nearby residential properties in accordance with Policy ENV3 of the Local Plan Part 1 Planning Strategy 2016-2036 for the New Forest District outside the National Park.

19. The louvres shall be installed on the first floor windows on the east elevation of approved Units 10 and 11 before first occupation as illustrated on Plan No P107 Rev C and shall remain at all times, unless otherwise agreed in writing by the Local Planning Authority.

Reason: To safeguard the privacy of the adjoining neighbouring properties in accordance with Policy ENV3 of the Local Plan Part 1 Planning Strategy 2016-2036 for the New Forest District outside the National Park.

20. The means of foul sewerage disposal from the site shall be fully implemented in accordance with details indicated on plans Drainage Strategy option 2 113679-CAL-XX-XX-DR-D-0102 P2 External Works Levels option 2 113679-CAL-XX-XX-DR-D-0103 P2 . Development shall only take place in accordance with the approved details.

Reason: In order to ensure that the sewerage arrangements are appropriate and in accordance with Policy ENV3 of the Local Plan Part 1 Planning Strategy 2016-2036 for the New Forest District outside the National Park and New Forest National Park Authority Strategic Flood Risk Assessment for Local development Frameworks.

21. No external lighting shall be installed on the site unless details of the position, size and type of lighting to be installed has first been submitted to and approved in writing by the Local Planning Authority.

Reason: In the interests of visual amenity and to minimise impact on ecological interests in accordance with Policy ENV3 of the Local Plan Part 1 Planning Strategy 2016-2036 and for the New Forest District outside the National Park.

22. The cycle parking facilities shown on Drawing No 7811 (L) 2 004 shall be provided prior to first occupation of the approved development and thereafter retained for that purpose. Development shall only proceed in accordance with the approved details.

Reason: To ensure that adequate provision is made for cycle parking on the site and to promote means of travel alternative to the private car in accordance with Policy CCC2 of the Local Plan Part 1 Planning Strategy 2016-2036 for New Forest District outside the National Park.

23. No goods, plant, or machinery shall be stored in the open on the site, without the express planning permission of the Local Planning Authority.

Reason: In the interest of the amenities of the locality in accordance with policy ENV3 of the Local Plan Part 1 Planning Strategy 2016-2036 for New Forest District outside the National Park.

24. Written documentary evidence demonstrating that the development hereby approved has achieved as a minimum a rating of EXCELLENT against the BREEAM standard shall be submitted to the Local Planning Authority and verified in writing prior to the first occupation, unless an otherwise agreed time frame is agreed in writing by the Local Planning Authority. The evidence shall take the form of a post construction certificate as issued by a qualified.

Reason: In the interests of resource use and energy consumption in accordance with Policy IMPL2 of the Local Plan Part 1 Planning Strategy 2016-2036 for New Forest District outside the National Park.

25. No percussive piling or works with heavy machinery, resulting in a noise level in excess of 69dBA Lmax when measured at the nearest point of the Special Protection Area, shall be undertaken between the specified period of 1st October and 31st March inclusive, unless the existing noise level at the Special Protection Area already exceeds 69dBA Lmax. In the case where the existing noise level at the Special Protection Area already exceeds 69dBA Lmax, no percussive piling or works with heavy machinery shall be undertaken during the specified period if the resulting noise level would exceed the existing noise level measured from the Special Protection Area.

Reason: To minimise disturbance to overwintering birds using the Special Protection Area and to comply with Policy ENV1 of the Local Plan Part 1 Planning Strategy 2016-2036 and Policy DM2 of Local Plan Part 2 for New Forest District outside the National Park.

26. Before development of each of the phases of the development hereby approved commences, as identified on plan 7811 P025 and e mail dated 1st October 2020 details of a Construction Method Statement (CMS) shall be submitted to and agreed in writing to the Local Planning Authority. Works shall only be carried out in accordance with these approved details unless otherwise agreed in writing by the Local Planning Authority.

Reason: To minimise disturbance to overwintering birds using the Special Protection Area and to comply with Policy ENV1 of the Local Plan Part 1 Planning Strategy 2016-2036 and Policy DM2 of Local Plan Part 2 for New Forest District outside the National Park.

27. Prior to the first occupation of the buildings hereby approved, a Flood Warning and Evacuation Plan of the site, generally in accordance with the principle set out in the Flood Management Plan submitted by Simpson Hilder Associates Limited with planning application 18/10541, shall be submitted to and approved in writing by the Local Planning Authority. The agreed Flood Warning and Evacuation Plan for the site shall thereafter be adhered to and maintained to reflect new/changes of tenants and their specific use/requirements.

Reason: To minimise the risk of flooding to the proposed development and future occupants and to comply with Chpt 14 of the NPPF with respect to planning for flood risk and climate change.

Further Information:

Judith Garrity

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

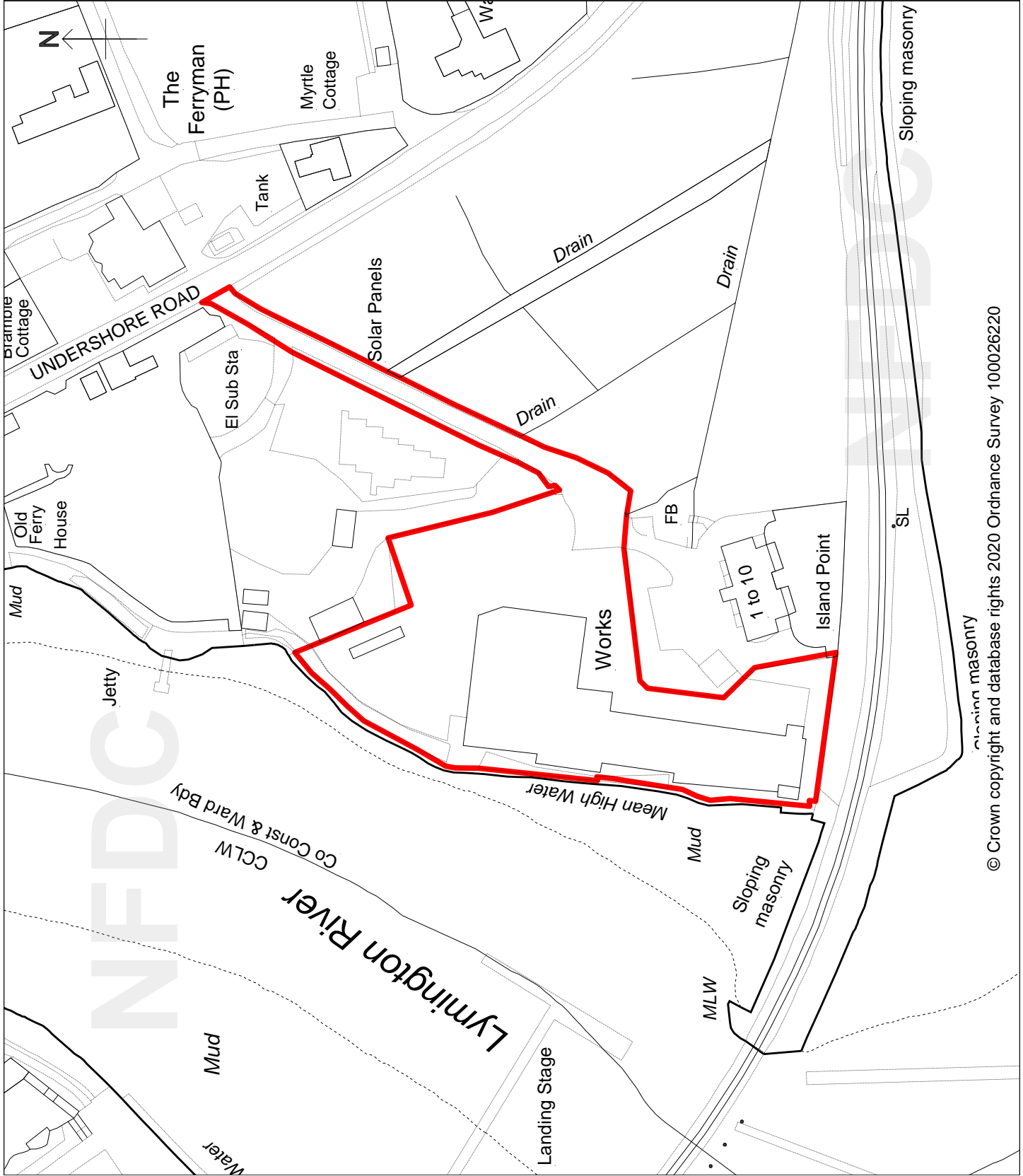
October 2020

Item No:

Haven Marine Park
Undershore Road
Boldre SO41 5SB
20/10628

Scale 1:1250

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



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Application Number: 20/10656 Full Planning Permission

Site: BARBERRY HOUSE, WILDGROUND LANE, HYTHE SO45 4HJ
Development: Change of use of the building from a dwelling house to care home for up to four residents
Applicant: Pathway Care 360 Ltd
Agent: Spruce Town Planning Ltd
Target Date: 26/08/2020
Case Officer: Jo Chambers

1 SUMMARY OF THE MAIN ISSUES

The key issues are:

- 1) Impact on the character and appearance of the area;
- 2) Impact on residential amenity of adjacent neighbouring properties;
- 3) Impact on highway safety;
- 4) Impact on the local delivery of services.

This application is to be considered by Committee because of a contrary view by the Parish Council.

2 SITE DESCRIPTION

The site is occupied by a 1.5 storey 5-bedroom detached dwelling and is located at the corner of Wildground Lane and Butts Ash Lane within the built-up area. Access is gained from Wildground Lane, a private road, which also serves 4 other dwellings. The property has an integral double garage in front of which is a 10m deep driveway. The drive extends to the side of the garage. The boundaries of the site are largely screened by hedges and fencing.

3 PROPOSED DEVELOPMENT

Permission is sought for the change of use of the dwelling house to a care home to provide residential care to young people aged 14-18 with complex social, behavioural or emotional needs. The agent has advised that the home would not take in new residents aged 18, and most would move out before then. However, if an existing resident is in an ongoing education course when they turn 18 then they may stay at the home until their course has finished and move on then.

A maximum number of 4 young people would reside at Barberrry House at any one time and would be long term placements. They would attend local schools and the property would be their domestic residence only.

Staff would be present on a shift basis. No carers would reside at the property. The actual number of staff present would be dependent on the individual care needs of each young person. Each young person would always have 1 member of staff working with them.

The day shift would run between 08:00-22:30 with one member of staff per young person; each staff member would be present during that time e.g. 4 children = 4 staff (other than during initial assessment). The night shift would run between 22:30-08:00. Two members of staff would be present overnight. One of the day shift staff would stay on through the night shift and would sleep but be available to support the night shift worker if required. The second member of staff would arrive just for the night shift and would stay awake throughout the night.

The maximum number of staff at shift change would be 5, comprising of 3 day shift staff, 1 day shift who will stay overnight and 1 night shift member of staff.

No physical changes are proposed to the property.

No definite information is available on how staff would travel to the site. The applicant has reported that several staff do not drive and those from the local area may arrive by foot/bicycle.

The agent has advised that occasional visits may arise for property maintenance or deliveries akin to any domestic residence. Parents may visit, most often for a couple of hours each month.

The proposal relates to residential accommodation and activities would normally be completed away from the home. The agent has advised that the home will be Ofsted registered.

4 PLANNING HISTORY

Proposal	Decision Date	Decision Description	Status	Appeal Description
20/10027 Use the property as C3 (b) use (Lawful Development Certificate that permission is not required for proposal)	21/05/2020	Was Not Lawful	Decided	
18/11512 6 dwellings; bin and cycle store; parking; demolition of existing	21/01/2019	Refused	Appeal Decided	Appeal Dismissed

5 PLANNING POLICY AND GUIDANCE

Local Plan 2016-2036 Part 1: Planning Strategy

STR1:	Achieving sustainable development
STR5:	Meeting our housing needs
STR6:	Sustainable economic growth
STR8:	Community services, Infrastructure and facilities
ENV3:	Design Quality and Local Distinctiveness
CCC2:	Safe and sustainable travel

Neighbourhood Plan

Hythe and Dibden Neighbourhood Plan

Supplementary Planning Guidance And Documents

SPD - Parking Standards

Relevant Legislation

Town & Country Planning Act 1990

Planning and Compulsory Purchase Act 2004

The Town and Country Planning (Use Classes) Order 1987 (as amended)

Relevant Advice

National Planning Policy Framework

NPPF Ch.2 - Achieving sustainable development

NPPF Ch. 5 - Delivering a sufficient supply of homes

NPPF Ch.11 - Making effective use of land

NPPF Ch.12 - Achieving well-designed place

Constraints

Tree Preservation Order: TPO/0027/18/G1

Plan Policy Designations

Built-up Area

6 PARISH / TOWN COUNCIL COMMENTS

Hythe & Dibden Parish Council

Comment: PAR 4: Recommend REFUSAL. The Council welcomes the application for a facility to provide a residential care home for young people and this is considered to be a more positive and beneficial use for the site than previous applications. However, the Council has serious concerns about the impact on the wider area and neighbours due to additional traffic and parking caused by the visitors, staff and tradespeople visiting the site. Butts Ash Lane is a road that already has significant traffic issues and near misses and is a main access road for drivers accessing the road to Fawley and for young families and children walking and cycling to local schools.

The site has limited parking and any attempts to park on Wildground Lane will negatively impact the neighbouring properties. There are concerns about access to properties for emergency vehicles due to parking issues. The Council would welcome clarity on staff numbers and how the young residents are supported during holidays and if the numbers proposed are reflective of a prepared schedule once fully operational.

Access on to Butts Ash Lane and the impact of additional parking on this very busy road, with already concerning on-street parking, is a possible danger to pedestrians, cyclists and other drivers. Due to these concerns from local residents and Councillors, the Council wishes to refuse the proposal. However, the Council would welcome any plans to mitigate wider traffic and highway issues in the area.

7 COUNCILLOR COMMENTS

No comments received

8 CONSULTEE COMMENTS

Comments have been received from the following consultees:

Environmental Health Contaminated Land - no concerns

HCC Highways - no objection

9 REPRESENTATIONS RECEIVED

The following is a summary of the representations received.

5 letters of objection on the following grounds:

- concern has been expressed regarding highway safety matters, level of traffic that could be generated and parking;
- potential noise and disturbance to existing residents;
- lack of staff/children locked out/unsupervised/Ofsted registration needed;
- anything other than a large family home will cause problems;
- problems for wildlife.

4 letters of support on the following grounds:

- lovely big garden, nice area, good schools, will be a lovely home for children;
- would provide stability and well-run home environment to kids without those things;
- site previously used as a play school;
- site previously a home for a family of 7 so proposal no different;
- adequate parking for staff as a private house up to 6 vehicles parked on occasions without difficulty;
- admirable project, meets planning criteria and care accommodation is stretched;
- building works are a temporary inconvenience, most of extra cars parked in Butts Ash Lane are not associated with Barberry House.

10 PLANNING ASSESSMENT

Principle of Development

The application site is located within a primarily residential part of the built-up area and residential accommodation for the proposed care of young people is acceptable in principle in such locations.

Impact on the character and appearance of the area

No changes, either internal or external, are proposed to the dwelling or its plot. There would be no change to the visual impact of the proposal on the character or appearance of the area.

Impact on residential amenity of adjacent neighbouring properties

The existing property is a 5-bedroom dwelling with 3 reception rooms and, as such, the level of occupation proposed would be similar to that of a large family. Noise generated within the house and garden would be unlikely to be significantly different to that associated with its use as a single dwelling for a large family. In this context, it is considered that the proposal would be unlikely to have an adverse effect on residential amenity of neighbouring properties with regard to noise or disturbance.

It is acknowledged that the young people will have complex needs including behavioural difficulties. However, it is also noted that children with behavioural difficulties can also be found living in dwellings (Use Class C3). It is considered reasonable to expect behaviours to be suitably addressed by appropriate in-house management practices and trained staff. The care home would also be subject to regulation by Ofsted.

Overall, it is considered that the impact of the proposal would be similar to that of a large family living in a dwellinghouse. The proposal would accord with the requirements of policy ENV3 which requires development to avoid unacceptable effects on residential amenity; and the NPPF which seeks to ensure safe and healthy living conditions that promote social interaction and well-being for all sections of the community.

Impact on highway safety

The agent has advised that there would be a member of care staff for each young person, with a maximum of 5 members of staff present at shift change. NFDC parking guidelines suggest 0.5 space per non-residential staff ($5 \times 0.5 = 2.5$) with visitor spaces of 0.25 per 2 clients ($0.25 \times 4 = 1$). This equates to 3.5 spaces plus cycle parking. Off-street parking is available on the existing driveway/garage and it is noted that there are no on-street parking restrictions along Butts Ash Lane.

Given that the accommodation is intended for school age people and the limited number of staff, the proposal would be unlikely to generate significantly more traffic movements or parking requirements than those that would arise if the property was used as a C3 dwellinghouse. The Highway Authority has been consulted and has advised that the amount of traffic generated by the proposal will not be materially different to the existing site. It has advised that the risk associated with the access is unlikely to be increased significantly and has raised no objection.

Impact on the local delivery of services and housing

The proposal will provide residential accommodation for 4 children/young people. This accords with policy HOU1 that seeks to address diverse housing needs at all stages of life; with the aim of Hythe and Dibden Neighbourhood Plan to support the provision of suitable housing opportunities for the local community; and with the NPPF requirement to deliver a sufficient supply of homes to meet the housing needs of different groups in the community.

Wildlife

Concern has been expressed that the proposal will be harmful to wildlife. No details or explanation has been given. It is not considered that the change of use to a care home would be harmful to wildlife.

Habitat mitigation

The change of use proposed does not represent an increase in overnight accommodation compared to the existing use as a dwelling house. Therefore, there would be no additional burden on the integrity of the protected European sites with regard to either recreational impact or nutrient neutrality.

Developer Contributions

No developer contributions are required in relation to this application.

11 CONCLUSION

The impact of the use of this property as a care home for a maximum of 4 school age young people with complex needs is considered to be no greater than the use of this 5-bedroom property as a C3 dwellinghouse. The proposal is considered acceptable and in accordance with adopted policy, the NPPF, the Hythe and Dibden Neighbourhood Plan, supplementary planning documents and with regard to other material planning matters.

12 OTHER CONSIDERATIONS

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.

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.

13 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:
Location plan
FES/2309/01 Existing ground floor plan
FES/2309/02 Existing first floor plan
FES/2309/03 Proposed ground floor plan
FES/2309/04 Proposed first floor plan
FES/2309/05 Rev A Existing & proposed site and block plans

Reason: To ensure satisfactory provision of the development.

3. The existing garage and driveway shall be retained for the parking of vehicles / cycles at all times.

Reason: To ensure the availability of parking space and in the interests of highway safety.

Further Information:

Jo Chambers

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

October 2020

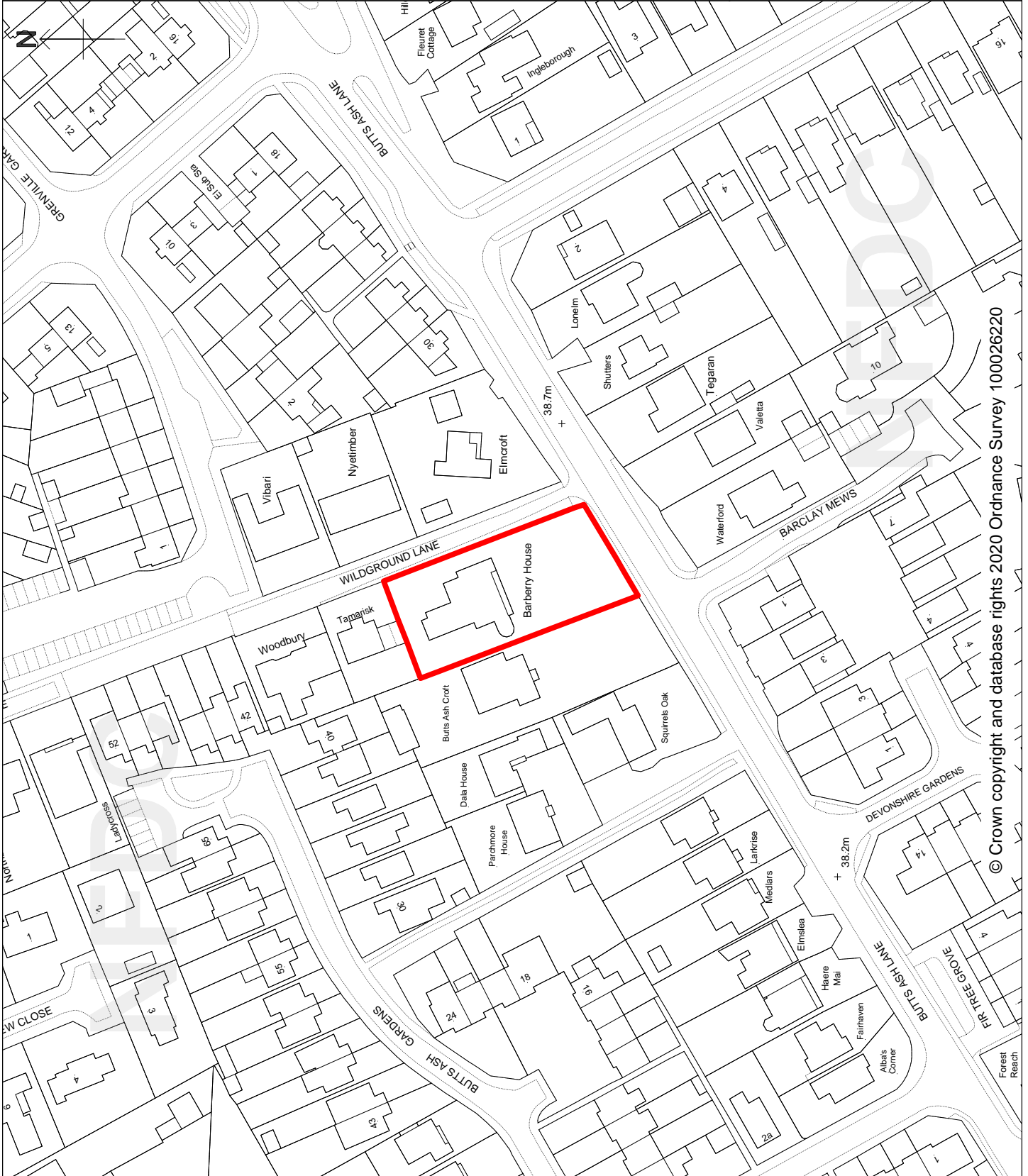
Item No:

Barberry House, Wildground Lane
Hythe SO45 4HJ

20/106656

Scale 1:1250

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scale.



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Application Number: 20/10663 Full Planning Permission

Site: 2 HOBSON WAY, HOLBURY, FAWLEY SO45 2GE

Development: Boundary fencing to site (retrospective)

Applicant: Mr Ferguson

Agent:

Target Date: 31/08/2020

Case Officer: Rosie Rigby

1 SUMMARY OF THE MAIN ISSUES

The key issues are:

- 1) Impact on the street scene
- 2) Impact on the character of the area

This application is to be considered by Committee because of a contrary view to the Parish Council.

2 SITE DESCRIPTION

The application site consists of a low level bungalow set in a prominent corner plot within the built up area of Holbury. The rear boundary is located close to the dwelling with the private garden area being located to the north of the plot behind a high close boarded fence which is set in the garden about 5 metres away from the roadside.

3 PROPOSED DEVELOPMENT

The application seeks planning permission in retrospect. The 1.8 metre high close boarded fence is already erected and is positioned on the southern boundary of the site along Crawte Avenue. The fence drops to 1.2 metres on the panel linking to the front picket fence which fronts Hobson Way. It is considered that the new fence requires planning permission.

4 PLANNING HISTORY

Proposal	Decision Date	Decision Description	Status
19/11359 Single-storey side extension	17/12/2019	Granted Subject to Conditions	Decided
XX/NFR/10895 Erection of two bungalows and four semi-detached bungalows with garages - (in accordance with amendment to layout NFR.8688 now submitted).	19/04/1962	Granted	Decided
XX/NFR/08688 Construction of roads with drainage.	17/03/1960	Granted Subject to Conditions	Decided
XX/NFR/06196/1 Layout of land for residential development.	07/07/1958	Granted Subject to Conditions	Decided

XX/NFR/06196	Layout of land for residential development with construction of roads.	07/05/1958	Granted Subject to Conditions	Decided
XX/NFR/05377	Use of approximately 32 acres of land for residential development.	09/04/1957	Granted Subject to Conditions	Decided
XX/NFR/03718	Use of approximately 17 acres of land for residential development and construction of development roads.	03/05/1955	Granted Subject to Conditions	Decided
XX/NFR/03094	Use of land for the erection of bungalows on 10 acres of land.	25/08/1954	Granted Subject to Conditions	Decided

5 PLANNING POLICY AND GUIDANCE

Local Plan 2016 - 2036 Part 1: Planning Strategy

Policy STR1: Achieving Sustainable Development
 Policy ENV3: Design quality and local distinctiveness
 SO3: Built environment and heritage

6 PARISH / TOWN COUNCIL COMMENTS

Fawley Parish Council: Par 3 We recommend permission

7 COUNCILLOR COMMENTS

No comments received

8 CONSULTEE COMMENTS

No comments received

9 REPRESENTATIONS RECEIVED

No representations received.

10 PLANNING ASSESSMENT

Introduction

The current application is made in retrospect. The close boarded fence replaces a picket fence which was backed by shrubs. The works were carried out earlier this year.

Principle of Development

Policy ENV3 requires new development to achieve high quality design that contributes positively to local distinctiveness, quality of life and enhances the character and identity of the locality. The principle of the development is considered to be acceptable subject to compliance with these policy criteria and the relevant material considerations relating to its impact on the character and appearance of the area, residential amenity and highways matters

Impact on local character and appearance of area

The existing street scene is characterised by low walls and hedges of varying heights which give it a pleasant green and relatively open character. These are the features that contribute to and make up the existing character of the area.

The close boarded fence, which has a harsh appearance, is already in position and is 1.8m high. It is in a highly visible position, being located on the back edge of the pavement at the junction of Hobson Way and Crawte Avenue . As a result of the excessive height, position and harsh appearance of the fence it is considered as a prominent, incongruous and overdominant feature within the street scene that appears totally out of keeping with the area.

Whilst it is noted that within the wider locality there are other examples of high front boundary treatments these are of an appearance that is more visually acceptable than the application site. Furthermore, whilst there is no planning permission evident for these, they appear to have been in place for long enough to have become lawful by default.

Residential amenity

The fence under consideration in this application has a degree of separation from adjacent dwellings and therefore would not have a significant impact on the light or privacy of neighbouring properties. The fence along the boundary with No 1 Crawte Avenue would come within permitted development and is not being considered as part of this application.

Highway safety matters

The fence would be set back behind the pavement and grass verge, dropping to a lower level towards the road junction and so would not impact on the visibility splays from the road. The fence has a proximity to No 1 Crawte Avenue which would result in the occupants having to drive onto the pavement to have visibility for leaving their driveway, however this would not be sufficient to justify a refusal in this instance.

11 CONCLUSION

For the reasons given above, it is considered that as result of the excessive height, position and harsh appearance of the close boarded fence it is a prominent, incongruous and overdominant feature within the street scene that appears totally out of keeping with the area, contrary to the aims of Policy ENV3 of the New Forest District Local Plan 2016 - 2036 Part 1: Planning Strategy. The proposal would also be contrary to the core planning principle of the National Planning Policy Framework that planning should take account of the character and quality of different areas. Therefore the application is recommended for refusal.

12 RECOMMENDATION

Refuse

Reason(s) for Refusal:

1. By reason of its excessive height, position and harsh appearance the close boarded fence creates an overdominant and incongruous feature within the street scene. It appears prominent within its context and totally out of keeping with the prevailing street scene which is characterised by low front boundary walls and hedges. As such it would be contrary to Policy ENV3 of the Local Plan 2016 - 2036 Part 1: Planning Strategy and Section 12 of the National Planning Policy Framework.

Further Information:

Rosie Rigby
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

October 2020

Item No:

2 Hobson Way
Holbury, Fawley SO45 2GE

20/10663

Scale 1:1250

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Application Number: 20/10695 Outline Planning Permission

Site: 4-6 RUMBRIDGE STREET, TOTTON SO40 9DP
(PROPOSED LEGAL AGREEMENT)

Development: Demolition of the existing building and construction of a commercial unit (Use class A1, A2 or B1(a)) and 7 apartments (Outline application with details of access, appearance, layout & scale)

Applicant: Templeton Stockbridge Ltd

Agent: Atlas Planning Group

Target Date: 03/09/2020

Case Officer: Jim Bennett

Extension Date: 13/11/2020

1 SUMMARY OF THE MAIN ISSUES

The key issues are:

1. The principle of development
2. Design, site layout and impact on local character and appearance of area
3. The effect on the living conditions of existing and future occupiers
4. The effect on public highway safety
5. Ecology, on Site Biodiversity and protected species
6. Impact on flood risk on, or near the site
7. Impact on vitality and viability of town centre and on the local delivery of services, including local shops
8. Habitat Mitigation

This application is to be considered by Committee as the recommendation is contrary to the view of Totton and Eling Town Council and contrary to the provisions of Policies ECON6 and TOT15.9 and TOT18.

2 SITE DESCRIPTION

The application property at 4-6 Rumbridge Street, Totton is a two storey building, situated within the defined urban area of Totton, its defined Town Centre boundary, within the Rumbridge Street Secondary Shopping Frontage and Flood Zone 2. The proposal relates to 2 no. vacant A2 (financial and professional) premises at ground floor level, with residential accommodation occupying the first floor space.

3 PROPOSED DEVELOPMENT

The proposal is made in outline with details only of access, appearance, layout and scale to be determined at this stage. It is proposed to demolish the existing building and to replace it with a two storey building providing 7 no. one bedroom flats at ground and first floor levels. A single commercial (A1, A2, B1a) unit of 91 sq.m would be provided at ground floor level with frontages on both Junction Road and Rumbridge Street. No off-street parking would be provided, although cycle storage

would be provided to the rear. The design is a conventional hipped roof building finished in red brick, timber cladding and fibre cement tiles.

The proposal differs from proposals refused in May 2017 and May 2018, predominantly by virtue of the fact that the proposed has been reduced from 9/8 dwellings to 7 no. dwellings and storeys reduced from three to two.

4 PLANNING HISTORY

18/10413 - 1 block of 9 flats; 1 retail unit; bin & cycle store; demolition of existing (Outline application with details only of access and scale) - refused May 2018 and dismissed at appeal, the Inspector supporting the view that the scale and appearance of the structure was inappropriate, that a greater element of retail should form part of the scheme with a shopping frontage and that a traffic regulation order was necessary.

17/10383 - Three-storey building comprised: commercial unit (Use Class A1, A2 or A3); 8 flats; bin store; cycle store; parking; demolition of existing (Outline application with details only of access & scale) - refused May 2017 the appeal Inspector deemed the proposal to be harmful to the character and appearance of the area, as the three storey nature of the proposal was not of a domestic scale, would fail to deliver a high quality public realm and would not reflect the identity of local surroundings.

14/11389 - Prior Approval application to use the existing building as 2 flats - refused and a subsequent appeal was dismissed in June 2015, the appeal Inspector deemed the proposal to be harmful to the sustainability of the shopping area in which the site is situated.

08/92817 - 1 block of 6 flats and 1 retail unit with a new access - refused September 2008, the development deemed to be a poor quality design due the building's overall size and scale and its unsympathetic appearance.

5 PLANNING POLICY AND GUIDANCE

The Local Plan Part 1

Policy STR1: Achieving sustainable development

Policy STR5: Meeting our housing needs

Policy ENV1: Mitigating the impacts of development on International Nature Conservation sites

Policy ENV3: Design quality and local distinctiveness

Policy IMPL1: Developer Contributions

Policy IMPL2: Development standards

Policy ECON6: Primary, secondary and local shopping frontages

Local Plan Part 2 Sites and Development Management Development Plan Document

Policy DM2: Nature conservation, biodiversity and geodiversity

TOT15: Totton town centre opportunity sites

TOT18: Rumbridge Street Secondary Shopping Frontage

Supplementary Planning Guidance And Documents

SPD - Parking Standards

SPG - Totton Town Centre - Urban Design Framework

SPD - Mitigation Strategy for European Sites

Relevant Advice (NPPF)

Chap 5: delivering a sufficient supply of homes
Chap 7: Ensuring the vitality of town centres
Chap 11: making effective use of land
Chap 12: Achieving well designed places
Chap 14: Meeting the challenge of climate change and flooding

Plan Policy Designations and Constraints

Built-up area
Secondary Shopping Frontage
Town Centre Boundary
Flood Zones 2 and 3

6 PARISH / TOWN COUNCIL COMMENTS

Totton & Eling Town Council - This application follows two previously refused applications, the second also rejected at appeal. The new application is for a similar commercial unit with three residential units at ground floor and four on the first floor just as before. The second floor accommodation has been removed entirely. Although the Town Council would be very keen to see the site developed and are pleased with the reduction in size of the building there are still a number of concerns. In particular the ground floor residential units are in the heart of the shopping frontage and this is very much against planning policy and would be at odds with the street scene. Amenity space is still fairly poor for the amount of units on the site and there is still no parking which was a point of objection for the Town Council last time. In addition to this the access for the commercial unit into Junction Road rather than Rumbridge Street was seen as a potential safety issue and did not fit with nearby commercial units. Overall there has been a number of improvements but the application is still not in keeping with the area, the Town Council would still wish to see more commercial space but in particular more shop frontage along Rumbridge Street in line with planning policy. Recommend REFUSAL

7 COUNCILLOR COMMENTS

No comments received

8 CONSULTEE COMMENTS

Comments have been received from the following consultees:

County Highway Authority - The highway authority made comments on the previous applications related to the site (Ref 18/10413). This application is submitted for a revised scheme following the dismissal of planning appeal. We note that in respect of highway related matters, the current proposals at the site are the same as those contained within the application (Ref:18/10413) to which, the highway authority raised concerns over the lack of on-site parking provision for future residents of the development, but accepted that this is a matter for the planning authority to decide based on whether the lack of a car parking for the development is suitable in this location. We noted in the Appeal Decision the inspector stated that:

"The scheme does not provide any on-site car parking. The Highway Authority is concerned that future occupiers of the flats would own vehicles which they would then park on the highway outside of the restricted times of 0900 to 1800. This would be detrimental to highway safety by restricting visibility to drivers emerging from

Junction Road into Rumbridge Street. I have no reason to disagree with this assessment and note that the appellant has no objection to making a contribution towards a traffic regulation order (TRO) to extend the times of restriction. It may be possible to use a negatively worded condition, along similar lines to that suggested by the appellant, to secure the TRO prior to the commencement of development. However, a planning obligation is the most appropriate mechanism to secure the payment of monies to cover the Highway Authority's costs."

Based on the above, the Highway Authority would require the applicant to enter a Section 106 agreement to secure a sum of £6000 to fund the implementation of a new Traffic Regulation Order that would extend the times of the restriction potentially to "No Waiting at any Time" in close proximity to the site which is located on a busy staggered crossroads. It is understood the appellant is agreeable to provide the funding.

NFDC Ecologist - Initial comments raised queries over the suitability for roosting bats and nesting birds and requested submission of an Ecological Appraisal. Following submission of the Ecological Appraisal the main concern, related to the potential for roosting bats has been satisfactorily addressed.

Environment Agency - no comments received.

Southern Gas Networks - give informatives

Scottish and Southern Electricity - give informatives

Hampshire Swifts - Request provision for swifts within the completed development of at least seven swift bricks

9 REPRESENTATIONS RECEIVED

The following is a summary of the representations received.

Six letters of support have been received for the following reasons:

- The proposal will enhance the visual appearance of the site
- The proposal will enhance the retail offer on Rumbridge Street and uplift the area generally
- The type of residential and commercial accommodation proposed is needed in the locality.

Ten letters of objection have been received for the following reasons:

- Lack of off-street parking for dwellings and commercial unit
- Adverse impact on highway safety
- Would be harmful to the character of the area
- Increased noise and air pollution
- Anti-social behaviour
- Concern raised over construction traffic and parking
- Loss of privacy to the adjoining Church
- Loss of light
- Loss of privacy to properties across the street and to the rear
- Additional retail units are not required

10 PLANNING ASSESSMENT

The Principle of Development

The site lies in a highly sustainable location within Rumbridge Street Secondary Shopping Frontage. 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.

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. It is considered that the proposed development would meet these objectives.

Policy TOT15.9 of the Local Plan Part 2 makes it clear that the site is a Town Centre Opportunity site that should be developed primarily for retail/office purposes. There would be no objection to the principle of redeveloping this site with a new building comprising a ground floor commercial unit with flats above. Indeed the Totton Town Centre - Urban Design Framework Supplementary Planning Guidance makes it clear that there is an opportunity to provide a new building on the site, which should have a quality built form fronting onto both Rumbridge Street and Junction Road.

Design, site layout and impact on local character and appearance of area

A key consideration, as with previously refused schemes, is whether the proposal would be well designed and sympathetic to the site's setting at a key junction.

Policy ENV3 seeks to ensure that new development is well designed to respect the character, identity and context of the area's towns. The site is within Sub-area 2: Old Totton, where the UDF seeks to enhance the village character and establish a high quality attractive environment. New development is expected to enhance the sense of place through the use of good quality materials and sensitive, innovative design. The UDF identifies the appeal site as a potential development opportunity and states that a future building should address both frontages and should be either innovative or faithfully historical.

The site occupies a prominent corner position and currently makes a negative contribution to the character of the area, due to the vacant and dilapidated state of the building. Visually the proposed building's two storey height, simple hipped roof form, articulated footprint and sensitive use of materials would be contextually appropriate and would make a positive contribution to the street scene. The massing of the building has been considerably reduced, compared with previously refused schemes and it picks up on the established building line, with a more open area fronting the Rumbridge Street commercial unit. The frontages of the ground floor apartments are provided with defensible space which could benefit from planting.

Due to its urban location, slightly higher densities can be accommodated and in this case, it is considered that the proposed development does not appear significantly cramped or overdeveloped. Overall it is considered that the proposed development would make a positive enhancement to the street scene and character of the area, in accordance with Policy ENV3 and The Totton Town Centre Urban Design Framework (2003).

The effect on the living conditions of existing and future occupiers

The proposed development could be provided without detriment to the amenities of adjacent properties. Representations cite loss of privacy as a reason for objection. However the proposal would result in a standard window to window relationship, across the line of Rumbridge Street itself and it is not considered that a reason for refusal could be substantiated on this basis. Objections have been received from properties on Osborne Road, some 17m away to the west. Bearing in mind the degree of separation and oblique angle to the proposal, no loss of light or privacy would result to these properties. Similarly the adjoining Church would not suffer significant loss of privacy or light loss, as fewer windows would be introduced into the west elevation of the proposed building than are present in the existing building and due to the degree of separation and orientation of the proposal.

The proposal adjoins the curtilage of no. 1 Junction Road to the north, but is reasonably separated and unlikely to have any oppressive or overbearing impact, as there is only a single first floor, non-primary window in the facing elevation and the curtilage is used as the service yard to the frontage take away. There are first floor rear windows facing 1 Junction Road to the north of the site, but these are generally not primary windows and it is felt that the impact of development on 1 Junction Road would not be significant. As such, it is considered the proposed development could be provided without adversely affecting the amenities and privacy of neighbouring dwellings.

While the proposed development would see intensification of site usage, it is not considered that the site's use for residential and commercial purposes would result in any unacceptable levels of noise or air pollution. If retail use of the site resulted in a requirement for external plant or extraction facilities, this would need a new and separate planning application, to be determined on its own merits.

The proposal provides external garden areas (front and rear) to the ground floor flats, which will provide a reasonable standard of space for future occupiers. The first floor units would have no external space, but are typical of small flatted units in urban areas, where external space is limited. They do, however benefit from juliet balconies. Overall the amenity impacts of the proposal are acceptable and in accordance with Policy ENV3.

The effect on public highway safety

The proposed development is a small scale mixed use development providing 7 residential flats and a commercial unit in a highly sustainable location close to all the facilities and amenities in the town centre, including public transport. The proposal would not provide any on site car parking, being a 'car free' development. A secure cycle store is proposed for the flats.

As the proposal provides no off-street parking it would clearly fail to meet the Council's recommended standards. However, the site is in a sustainable town centre location, where future occupiers would have good access to public transport and other services. Furthermore the flats would be one bed units, where car ownership would be expected to be low.

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 the proximity to bus and rail services and the close

walking distance to all the facilities and amenities of the town centre and local shops. In sustainable town centre locations such as this, it is considered that on site car parking space provision can be limited. 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. 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 Highway Authority does raise concerns over the development as a car-free site. Evidence shows that car ownership is retained even in areas of good accessibility for occasional trips, and the nearby public car parks are not suitable for long term residential parking and therefore would only be suitable for the retail element of the site. Local Traffic Regulation Orders (TRO's) are in place along Rumbridge Street and Junction Road preventing parking between 0900 and 1800, however this would not prevent residents from parking here outside of these times which could potentially be obstructive and a loss of parking amenity to existing residents. Consequently the Highway Authority recommends that a contribution of £6,000 is secured to implement updates to existing TRO's in the local vicinity, given that the lack of parking proposed and essentially 24 hour use of the site which may result in the need to update the existing restriction hours of 0900 to 1800. The applicant has agreed to enter into a legal agreement to secure the TRO contribution.

Whilst the concerns over the lack of car parking are noted, 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 sustainable location of the site close to the train station and public transport, a 'car free' development would be acceptable and there is no evidence that severe public highway safety issues would result, particularly following implementation of the extended TRO.

Impact on Ecology, Site Biodiversity and protected species

As from 7th July 2020 the Council has sought to secure the achievement of Biodiversity Net Gain (BNG) as a requirement of planning permission for most forms of new development.

The Council's Ecologist raised initial queries over the suitability of the building for roosting bats and nesting birds and requested submission of an Ecological Appraisal. Following submission of the Ecological Appraisal the main concern, related to the potential for roosting bats has been addressed.

Comment has been received from Hampshire Swifts requesting that any planning permission includes a requirement for multiple internal nest sites for Swifts, in the form of the inclusion of Swift bricks. An Ecological Appraisal and amended plans have been received showing the position of integral starling/swift boxes in four locations on the proposed building.

Delivery of the specific recommendations of the Ecological Appraisal will be ensured by condition.

Impact on flood risk on, or near the site

Following topographical survey the applicant's own information on flood risk suggests the site is within Flood Zone 1 and will not flood, having regard to land levels. As such, the proposal would conflict unacceptably with flood risk policies.

Impact on vitality and viability of town centre and on the local delivery of services,

including local shops

The site is within Totton's Town Centre boundary and within a Secondary Shopping Frontage. Policy ECON6 places emphasis on retaining a good range of town centre uses, where it can be demonstrated that an alternative use would be complementary to the retailing function and would enhance the overall vitality of the centre. It is considered that the commercial use applied for would be beneficial to the vitality of the Shopping Frontage, although the residential use proposed at ground floor level does not fully accord with policy..

Policy TOT15.9 allocates the site as a Town Centre Opportunity Site, encouraging office/retail use on the ground floor, with the possibility of residential uses on upper floors. TOT18 seeks to keep at least 40% of the Rumbridge Street Local Shopping Frontage in retail use and specifies that no residential uses will be permitted within the ground floor street frontages. Policy ECON6 does not encourage residential use at ground floor level in premises within Secondary Shopping Frontages. It goes on to state that non-shopping uses will only be permitted if they would not have an adverse impact on the vitality and viability of the shopping frontage as a whole. The proposal would result in residential development in approximately 60% of the ground floor area, including a 14m wide portion of the Secondary Shopping Frontage, where the shop unit would occupy an 18m frontage on both Rumbridge Street and Junction Road. While the proposed development would result in the introduction of ground floor residential use within the Rumbridge Street Secondary Shopping Frontage, a pragmatic stance needs to be taken in this instance, as the site has remained vacant and dilapidated for over a decade and is in desperate need of renewal. The proposal does include a significant element of commercial use at ground floor level, which will provide an opportunity for appropriate town centre uses to occupy a high profile location, which will be facilitated by the residential development. In this instance officers consider that non-retail uses may be permitted as an exception to this policy, as overall the proposal would assist with revitalising the shopping frontage as a whole. While the proposal is not strictly in accordance with Policies ECON6 and TOT15.9 and TOT18, it is considered acceptable.

Habitat Mitigation

a) Managing Recreational Impact

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 mitigate its impact in accordance with the Council's Mitigation Strategy or mitigation to at least an equivalent effect. The applicant has agreed to enter into a Section 106 agreement to secure the requisite contribution to mitigate the development's recreational impact upon European sites.

b) Nitrate neutrality and impact on the Solent SPA and SACs

There is existing evidence of high levels of nitrogen and phosphorus in the water environment with evidence of eutrophication at some European designated nature conservation sites in the Solent catchment. Natural England have now raised this with the Council and other Councils bordering the Solent catchment area and have raised objections to any new application which includes an element of new

residential overnight accommodation unless nitrate neutrality can be achieved or adequate and effective mitigation is in place prior to any new dwelling being occupied. To ensure that the proposal may proceed as sustainable development, there is a duty upon the local planning authority to ensure that sufficient mitigation is provided against any impacts which might arise upon the designated sites. The Council has a policy in its new Local Plan, which seeks to safeguard against any adverse impact and that suitable mitigation is in place to avoid any harmful impact on sites of importance for nature conservation. An Appropriate Assessment as required by Regulation 63 of the Habitat Regulations has been carried out, which concludes that the proposed project would have an adverse effect due to the additional nitrate load on the Solent catchment. As the Competent Authority, NFDC consider that there needs to be a mitigation project to provide this development with a nitrate budget. For this reason, a Grampian Condition has been imposed and a further Appropriate Assessment will be carried out on discharge of this condition.

c) Managing Air Quality

Since July 2020 the Council is required to ensure that impacts on international nature conservation sites are adequately mitigated in respect of traffic-related nitrogen air pollution (including NOx, nitrogen deposition and ammonia). Given the uncertainties in present data, a contribution is required to undertake ongoing monitoring of the effects of traffic emissions on sensitive locations. A monitoring strategy will be implemented to provide the earliest possible indication that the forms of nitrogen pollution discussed (including ammonia concentrations) are beginning to affect vegetation, so that, if necessary, measures can be taken to mitigate the impact and prevent an adverse effect on the integrity of the SAC habitats from occurring. A financial contribution is required towards monitoring and, if necessary (based on future monitoring outcomes) managing or mitigating air quality effects within the New Forest SPA, SAC and Ramsar site, which will be secured by legal agreement.

Developer Contributions

As part of the development, subject to any relief being granted the following amount of Community Infrastructure Levy will be payable:

Type	Proposed Floorspace (sq/m)	Existing Floorspace (sq/m)	Net Floorspace (sq/m)	Chargeable Floorspace (sq/m)	Rate	Total
Dwelling houses	318.76		318.76	202.46	£80/sqm	£20,806.78 *
Shops	91		91	57.8	No charge	£0.00 *

Subtotal:	£20,806.78
Relief:	£0.00
Total Payable:	£20,806.78

11 CONCLUSION

The site is constrained by a lack of off-street parking. However, it has been vacant for a number of years and the proposal would bring forward regenerative benefits and create a development which would make a positive contribution to the street and provide much needed residential and commercial units. 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 and would make a modest contribution towards housing supply. Moreover the proposal would bring forward an appropriate use of this vacant site, reflected in the NPPF. Overall it is considered that the benefits outweigh the negatives and the proposal is accordingly recommended for approval.

12 RECOMMENDATION

Delegated Authority be given to the Chief Planning Officer to **GRANT PERMISSION** subject to:

- i) the completion of a planning obligation entered into by way of a Section 106 Agreement to secure recreational habitat mitigation, an air quality monitoring contribution and a Traffic Regulation Order
- ii) the imposition of the conditions set out below.

Proposed Conditions:

1. Approval of the details of the landscaping ("the reserved matters") shall be obtained from the Local Planning Authority before any of the development is commenced. The development shall only be carried out in accordance with the details which have been approved.

Reason: To comply with Section 92 of the Town and Country Planning Act 1990.

2. Application for approval of the reserved matters shall be made to the local planning authority before the expiration of three years from the date of this permission.

Reason: To comply with Section 92 of the Town and Country Planning Act 1990.

3. The development permitted shall be carried out in accordance with the following approved plans: RS-MHA-XX-DR-A-0001-A Rev P01, RS-MHA-XX-DR-A-0002-A Rev P02, RS-MHA-XX-DR-A-0003-A Rev P04, RS-MHA-XX-DR-A-0001-A Rev P04, Planning Statement by Atlas Planning Group dated June 2020 and the Preliminary Ecological Appraisal by Peachecology dated 22nd September 2020.

Reason: To ensure satisfactory provision of the development.

4. 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 ENV3 of the Local Plan 2016-2036 Planning Strategy

5. 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 ENV3 of the Local Plan 2016-2036 Planning Strategy

6. 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 the New Forest District Council and New Forest National Park Authority Strategic Flood Risk Assessment for Local Development Frameworks.

7. The development hereby permitted shall not be occupied until:
 - a) A water efficiency calculation in accordance with the Government's National Calculation Methodology for assessing water efficiency in new dwellings has been undertaken which demonstrates that no more than 110 litres of water per person per day shall be consumed within the development, and this calculation has been submitted to, and approved in writing by, the Local Planning Authority; all

measures necessary to meet the agreed water efficiency calculation must be installed before first occupation and retained thereafter;

- b) A mitigation package addressing the additional nutrient input arising from the development has been submitted to, and approved in writing by, the Local Planning Authority. Such mitigation package shall address all the additional nutrient load imposed on protected European Sites by the development when fully occupied and shall allow the Local Planning Authority to ascertain on the basis of the best available scientific evidence that such additional nutrient loading will not have an adverse effect on the integrity of the protected European Sites, having regard to the conservation objectives for those sites; and
- c) All measures forming part of that mitigation package have been provided to the Local Planning Authority.

Reason: There is existing evidence of high levels of nitrogen and phosphorus in the water environment with evidence of eutrophication at some European designated nature conservation sites in the Solent catchment. The PUSH Integrated Water Management Strategy has identified that there is uncertainty as to whether new housing development can be accommodated without having a detrimental impact on the designated sites within the Solent. Further detail regarding this can be found in the appropriate assessment that was carried out regarding this planning application. To ensure that the proposal may proceed as sustainable development, there is a duty upon the local planning authority to ensure that sufficient mitigation for is provided against any impacts which might arise upon the designated sites. In coming to this decision, the Council have had regard to Regulation 63 of the Conservation of Habitats and Species Regulations 2017.

- 8. Before the development is occupied, the recommendations for incorporation of wildlife enhancement measures into the development, as outlined in Section 5 of Preliminary Ecological Appraisal by Peachecology dated 22nd September 2020 shall have first been implemented in accordance with the agreed details.

Reason: To safeguard protected species in accordance with Policy ENV3 of the Local Plan Review 2016-2036 Part One: Planning Strategy for the New Forest District outside the National Park and Policy DM2 of the Local Plan for the New Forest District outside the National Park (Part 2: Sites and Development Management).

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

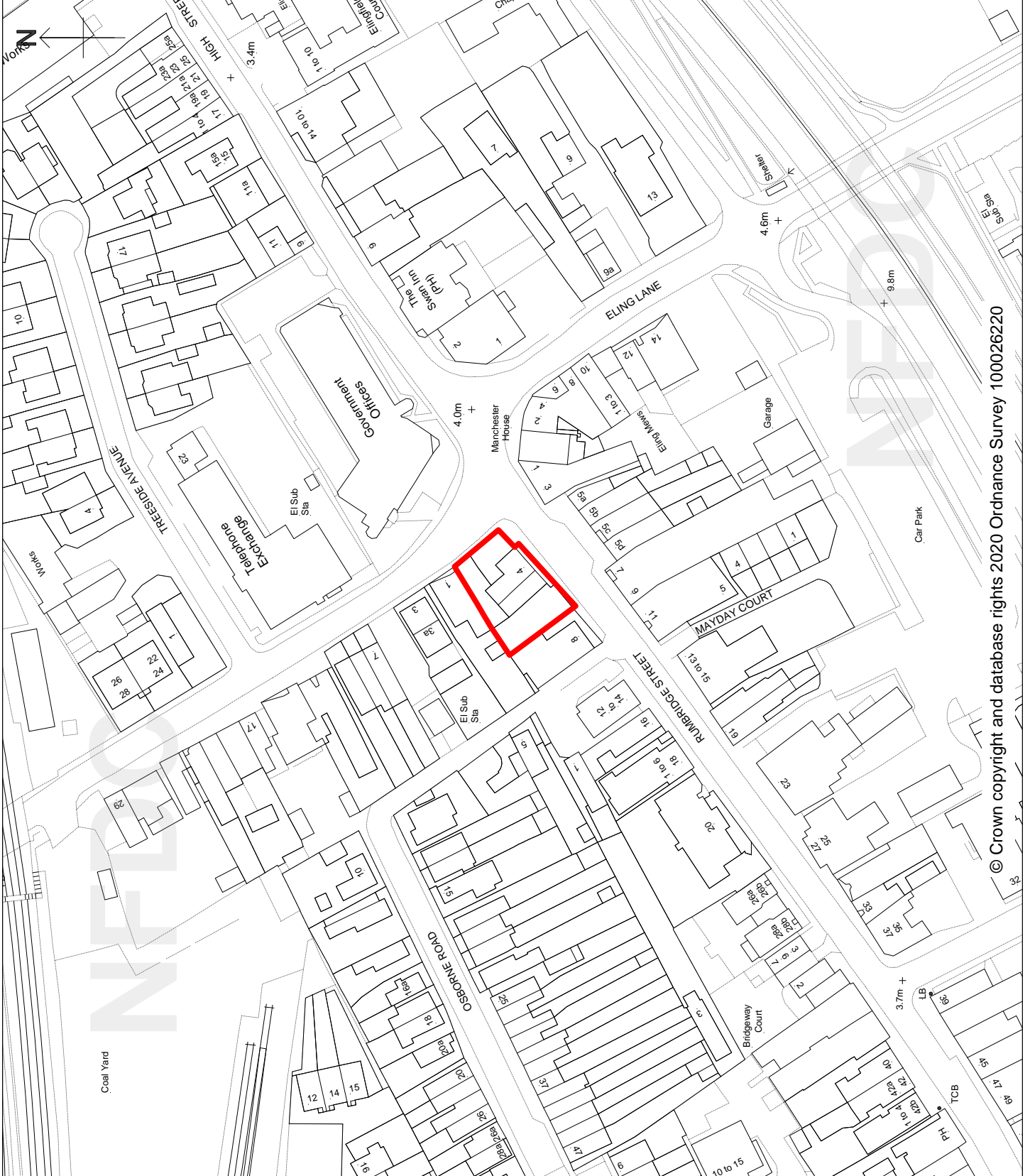
October 2020

Item No:
4-6 Rumbridge Street
Totton, SO40 9DP

20/10695

Scale **1:1250**

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Application Number: 20/10724 Variation / Removal of Condition

Site: LAND OF HATHAWAY HOUSE, LOWER PENNINGTON LANE,
PENNINGTON SO41 8AN

Development: Variation of condition 2 of planning permission 20/10335 to allow amended plans to allow a double garage and enlargement to the kitchen.

Applicant: Mr & Mrs Cullen

Agent: Morgan Building Design

Target Date: 07/09/2020

Case Officer: Jo Chambers

1 SUMMARY OF THE MAIN ISSUES

The key issues are:

- 1) the impact of the amended proposal on the character and appearance of the area compared to the approved development;
- 2) the impact of the amended proposal on the amenity of neighbouring properties compared to the approved development;
- 3) the impact of the amended proposal on parking compared to the approved development.

This application is to be considered by Committee because of a contrary view expressed by the Town Council.

2 SITE DESCRIPTION

The site is located in the established residential area of Pennington, characterised by detached properties set within mature and spacious garden settings. These contribute to the verdant appearance of the streetscene. Properties fronting Lower Pennington Lane are typically of a two storey scale and of individual design; Hathaway House itself represents a contemporary replacement dwelling. More modest bungalow and chalet bungalow style development associated with the Newbridge Way and Elm Avenue development bounds the site to the immediate west and north respectively.

3 PROPOSED DEVELOPMENT

Planning permission 20/10335 to sever the domestic garden and erect a new dwelling and garage was granted by Planning Committee earlier this year.

This current application seeks:

- to increase the width of the approved garage by approximately a metre: this would create a double garage. The ridgeline of the roof would also be amended such that it would run front to back, rather than side to side. The

agent has confirmed that there is no increase to the height of the garage over that already approved.

- to increase the length of the glazed link positioned between the 2 wings of the proposed dwelling by approximately 1.7m. The glazed link would match the depth of the approved bedroom wing. A large window would be removed from the end of the glazed link and be replaced with external materials to match the rest of the bedroom wing.

4 PLANNING HISTORY

Proposal	Decision Date	Decision Description	Status	Appeal Description
20/10335 Sever domestic garden; new dwelling with garage	10/06/2020	Granted Subject to Conditions	Decided	
19/10153 House; detached garage	23/04/2019	Refused	Appeal Decided	Appeal Dismissed
18/10981 House; detached garage	03/10/2018	Refused	Decided	
17/10152 House; detached garage/store; access	05/04/2017	Withdrawn by Applicant	Withdrawn	
16/11293 House; demolition of existing	28/11/2016	Granted Subject to Conditions	Decided	

5 PLANNING POLICY AND GUIDANCE

Local Plan 2016-2036 Part 1: Planning Strategy

STR1: Achieving sustainable development

STR3: The strategy for locating new development

STR4: The settlement hierarchy

STR5: Meeting our housing needs

ENV1: Mitigating the impacts of development on International Nature Conservation sites

ENV3: Design Quality and Local Distinctiveness

HOU1: Housing type, size, tenure and choice

IMPL1: Developer contributions

Local Plan Part 2 Sites and Development Management Development Plan Document

DM2: Nature conservation, biodiversity and geodiversity

Supplementary Planning Guidance And Documents

SPD - Housing Design, Density and Character

SPD - Lymington Local Distinctiveness

SPD - Mitigation Strategy for European Sites

Relevant Legislation

Town & Country Planning Act 1990

Planning and Compulsory Purchase Act 2004

The Conservation of Habitats and Species Regulations 2017

Relevant Advice

National Planning Policy Framework
NPPF Ch.2 - Achieving sustainable development
NPPF Ch. 5 - Delivering a sufficient supply of homes
NPPF Ch.11 - Making effective use of land
NPPF Ch.12 - Achieving well-designed place

National Planning Policy Guidance
NPPG - Determining a Planning Application
NPPG - Design: process and tools
NPPG - Use of planning conditions

National Design Guide

Constraints

Article 4 Direction
Aerodrome Safeguarding Zone
Plan Area

Plan Policy Designations

Built-up Area

6 PARISH / TOWN COUNCIL COMMENTS

Lymington & Pennington Town Council

PAR4 Recommend Refusal.

The proposal will negatively impact neighbouring properties and amenity. It is an over-development which is unsympathetic and uncharacteristic to its surroundings.

The proposal is overly dense and in direct conflict to NFDC's Policy CS2.

7 COUNCILLOR COMMENTS

No comments received

8 CONSULTEE COMMENTS

No comments received

9 REPRESENTATIONS RECEIVED

Letters have been received from 8 objectors. The following is a summary of the representations received.

- Object to proximity of development to site boundary and change to existing views;
- Concern that this is an initial amendment with more planned;
- Object to the increase in size of garage and effect of development on trees;
- Reduction of gap between garage and dwelling would be detrimental to surroundings.

10 PLANNING ASSESSMENT

Principle of Development

The principle of a new dwelling and garage at this site has been accepted and planning permission 20/10335 was approved in June 2020.

Impact of the amended proposal on the character and appearance of the area compared to the approved development

The plans show the garage would be no closer to the boundaries than the extant permission.

The width of the approved garage is approximately 4.3m wide; the roof design has a ridge line running side to side. The proposed garage would be approximately 5.4m wide, and the design of the roof has been amended. It would now feature a gable to the front elevation, with the 3 other roofslopes hipped. The roof would hip away from the rear boundary with Newbridge Way, the side boundary with Red Roofs and the new dwelling itself. The additional width would facilitate the parking of 2 vehicles inside the garage.

The proposed plans show a gap of approximately 1.2m between the garage and new dwelling compared with a gap of approx. 2.2m in the approved permission. It is considered that this gap is of sufficient size to be discernible from views into the site from Lower Pennington Lane and together with the amended roof design would retain a clearly distinguishable space between the 2 buildings, such that the impact on the character and appearance of the area is considered acceptable. This would accord with policy ENV3 and avoid the development appearing cramped as required by the Lymington Local Distinctiveness Supplementary Planning Document.

Impact of the amended proposal on the amenity of neighbouring properties compared to the approved development

The proposed extension to the 'glazed link' would not be readily viewable outside of the site. Rather than incorporating a small set back as in the extant permission, the elevation would now run in line with that of the bedroom wing. The overall development would be no closer to the boundary or to the closest neighbouring property at 37 Elm Avenue. The impact of this element of the proposal on the amenity of neighbouring properties is considered acceptable.

The agent has confirmed that there would be no change to the height of the garage compared to that already approved. The change in the design of the roof so as to hip away from the side boundaries would minimise the amount of building mass that would be visible. Both the design and the impact on neighbouring properties are considered acceptable.

Concern has been expressed that the proposal would represent a change to existing views. There is no right to a view and this would not justify a refusal of planning permission. Although it is acknowledged that the views from neighbouring properties would be different, as indeed they would in the approved scheme, the impact of the revised garage design is not considered to be harmful to the amenity of neighbouring properties.

Impact of the amended proposal on parking compared to the approved development

The additional width of the garage would facilitate the parking of 2 vehicles inside, rather than 1. Driveway parking shown on the plans remains as previously approved. The impact of the amended proposal on parking is considered acceptable.

Landscape impact and trees

The agent has confirmed that the existing tree to the rear of the garage will be retained as in the approved scheme.

As with the extant planning permission, the protected trees located along the front boundary of Hathaway House and to the north-east can be adequately protected as part of the development and conditions are again recommended to secure this.

Ecology

As in the extant permission, provision is made in the design of the dwelling for a swift brick and bat tunnel and other biodiversity improvements. A condition was attached to the previous planning permission to secure these matters and is again recommended.

Habitat Mitigation and off-site recreational impact

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 such adverse impacts would be avoided if the applicant were to enter into a legal agreement to secure a habitat mitigation contribution in accordance with the Council's Mitigation Strategy. A Unilateral Undertaking was previously submitted with PP 20/10035. In this case, a confirmatory deed is required to secure the required habitat mitigation contribution. Delegated authority is sought to enable this s106 legal agreement to be completed prior to the grant of planning permission.

Nitrate neutrality and impact on the Solent SPA and SACs

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 which includes an element of new residential overnight accommodation would adversely affect the integrity of the New Forest and Solent Coast European sites, in view of that site's conservation objectives having regard to nitrogen levels in the River Solent catchment. The Assessment concludes that the proposed development would, in combination with other developments, have an adverse effect due to the impacts of additional nitrate loading on the River Solent catchment unless nitrate neutrality can be achieved, or adequate and effective mitigation is in place prior to any new dwelling being occupied. In accordance with the Council Position Statement agreed on 4th September 2019, these adverse impacts would be avoided if the planning permission were to be conditional upon the approval of proposals for the mitigation of that impact, such measures to be implemented prior to occupation of the new residential accommodation. These measures to include undertaking a water efficiency calculation together with a

mitigation package to addressing the additional nutrient load imposed on protected European Sites by the development. A Grampian style condition has been agreed with the applicant and will be attached to any planning permission.

Developer Contributions

As explained above with regard to habitat mitigation, the following will be secured by legal agreement:

- Infrastructure contribution: £1040
- Non infrastructure contribution: £3700

In this instance, there is an extant recently granted planning permission that is capable of implementation and to which the current application is seeking only minor amendments. This is a material consideration - as a result it is not considered reasonable to require the payment of an air quality contribution.

As part of the development, subject to any relief being granted the following amount of Community Infrastructure Levy will be payable:

Type	Proposed Floorspace (sq/m)	Existing Floorspace (sq/m)	Net Floorspace (sq/m)	Chargeable Floorspace (sq/m)	Rate	Total
Self Build (CIL Exempt)	178.85	0	178.85	178.85	£80/sqm	£18,380.28 *
Subtotal:	£18,380.28					
Relief:	£18,380.28					
Total Payable:	£0.00					

Development Standards

The recently adopted Local Plan Part I includes, under Policy IMPL2, a set of new development standards. As noted above under 'Developer Contributions' there is an extant recently granted planning permission that is capable of implementation and to which the current application is seeking only minor amendments. This is a material consideration. As the proposal relates to an enlargement of the garage and therefore to parking matters it is considered justified to seek an electric vehicle charging point. However, save for higher water use efficiency, which is addressed by the Grampian condition attached to the extant planning permission, it is not considered reasonable to attach conditions relating to other standards set out in IMPL2.

11 CONCLUSION

The proposal is considered acceptable with regard to adopted planning policy, the NPPF, local supplementary planning documents and other material planning considerations.

12 Other Considerations

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.

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.

Local Finance

If this development is granted permission, the Council will receive New Homes Bonus (net increase in dwellings (1) x £1224 = £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.

13 RECOMMENDATION

Delegated Authority be given to the Chief Planning Officer to **GRANT PERMISSION** subject to:

- i) the prior completion of a Section 106 legal agreement to secure the necessary habitat mitigation measures.
- ii) the imposition of the conditions set out below.

Proposed Conditions:

1. The development hereby permitted shall be begun before 10th June 2023.

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: LP.01 Rev A, SL.01 Rev C, PG.01 Rev C, PE.01 Rev B, PE.02 Rev C, PP.01 Rev A
BLL01 Rev 'C'

Reason: To ensure satisfactory provision of the development.

3. Prior to installation, 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 buildings.

4. All external works (hard and soft landscape including the biodiversity measures) shall be carried out in accordance with the approved plans and details within one year of commencement of development and maintained thereafter in accordance with the approved details.

Reason: To ensure the satisfactory appearance of the development and to provide biodiversity enhancements.

5. Before development commences (including site clearance, demolition and any other preparatory works) a scheme for the protection of trees to be retained shall be submitted to and approved in writing by the Local Planning Authority. Such a scheme shall include a method statement detailing timing of events, all changes of existing surfaces and plans showing the protective fencing or other measures required for the avoidance of damage to retained trees all in accordance with BS 5837 (2012) "Trees in Relation to Construction Recommendations". Such fencing shall be erected prior to any other site operation and at least 24 hours notice shall be given to the Local Planning Authority that it has been erected. The tree protection measures installed shall be maintained and retained for the full duration of the works or until such time as agreed in writing with the Local Planning Authority. No activities, nor material storage, nor placement of site huts or other equipment whatsoever shall take place within the fencing without the prior written agreement with the Local Planning Authority.

Reason: To ensure the retention of existing trees and natural features and avoidance of damage during the construction phase.

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 shall be erected or carried out without express planning permission first having been granted.

Reason: 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.

7. The development hereby permitted shall not be occupied until:

- a) A water efficiency calculation in accordance with the Government's National Calculation Methodology for assessing water efficiency in new dwellings has been undertaken which demonstrates that no more than 110 litres of water per person per day shall be consumed within the development, and this calculation has been submitted to, and approved in writing by, the Local Planning Authority; all measures necessary to meet the agreed waste water efficiency calculation must be installed before first occupation and retained thereafter;
- b) A mitigation package addressing the additional nutrient input arising from the development has been submitted to, and approved in writing by, the Local Planning Authority. Such mitigation package shall address all of the additional nutrient load imposed on protected European Sites by the development when fully occupied and shall allow the Local Planning Authority to ascertain on the basis of the best available scientific evidence that such additional nutrient loading will not have an adverse effect on the integrity of the protected European Sites, having regard to the conservation objectives for those sites; and
- c) All measures forming part of that mitigation package have been provided to the Local Planning Authority.

Reason: There is existing evidence of high levels of nitrogen and phosphorus in the water environment with evidence of eutrophication at some European designated nature conservation sites in the Solent catchment. The PUSH Integrated Water Management Strategy has identified that there is uncertainty as to whether new housing development can be accommodated without having a detrimental impact on the designated sites within the Solent. Further detail regarding this can be found in the appropriate assessment that was carried out regarding this planning application. To ensure that the proposal may proceed as sustainable development, there is a duty upon the local planning authority to ensure that sufficient mitigation for is provided against any impacts which might arise upon the designated sites. In coming to this decision, the Council have had regard to Regulation 63 of the Conservation of Habitats and Species Regulations 2017.

8. The development hereby permitted shall not be brought into use until one of the new parking spaces to serve the new dwelling hereby approved has been equipped with an electric vehicle charging point and once provided it shall be retained and maintained as such at all times.

Reason: In the interests of sustainability.

Further Information:

Jo Chambers

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

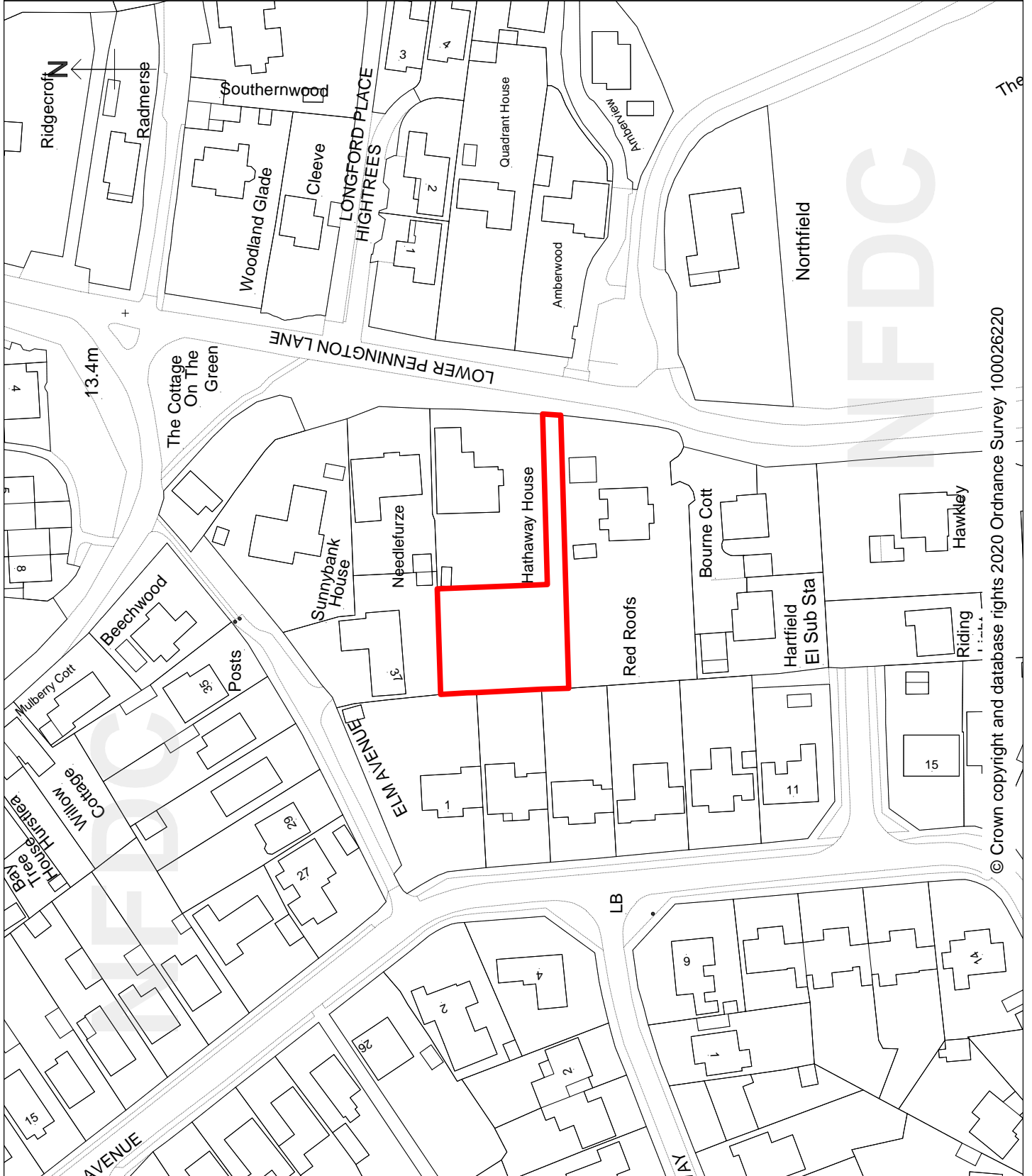
October 2020

Item No:

Land of Hathaway House
Lower Pennington Lane
Pennington SO41 8AN
20/10724

Scale 1:1250

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