

Application Number: 18/11264 Full Planning Permission

Site: 4 SOUTH STREET, PENNINGTON, LYMINGTON SO41 8ED

Development: Use as flat (Use Class C3); external alterations

Applicant: DMG Retirement Trust

Target Date: 12/11/2018

Extension Date: 14/12/2018

RECOMMENDATION: Refuse

Case Officer: Vivienne Baxter

1 REASON FOR COMMITTEE CONSIDERATION

Contrary Councillor view
Contrary to Policy

2 DEVELOPMENT PLAN AND OTHER CONSTRAINTS

Built up area
Local Shopping frontage

3 DEVELOPMENT PLAN, OBJECTIVES AND POLICIES

Core Strategy

Objectives

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

Policies

CS1: Sustainable development principles
CS2: Design quality
CS15: Affordable housing contribution requirements from developments
CS24: Transport considerations

Local Plan Part 2 Sites and Development Management Development Plan Document

NPPF1: National Planning Policy Framework – Presumption in favour of sustainable development
DM3: Mitigation of impacts on European nature conservation sites
DM17: Local shopping frontages in the built-up areas of Totton, Hythe, Lyminster, New Milton, Ringwood and Fordingbridge

4 RELEVANT LEGISLATION AND GOVERNMENT ADVICE

Section 38 Development Plan
Planning and Compulsory Purchase Act 2004
National Planning Policy Framework 2018
NPPF Ch.2 - Achieving sustainable development

NPPF Ch. 4 - Decision-making
NPPF Ch. 5 - Delivering a sufficient supply of homes

5 RELEVANT SUPPLEMENTARY PLANNING GUIDANCE AND DOCUMENTS

SPD - Lymington Local Distinctiveness
SPD - Mitigation Strategy for European Sites

6 RELEVANT PLANNING HISTORY

6.1 18/10826 - use of ground floor as 1 flat, associated external alterations.
Refused 9.8.18

6.2 17/11169 - use of ground floor as 1 flat, associated external alterations.
Refused 10.10.17, appeal dismissed 12.6.18

6.3 16/11701 - use of ground floor as 1 flat. Refused 8.2.17

7 PARISH / TOWN COUNCIL COMMENTS

Lymington and Pennington Town Council: recommend permission but would accept a delegated decision. Aspect from the window is not an issue which ought to stand in the way of providing affordable accommodation.

8 COUNCILLOR COMMENTS

Cllr Gossage: supports the views of the Town Council and mindful of the need to create additional accommodation in Pennington. This would be a sufficiently suitable property for a young couple who would be renting for the first time. He noted the initial assessment made by the case officer and would recommend the roof lights are obscure glazed to prevent viewing from the walkway above into the bedroom below. He believes the landlord is in a position to influence the control of rubbish in the vicinity, and to influence the area pertaining to the outlook of the bedroom and those of adjoining flats, and would urge him to do so.

9 CONSULTEE COMMENTS

No comments received

10 REPRESENTATIONS RECEIVED

1 objection received from Flat 6, 8 South Street.
Concerns expressed regarding the number of dwellings, associated parking issues and the rubbish which accumulates in the courtyard area.

11 CRIME & DISORDER IMPLICATIONS

None

12 LOCAL FINANCE CONSIDERATIONS

If this development is granted permission, the Council will receive a New Homes Bonus of £1224 in each of the following four years, subject to the following conditions being met:

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

Based on the information provided at the time of this report this development has a CIL liability of £3,852.31.

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

13 WORKING WITH THE APPLICANT/AGENT

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

This is achieved by

- Strongly encouraging those proposing development to use the very thorough pre application advice service the Council provides.
- Working together with applicants/agents to ensure planning applications are registered as expeditiously as possible.
- Advising agents/applicants early on in the processing of an application (through the release of a Parish Briefing Note) as to the key issues relevant to the application.
- Updating applicants/agents of issues that arise in the processing of their applications through the availability of comments received on the web or by direct contact when relevant.
- Working together with applicants/agents to closely manage the planning application process to allow an opportunity to negotiate and accept amendments on applications (particularly those that best support the Core Strategy Objectives) when this can be done without compromising government performance requirements.
- Advising applicants/agents as soon as possible as to concerns that cannot be dealt with during the processing of an application allowing for a timely withdrawal and re-submission or decision based on the scheme as originally submitted if this is what the applicant/agent requires.
- When necessary discussing with applicants/agents proposed conditions especially those that would restrict the use of commercial properties or land when this can be done without compromising government performance requirements.

The application was submitted without the benefit of pre-application advice although it follows on from a recent refusal and dismissed appeal in 2017. Measures have been taken to seek to address the issues raised. In view of the refusal of the 2018 scheme and concerns raised by the Inspector in dismissing the previous appeal, it is not however considered that these amendments and the additional information provided satisfactorily address all the outstanding issues. As such, a recommendation to refuse the application is justified in this instance.

14 ASSESSMENT

- 14.1 The site lies within the built up area of Pennington in a local shopping frontage. It is a vacant, ground floor property, last used as a cafe in 2015. There is residential accommodation above, behind and to the other side of the adjacent, undercroft vehicular access. The adjoining residential uses are within the same ownership as the application site.
- The proposal entails the conversion of the premises to a 1-bed flat.
- 14.2 The proposal would be contrary to Policy DM17 of the Local Plan Part 2 which indicates that residential development will not be permitted at ground floor level in premises within the defined Local Shopping Frontage. However, in principle, the loss of the commercial use has previously been accepted in considering proposals for residential use at this site. This is because as the loss of adjacent commercial units has been accepted through the Prior Approval process, it is felt there is no longer a reasonable case to resist the principle of a residential conversion in this location. This stance has been reflected in previous decisions that were not refused on the basis of Policy DM17.
- 14.3 This application follows the refusal and dismissed appeal for a 2-bed flat (17/11169) where the Inspector concluded that the outlook from the property would be poor, with or without obscure glazing, and that the bedrooms would have a limited level of natural light.
- 14.4 A subsequent application (18/10626) removed one of the bedrooms from the scheme and the space included within the front habitable room. An additional rooflight was also added to the remaining bedroom. The proposed glazing was proposed to be amended from three small windows (two of which are under the covered area) to a single larger window, which would only be partly covered by the first floor accommodation, and a roof light in the flat roof to the rear of the property.
- 14.5 The combination of the larger window and the provision of the roof light improved the light to the bedroom but it was not considered this change was sufficient to fully address the identified concerns. This previous application was therefore considered to be unacceptable for reasons relating to the unsatisfactory living environment and poor levels of amenity as well as limited daylight available to the proposed bedroom. This application was refused in August 2018.
- 14.6 The current application has sought to address these concerns by proposing a further rooflight to improve light to the bedroom and submitting a supporting daylight survey.
- 14.7 With regard to residential amenity, whilst the proposal would not have any adverse impact on existing residential amenity, consideration also has to be given to the amenity of future occupants. The proposed flat would have a combined living/kitchen area to the front of the property where sufficient light would be achieved and to the rear of this would be a shower room where natural light is less important. The bedroom would be served by a side window, partially covered by the undercroft, plus the provision of two roof lights.

- 14.8 The supporting Daylight and Sunlight Study concludes that although the proposed bedroom would not benefit from direct sunlight, it would have good access to daylight and would therefore satisfy the requirements within the BRE guide 'Site Layout Planning for Daylight and Sunlight'. On the basis of these conclusions there is no longer an overriding objection to the proposal in respect of lack of daylight.
- 14.9 In determining the appeal in 2017, the Inspector also raised concerns about the outlook from the proposed dwelling. This was due to the fact that all of the side windows (other than the bedroom one described above) would have an outlook towards the flank wall of the adjacent flat less than 4m away, with most windows being just 2.5m away and all of them within the undercroft. The proposed bedroom window would look partly towards the amenity space at the rear of the adjacent flat and partly towards the corner of the building.
- 14.10 This concern has not been adequately addressed by the amendments made to the current application. Overall, the outlook from the proposed flat would remain very limited, it would not offer an attractive living environment and would constitute a poor design solution. As such the application remains unacceptable for this reason.
- 14.11 Councillor Gossage is mindful of the need to create additional accommodation in the area and considers that the proposed unit would be a suitable property for a young couple who would be renting for the first time. However, whilst the need for small accommodation units is acknowledged and there is no policy that specifies minimum internal standards for dwellings, this does not justify approval of a scheme where the living environment that would be created would be unacceptably poor in terms of its outlook.
- 14.12 Comments have been made about the accumulation of rubbish in the courtyard within the applicant's ownership. However, it is considered that this is an existing situation and is not a planning matter that is material to the determination of the current application.
- 14.13 An objection has been raised on the grounds that the additional flat would compound an existing parking problem. While this is a relevant consideration and no parking is proposed for the additional flat, this matter has previously been assessed. There is currently no parking provision on site and there are no proposals to provide additional spaces. The lack of an any allocated off-street car parking space would however be acceptable. This is because it is considered that the previous use of the site would result in a greater demand for parking compared with what might occur as a result of the proposed use as a one bedroomed flat.
- 14.14 The Local Planning Authority is not currently able to demonstrate a 5 year supply of housing land when assessed against its most recent calculation of Objectively Assessed Need. Relevant policies for the supply of housing are therefore out of date. In accordance with the advice at paragraph 11 of the National Planning Policy Framework, permission should therefore be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits or specific policies in the NPPF indicate that development should be restricted. In this case, it is considered that the adverse impact of the proposed development would significantly and demonstrably outweigh the benefits of the development.

- 14.15 In accordance with the Conservation of Habitats and Species Regulations 2017 ('the Habitat Regulations') an Appropriate Assessment has been carried out as to whether granting planning permission would adversely affect the integrity of the New Forest and Solent Coast European sites, in view of that site's conservation objectives. The Assessment concludes that the proposed development would, in combination with other developments, have an adverse effect due to the recreational impacts on the European sites, but that the adverse impacts would be avoided if the planning permission were to be conditional upon the approval of proposals for the mitigation of that impact in accordance with the Council's Mitigation Strategy or mitigation to at least an equivalent effect.
- 14.16 In conclusion, the proposal has not fully addressed the previous reason for refusal in respect of the outlook from the proposed dwelling and refusal is therefore recommended.
- 14.17 In coming to this recommendation, consideration has been given to the rights set out in Article 8 (Right to respect for private and family life) and Article 1 of the First Protocol (Right to peaceful enjoyment of possessions) of the European Convention on Human Rights. Whilst it is recognised that this recommendation, if agreed, may interfere with the rights and freedoms of the applicant to develop the land in the way proposed, the objections to the planning application are serious ones and cannot be overcome by the imposition of conditions. The public interest and the rights and freedoms of neighbouring property owners can only be safeguarded by the refusal of permission.

CIL Summary Table

Type	Proposed Floorspace (sq/m)	Existing Floorspace (sq/m)	Net Floorspace (sq/m)	Chargeable Floorspace (sq/m)	Rate	Total
Dwelling houses	40		40	40	£80/sqm	£3,852.31 *
Subtotal:	£3,852.31					
Relief:	£0.00					
Total Payable:	£3,852.31					

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

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

Where:

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

R = the levy rate as set in the Charging Schedule

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

15. RECOMMENDATION

Refuse

Reason(s) for Refusal:

1. The proposed flat would provide an unsatisfactory living environment and unacceptably poor levels of amenity for future occupants, primarily due to the flat's significant outlook onto an undercroft vehicular access, which would provide for a dark and unattractive outlook. As such, the proposal would be a poor design that would be contrary to Policy CS2 of the Core Strategy for New Forest District outside of the National Park, as well as being contrary to one of the Council's Core Strategy objectives that seeks to provide for a high quality and attractive living environment.

Notes for inclusion on certificate:

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

The application was submitted without the benefit of pre-application advice although it follows on from a refusal earlier in the year and dismissed appeal in 2017. Measures have been taken to address the issues raised. In view of the refusal of the 2018 scheme and concerns raised by the Inspector in dismissing the previous appeal, it is not however considered that these amendments and the additional information provided satisfactorily addresses all the outstanding issues. As such a recommendation to refuse the application is justified in this instance.

Further Information:

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**Planning Development
Control Committee**
December 2018

Item No: 3f
4 South Street
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Lymington
18/11264

Scale 1:1250

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

