

**Application Number: 18/11666** Full Planning Permission

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

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

**Applicant:** Yeganegy

**Target Date:** 11/02/2019

**Extension Date:** 11/09/2019

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

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## 1 SUMMARY OF THE MAIN ISSUES

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

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

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

## 2 THE SITE

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

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

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

### 3 THE PROPOSED DEVELOPMENT

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

### 4 PLANNING HISTORY

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

#### Reason for refusal 1

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

#### Reason for refusal 2

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

### Reason for refusal 3

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

## 5 THE DEVELOPMENT PLAN AND OTHER NFDC GUIDANCE

### The Core Strategy

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

### Local Plan Part 2 Sites and Development Management Development Plan Document

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

### The Emerging Local Plan

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

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

### Supplementary Planning Guidance and other Documents

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

## 6 RELEVANT LEGISLATION AND GOVERNMENT ADVICE

## **Relevant Legislation**

### **Planning and Compulsory Purchase Act 2004**

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

### **Environmental Protection Act 1990**

Sets out Council powers to deal with noise nuisance

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

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

## **Relevant Advice**

### **National Planning Policy Framework 2019**

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

### **Planning Practice Guidance on Noise 2014**

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

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

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

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

## **7 PARISH / TOWN COUNCIL COMMENTS**

Totton Town Council: Recommend refusal

### **7.1 Original comments**

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

### **7.2 Revised comments following noise report and car parking survey**

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

## **8 COUNCILLOR COMMENTS**

None

## 9 CONSULTEE COMMENTS

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

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

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

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

*Comments in full are available on website.*

## 10 REPRESENTATIONS RECEIVED

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

For: 0

Against: 2

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

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

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

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

## 11 OFFICER COMMENTS

### Introduction

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

### Principle of development and local and national policy

- 11.2. The site lies in a highly sustainable location within the town centre of the largest town in the district. There are a full range of services and facilities within easy walking distance of the site including a range of public transport options. Both local and national policy point to a preference of accommodating new residential development in sustainable locations and for maximum growth numbers to be accommodated in the principal settlements.
- 11.3 The application site is a Town Centre Opportunity Site which Policy TOT15.8 of the Local Plan Part 2 indicates should be developed primarily for retail / office / community uses. The proposal to develop the site for residential would therefore not accord with this policy, however, the applicant carried out a Marketing Assessment Report, which concluded that the site does not represent a viable proposition for commercial, community or retail use. Accordingly the marketing report demonstrates that the only viable use for the site is residential.
- 11.4 Paragraph 85 of the NPPF states that residential development often plays an important role in ensuring vitality of centres and encourages residential development on appropriate sites. Paragraph 17 of the NPPF 'making effective use of land' states that decisions should promote an effective use of land in meeting the need for homes and in a way that makes as much use as possible of previously-developed or 'brownfield' land, including car parks and service yards. It is considered that the proposed development would meet these objectives.
- 11.5 The Local Planning Authority is not currently able to demonstrate a 5

year supply of housing land when assessed against its most recent calculation of Objectively Assessed Need. Relevant policies for the supply of housing are therefore out of date. In accordance with the advice at paragraph 11 of the NPPF, permission should therefore be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits or specific policies in the NPPF indicate that development should be restricted.

#### Comparisons between the current planning application and that previously refused scheme

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

#### The effect on the character and appearance of the area

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



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

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

#### Effect on residential amenity

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

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

### Transportation matters

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

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

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

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

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

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

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

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

## **12 CONCLUSION ON THE PLANNING BALANCE**

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

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

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

## 13 OTHER CONSIDERATIONS

### Habitat Mitigation

In accordance with the Conservation of Habitats and Species Regulations 2017 ('the Habitat Regulations') an Appropriate Assessment has been carried out as to whether granting planning permission would adversely affect the integrity of the New Forest and Solent Coast European sites, in view of that site's conservation objectives. The Assessment concludes that the proposed development would, in combination with other developments, have an adverse effect due to the recreational impacts on the European sites, but that the adverse impacts would be avoided if the planning permission were to be conditional upon the approval of proposals for the mitigation of that impact in accordance with the Council's Mitigation Strategy or mitigation to at least an equivalent effect.

### Local Finance

If this development is granted permission, the Council will receive New Homes Bonus £4896 in each of the following four years, subject to the following conditions being met:

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

Based on the information provided at the time of this report this development has a CIL liability of £32,289.21

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

### Human Rights

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

the rights and freedoms of the applicant outweigh any possible interference that may result to any third party.

### Equality

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

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

### Section 106 Contributions Summary Table

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

### CIL Summary Table

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

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

*Net additional new build floor space (A) x CIL Rate (R) x Inflation Index (I)*

Where:

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

*R = the levy rate as set in the Charging Schedule*

*I = All-in tender price index of construction costs in the year planning permission was granted, divided by the All-in tender price index for the year the Charging Schedule took effect. For 2019 this value is 1.22*

## 14. RECOMMENDATION

### Grant Subject to Conditions

#### Proposed Conditions:

1. The development hereby permitted shall be begun before the expiration of three years from the date of this permission.  
  
Reason: To comply with Section 91 of the Town and Country Planning Act 1990 as amended by Section 51 of the Planning and Compulsory Purchase Act 2004.
  
2. The development permitted shall be carried out in accordance with the following approved plans: 100 Rev C, 101, Floor plan for existing ground floor flat, floor plan for existing first floor flat, 104, 105, 102, 103, 100.  
  
Reason: To ensure satisfactory provision of the development.
  
3. Before development commences, samples or exact details of the facing and roofing materials to be used shall be submitted to and approved in writing by the Local Planning Authority. The development shall only be implemented in accordance with the approved details.  
  
Reason: To ensure an acceptable appearance of the building in accordance with policy CS2 of the Core Strategy for the New Forest District outside the National Park.
  
4. Before development commences, the proposed slab levels in relationship to the existing ground levels set to an agreed datum shall be submitted to and approved in writing by the Local Planning Authority. Development shall only take place in accordance with those details which have been approved.  
  
Reason: To ensure that the development takes place in an appropriate way in accordance with policy CS2 of the Local Plan for the New Forest District outside the National Park (Core Strategy).
  
5. Before development commences a scheme of landscaping of the site shall be submitted for approval in writing by the Local Planning Authority. This scheme shall include :

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

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

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

6. All external works (hard and soft landscape) as approved by condition 5 shall be carried out in accordance with the approved plans and details within one year of commencement of development and maintained thereafter as built and subject to changes or additions only if and as agreed in writing with the Local Planning Authority.

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

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

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

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

8. Before first occupation of the development hereby approved, a surface water sustainable drainage system (SuDS) shall be designed and installed to



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

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

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

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

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

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

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

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

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

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

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

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

**Notes for inclusion on certificate:**

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

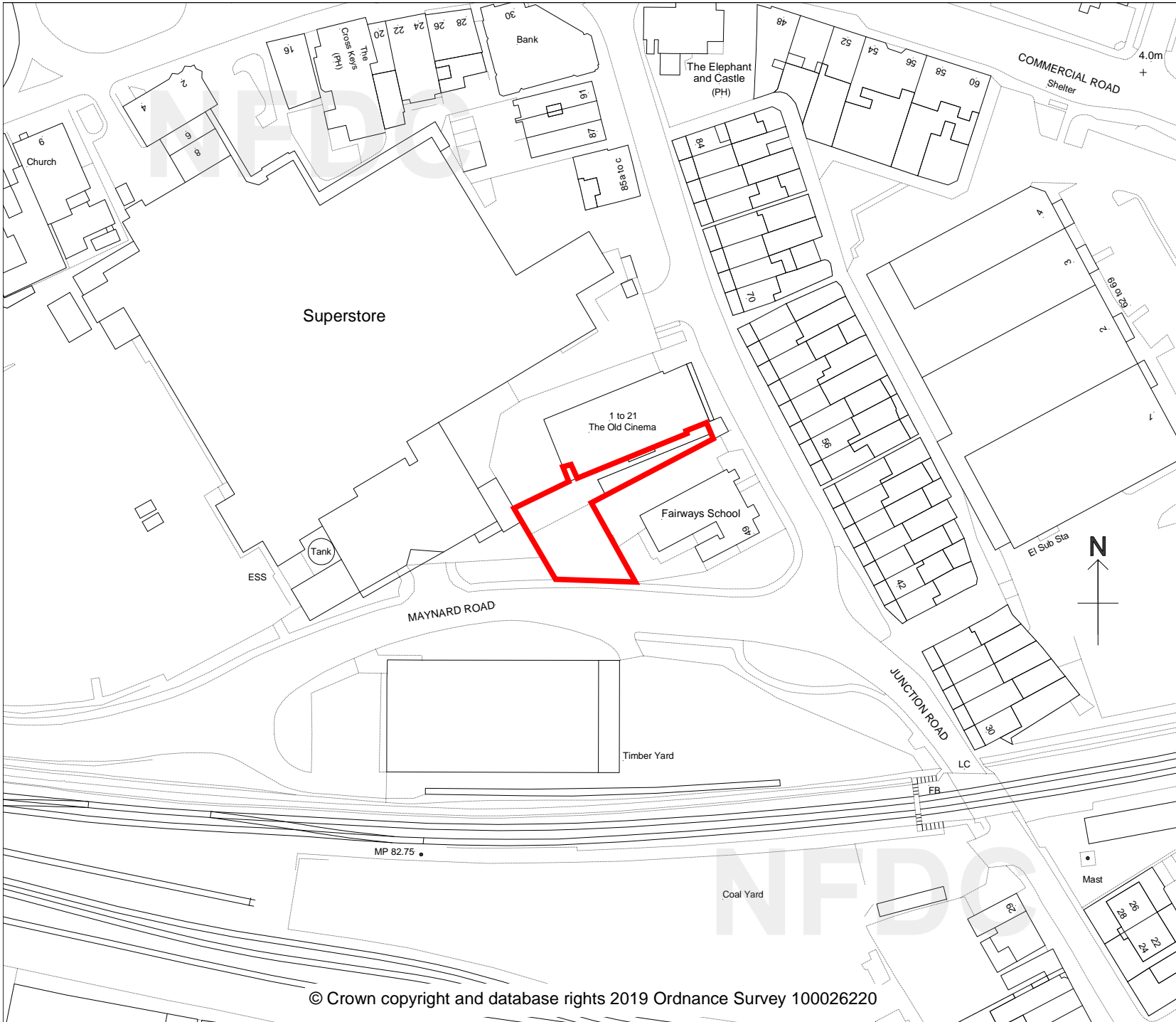
In this case all the above apply and as the application was acceptable as submitted no specific further actions were required.

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

Further Information:

Richard Natt

Telephone: 023 8028 5345 (Option1)



# New Forest

DISTRICT COUNCIL

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## PLANNING COMMITTEE

September 2019

Item No: 3a

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

Scale 1:1250

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