

Application Number: 19/10998 Full Planning Permission

Site: LAND REAR OF THE WHITE HORSE, KEYHAVEN ROAD,
MILFORD-ON-SEA SO41 0QY

Development: 3 dwellings; access; associated parking and landscaping

Applicant: Bayview Developments Ltd

Target Date: 15/10/2019

Extension Date: 12/12/2019

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

1 SUMMARY OF THE MAIN ISSUES

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

- 1) the principle of the development,
- 2) the effect on the setting of the adjacent listed building, 'The White Horse Inn' and the character and appearance of the adjacent Conservation Area,
- 3) the effect on the character and appearance of the area,
- 4) the effect on the living conditions of the adjoining neighbouring properties,
- 5) the effect on public highway safety,
- 6) the effect on the living conditions of future occupiers given the close proximity to the Public House and employment site.

1.2 This matter is before Committee as the application is contrary to the views of the Parish Council.

2 THE SITE

2.1 The application site comprises an open vacant piece of land that lies to the rear of a Public House known as the 'White Horse Inn'. The 'White Horse Inn' is a Grade 2 Listed Building which fronts onto Keyhaven Road and has a rear garden enclosed by an existing fence and car parking to the rear and side. There are no buildings on the application site and it should be noted that the site is separate and not used in association with the Public House. The application site is mainly laid to hardstanding with dense overgrowth.

2.2 The 'White Horse Inn' is listed as an Asset of Community Value. The site lies within the settlement of Milford On Sea and close to the village centre, and is considered to be in a reasonably sustainable location. The site lies just outside the boundary of the Conservation Area, which is just to the north boundary of the site.

2.3 The context of the area is mixed. Along the eastern boundary of the site comprises existing industrial buildings which are accessed off Laundry Lane. These employment buildings are fairly small 'single storey 'starter

units' and have their side elevations bounding the eastern boundary of the site. Most of the units are used for light industrial, however, some of the units are vacant, and others are used for storage and general industrial areas. When planning permission was granted for the industrial building, a condition was imposed which restricted them to light industrial.

- 2.4 On part of the western boundary is a residential property at No 37 Grebe Close and there are further residential properties to the south which form part of the same street. Grebe Close is a relatively modern housing development comprising detached two storey houses, which form a cul de sac immediately adjacent to the boundary of the application site.
- 2.5 A new development of 8 houses is nearing completion immediately to the west of the application site. Three of the dwellings that form part of that development will have their rear gardens backing onto part of the existing access of the public house, which will also serve the application site. That development has been designed with dwellings of traditional character and form, in which the buildings are tightly grouped together on small plots with short front and rear gardens.

3 THE PROPOSED DEVELOPMENT

- 3.1 The proposal is to develop the site for 3 dwellings, comprised of three detached houses, together with associated access, car parking and landscaping. The existing access from Keyhaven Road, which serves the public house would be utilised to serve the proposed development. The proposed layout entails two dwellings to front onto the internal access road and car parking area, and one dwelling would be sited within its own landscape setting, which in part, would front onto Grebe Close. It is not proposed to create any vehicular or pedestrian access onto Grebe Close.
- 3.2 Visually the proposed dwellings would rise to two storeys, although the first floor accommodation has been designed to be accommodated in the roof space. The proposed dwellings would be constructed from timber and have the appearance of agricultural buildings with a contemporary design. The proposed dwellings would rise to around 7.5 metres to the ridge. Car parking to serve the proposed dwellings would be to the north provided within a single space. Plots identified as 2 and 3 would have their car parking spaces on plot.

4 PLANNING HISTORY

1 pair of semi-detached houses, 2 detached houses (18/11614) Refused on the 18th July 2019

Officers had recommended the grant planning permission at the Planning Committee on the 10th July 2019 (18/11614), but the Committee overturned the recommendation and subsequently refused permission for the following reason:

Reason for refusal 1

The proposed development would result in an unacceptably cramped and congested form of development, with inadequate plot sizes and a lack of space around the buildings that would lead to a poor quality development to the detriment of the character and appearance of the area. As such, the proposed development would be inappropriate to its context and would be detrimental to

local distinctiveness that would also provide an unsatisfactory and unacceptable living environment for future occupiers, contrary to Policy CS2 of the Core Strategy for the New Forest District outside the National Park.

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

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 is expected to commence in December 2019. 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.

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

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.

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

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

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

Milford On Sea Parish Council: Recommend refusal.

Whilst not objecting to the principal of housing development on this site per se, the Parish Council shares the concerns of the Conservation Officer. It considers the application to be cramped and intensive, with particular reference to the siting of Plot 1 so close to Grebe Close. In addition, the Parish Council requests that a condition be placed on any future development of this site that no access of any type, either vehicular or pedestrian, be made through to Grebe Close.

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:

The Highway Authority standing advice shall apply because the proposal is for 3 dwelling which are accessed directly from Keyhaven Road via the car park of the public house.

9.2 Conservation Officer:

The Heritage Assessment picks up on the curtilage connection of the application site and listed building, but there is still a lack of certainty over the defined curtilage status, however there has been a number of changes to boundaries and subdivisions over the years. It is felt that there is scope for some form of development on this plot and the key element for consideration is how this affects the setting of the Listed Building.

The Heritage Assessment makes it clear that the open land to the rear of the building has been part of its setting, although it is acknowledged that the setting to either side of the Listed Building is compromised by later development. The default position might be to suggest the space needs to remain open to preserve this open land and setting. However, it is felt that with regard to other development around the site and the length of the plot, a sensible compromise would be to look at a development that struck a balance between its open nature and some development. Well designed and spaciouly arranged built form could also provide the opportunity to enhance the currently neglected element of the site which exists at present.

In this case, adopting a simpler form to reflect former outbuildings to the listed building would be appropriate and assist in reducing bulk, scale and overly fussy detailing. The ability to adopt a more modern approach might also provide some dividends with being able to use modern materials and details in the final build.

In comparison to the previously refused scheme, the landscape gap between Unit 1 and 2 has now been reinstated and large open parking

areas between the buildings has been removed. More mature planting areas have been introduced in a rationalisation of the parking and access arrangements. It is a shame that there is no footpath through the site between Keyhaven Road and Grebe Close.

Whilst the landscape proposal has improved and the parking dominance has been reduced, there are still some concerns in relation to the size of the buildings and the fairly cramped nature of the development, which has a harmful impact upon the setting of the listed building.

9.3 Ecologist:

No objection subject to Ecological compensation/ enhancement plan to include measures such as native planting, wildlife access through boundary treatments, provision of additional artificial features such as bat tubes.

9.4 Natural England

No Objection Subject to Conditions. Given the nature, scale and location of this proposal, Natural England is satisfied that there is not likely to be an adverse effect on nearby Hurst Castle and Lymington River Estuary SSSI as a result of the proposal.

9.5 Environmental Health (Pollution):

The Environmental Health Officer raises no objection. This application does not worsen the situation when compared to the previous application in which no objections were raised. The previous application considered that while the proposal would bring residential uses closer to both the Public House and employment estate, these contain mainly light industrial uses, but there are some general industrial and storage uses. In addition the vacant Public House could be brought back into use. A noise report has been submitted which concludes that noise nuisance will be at a low level.

9.6 Environmental Health (Historic land use):

No objection subject to standard contamination condition.

9.7 Waste Collection Management:

The applicant states that they will use a private waste collection company. If this changes in the future NFDC will not collect from the refuse collection point as there is no turning circle for the vehicle on the development and the waste collection will have to be brought too and collected from the Keyhaven Road entrance.

Comments in full are available on website.

10 REPRESENTATIONS RECEIVED

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

Against: 9

No objection to the principle of a development on the site, but raise a number of concerns. The proposed development is too cramped and intensive. The proposed dwellings including the materials are out of character with the area. The dwellings should be smaller with less bedrooms, or only two houses. The houses should be affordable. Plot 1 is unreasonably close to the boundary with Grebe Close. A comment has been raised that the site should be developed once there are proposals for the White Horse. Object to any access onto Grebe Close, either pedestrian or vehicular. Concerns with overlooking and loss of privacy. Concerns with the access in that there are marked car parking spaces in the entrance of the White Horse car park, which is in the property deeds. Concerns with lack of car parking.

11 OFFICER COMMENTS

Introduction

- 11.1 There are six main issues in this case, which include the principle of development at this site, the effect on the setting of the adjacent listed building, 'The White Horse Inn', 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 the effect on the living conditions of future occupiers given the close proximity to the Public House and employment site.
- 11.2 In policy terms, the site is not allocated for development, and the 'White Horse Inn' is listed as an Asset of Community Value. It should be noted that the extent of the site subject to the application lies outside the listing area. There are no specific policies for the site in terms of allocation or opportunity sites.

Principle of development and local and national policy

- 11.3 The site lies in a sustainable location within the village centre of Milford On Sea. 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 settlements.
- 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 and there is no benefit in the retention of a redundant piece of brownfield land, in which National policy directs specifically that such land should be prioritised for housing development.
- 11.5 Whilst it has been the case that the Local Planning Authority was not able to demonstrate a 5-year supply of housing land when assessed against its most recent calculation of Objectively Assessed Need that situation has recently changed. The Emerging Local Plan makes provision for housing need throughout the District and addresses the

need for housing in sustainable locations. The Emerging Local Plan now carries significant weight in decision making.

Comparisons between the current planning application and the previously refused scheme

11.6 This current planning application has made several changes compared to that previously refused, the differences are set out below:

- The number of dwellings proposed has been reduced from four to three
- The reduction in the number of dwellings has resulted in less built form around the site
- The vehicular and pedestrian access from Grebe Close has been omitted.
- Access would be gained from the existing access at Keyhaven Road.
- The size of plots and garden areas to the dwellings has increased.
- The extent of soft landscaping and greenery around the site has been increased.
- The extent of hardstanding has been reduced.
- There is an increase in the amount of space between and around the buildings.

Effect on the setting of the listed building and the character and appearance of the Conservation Area

11.7 Local Plan Part 2 Policy DM1 states that development proposals should conserve and seek to enhance the historic environment and heritage assets, with particular regard to local character, setting, management and the historic significance and context of heritage assets. This includes a balancing exercise between impact on Heritage Assets against public benefits which is also referred to in the National Planning Policy Framework (NPPF) 2019.

11.8 Paragraph 193 of the NPPF states that when considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the assets conservation. Paragraph 196 of the NPPF states that where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal, where appropriate securing its optimum viable use.

11.9 The application site is accompanied by a Heritage Statement. The 'White Horse Inn' is a Grade 2 listed building situated within the Conservation Area. The boundary of the Conservation Area cuts through the rear of the plot and the application site is outside the Conservation Area. Rising to two storeys in height, the 'White Horse Inn' has a long frontage onto Keyhaven Road and is a white painted building with a clay tiled half hipped roof and sash windows. The building significantly contributes to the area when viewed from Keyhaven Road, however, there are some unfortunate additions to the rear, including an unattractive timber fence enclosing the rear garden and large areas of hard standing. In addition, there are views of the unattractive industrial buildings abutting the eastern boundary of the site, which currently have a negative impact on the setting of the listed building and views from the Conservation Area.

- 11.10 The Milford On Sea Conservation Area Appraisal identifies the important role that both the 'White Horse Inn' and the nearby 'Smugglers' Public House plays at either end of the High Street. In particular the openness around the building which contribute to its setting. Regression maps included in the Heritage Assessment indicate that the 'White Horse Inn' had a long narrow plot, in which the land to the rear was subdivided with open garden land with some small outbuildings, possibly stable buildings. The application site lies just beyond the rear of the Public House, but there is still a strong relationship and connection between the two sites.
- 11.11 In assessing this proposal, whilst there is still a lack of certainty over the defined curtilage status, given the number of changes to boundaries and subdivisions over the years, the extent of development on either side of the listed building, including the industrial units and the derelict condition of the site which makes little contribution to the significance of the 'White Horse', it is considered that there is scope for some form of development on this plot. One of the key elements for consideration is how the proposal affects the setting of the Listed Building and the effect on the Conservation Area.
- 11.12 It is considered that a sensible compromise would be to look at a development that struck a balance between the sites open nature and some development, through well designed and spaciouly arranged built form, which could provide the opportunity to enhance the currently neglected appearance of the site. Moreover, it should be noted that the previous planning application did not raise an objection to the principle of the development on the site, or on the grounds that there would be an unacceptable impact on the setting of the listed building or heritage asset or character and appearance of the conservation area.
- 11.13 In this case, the proposal would adopt a simpler form to reflect former outbuildings or former agricultural buildings to the listed building which would be appropriate and assist in reducing bulk, scale and overly fussy detailing. Indeed, the ability to adopt a more modern approach provides some dividends in being able to use modern materials and details in the final build, but retaining a simple building form. This has been achieved by reducing the ridge height to below 7.5 metres, creating reasonable proportions and accommodating the first floor in the roof space.
- 11.14 It is felt that the proposed layout creates a relatively spacious setting with gaps between the buildings and would not appear cramped or congested. The site layout enables the building to be set in a landscape setting with sufficient space to accommodate new tree planting and soft landscaping to soften the development. The extent of hardstanding is limited to a small area within the site with some car parking hidden between two of the proposed dwellings. Whilst plot 3 would front onto a higher proportion of hardstanding, plots identified as 1 and 2 would benefit from greenery and soft landscaping around the buildings.
- 11.15 In comparison to that previously refused, it is considered that significant improvements have been made. These include the reduction in the number of dwellings and the improvements to the layout of the site through reducing the extent of hardstanding, increase in space around the buildings and the increase in the level of greenery around the site.

11.16 Overall it is felt that the proposed development has been designed in a sympathetic manner with space around the buildings making an effective use of the long standing untidy and redundant site to the rear of the Public House. Moreover, Paragraph 117 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.

The effect on the character and appearance of the area

11.17 Contextually the character of the area is very mixed. There are employment buildings which bound the eastern boundary, and a fairly modern housing development at Grebe Close on the west and south boundary. In Grebe Close, dwellings tend to be two storeys in height, constructed from red brick with simple pitched roofs, situated around a cul de sac with relatively short front and rear gardens, although there are pockets of greenery, trees and vegetation. A new housing development comprising 8 houses is nearing completion to the north west. This development has been designed as a traditional style, but with smaller plots and small rear garden areas.

11.18 The proposed development would have plot sizes that are similar to some dwellings in Grebe Close, but generally there is not a big difference. The proposed plot sizes would be comparable to the development of 8 houses under construction to the north west. Indeed, the garden areas of the proposed dwellings would be larger than some of the recently constructed dwellings adjacent to the site.

11.19 Paragraph 122 of the National Planning Policy Framework 'Achieving appropriate densities' states that decisions should support development that makes efficient use of land, taking into account, the identified need for different types of housing and other forms of development, and the desirability of maintaining an area's prevailing character and setting, or of promoting regeneration and change.

11.20 It is considered that the proposed plot sizes are comparable to the surrounding context, and the overall layout and design has been designed to a high standard and a number of planning conditions can be used to ensure that the quality is reflected in the use of materials, detailing and landscaping. A condition can also be reasonably imposed removing permitted development rights for extensions, outbuildings, and boundary treatments, in order to maintain the spatial characteristics of the site.

The relationship between the proposed residential units and Public House and employment use

11.21 The proposal would bring residential uses closer to both the Public House and employment estate, which mainly contains light industrial uses, although there is a 24 hour vehicle recovery service. Accordingly the main issue is whether future occupiers will be unacceptably impacted by noise from the surrounding uses. The applicant has carried out a noise assessment and the Environmental Health Officer does not raise any objections as although there will be some disturbance arising this would be at a low level within acceptable limits. as a result, your officers are of the view that the proposal would be acceptable in this context.

11.22 It should also be noted that the previous application was not refused on the grounds of noise and the changes made within this current application do not materially worsen the situation.

Residential amenity matters

- 11.23 In assessing the effect on the living conditions of the adjoining neighbouring properties, it is considered that Nos 37, 38 and 40 Grebe Close would be affected by the proposal.
- 11.24 In terms of the impact on No 37, this property has its side elevation running parallel to the application site. It is accepted that there would be some noise and disturbance created from the proposed access and car parking spaces which would be situated immediately adjacent to the side boundary with No 37, however, the level of movements for three dwellings would not result in demonstrable harm. On balance, given the scale of development, it is not considered to result in such significant harm to justify a refusal of permission.
- 11.25 The proposed dwellings are sited a sufficient distance away not to compromise the available light or outlook of No 37, however, there are a number of proposed windows that would result in a degree of overlooking. The distance from the proposed roof lights and vertical glazed windows on the front elevation of Units 2 and 3 and the side elevation to Unit 1 to the side boundary with No 37 measures between 13 and 15 metres. Whilst this distance would normally be considered acceptable, given the amount of windows proposed (10 in total), and in order to mitigate against unacceptable overlooking, it is considered that the 4 bathroom roof lights are fitted with obscure glass.
- 11.26 Proposed Unit 1 would face onto the existing houses at Nos 38 and 40, although they would be separated by an existing public footpath, driveway and road. The distance between the front elevation of Unit 1 and Nos 28 and 40 measures approximately 14 to 16 metres, which is not considered to result in any material loss of light or outlook. In addition, given the distances and the design of roof lights, it is not considered that the five proposed roof lights facing the neighbours would not result in demonstrable harm to refuse permission.
- 11.27 There are existing residential flats on the rear elevation of Carrington Works, including a very small outside area, which immediately backs onto the south east boundary. Unit 1 has been design with no main windows facing these neighbouring residential properties. Whilst the physical relationship of Unit 1 is not ideal, the proposed building would be sited 6 metres away from the boundary and on balance, it is not considered to result in an impact to justify a refusal of permission.
- 11.28 It should be noted that the previous application was not refused on the grounds of the effect on the living conditions of the adjoining neighbouring properties and the changes made within this current application do not materially worsen the situation.

Public Highway Safety Matters

- 11.29 Access into the site would be gained from the existing access onto Keyhaven Road. The main issue is whether the increase in the use of the

existing access onto Keyhaven Road is acceptable and ensuring that car parking, turning and access for emergency/ refuse is acceptably achieved. It should be noted that the existing access is used by the public house and accordingly, it used fairly actively when the use is in operation.

- 11.30 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.
- 11.31 Given that the proposal is to utilise the existing access, the Highway Authority does not raise any objections and will leave the Local Planning Authority to assess based upon standing advice. Given the small increase in the use of the existing access, it is not considered that the proposal would result in a significant harm to public highway safety. The proposed site layout shows that there would be sufficient space for vehicles to access, turn and manoeuvre and therefore enter and leave the site in a forward gear. Refuse collection would be located close to the site entrance in front of Plot 3 and will be operated by a private company.
- 11.32 Based upon the Councils adopted car parking standards, the level of car parking spaces would equate to 3 per dwelling. The proposed layout would provide 3 car parking spaces per dwelling and would therefore accord with the car parking standards. The applicants agent has also confirmed that the correct notices have been served in terms of land ownership. Any car parking spaces at the entrance, are not within the application site.
- 11.33 Overall it is considered that the proposal would not result in severe harm to public highway safety and sufficient car parking would be provided to serve the development. Moreover, the garden area to Plot 1 bounds Grebe Close. On this basis, it would not be reasonable to impose a condition for no new accesses (either pedestrian or vehicular) being created onto Grebe Close.

Ecological matters

b) Off-site recreational impact

- 11.34 Policy 10 now applies and replaces the earlier Policy DM3 of the Local Plan Part 2.
- 11.35 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.

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

11.36 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 ON THE PLANNING BALANCE

12.1 In conclusion, it is considered that the proposal would `preserve the character and appearance of the Conservation Area under section 72 (1) of the LBCA and special regard has been be paid to the desirability of preserving the setting of the Listed Building as set out Section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990.

12.2 Moreover, in accordance with paragraph 193 of the NPPF 2019 it is considered that the proposal would result in less than substantial harm to the character and appearance of the conservation area and setting of the listed building. It is noted that the degree of harm is higher to the setting of the listed building compared to the character and appearance of the Conservation Area. Although harm to both Heritage Assets would be at the lower end of the scale of less than substantial harm.

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 employment buildings and this is reflected in the NPPF which seeks to optimise the use of brownfield sites and achieve appropriate densities.

12.4 Whilst the proposal would have some harm to residential amenity, this is considered to be fairly low and it is considered that the public benefits far outweigh the less than substantial harm to the significance of the Conservation Area and setting of the Listed Building.

13 OTHER CONSIDERATIONS

Other matters

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 £34,050.46

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.

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: ADP/1850/P/403, ADP/1850/P/404, ADP/1850/P/405, ADP/1850/406, ADP/1850/P/401, ADP/1850/P/401, ADP/1850/P/402A, ADP/1850/P/400A.

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. 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).

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

(a) Provide for mitigation in accordance with the New Forest District Council Mitigation Strategy for European Sites SPD, adopted in June 2014 (or any amendment to or replacement for this document in force at the time), or for mitigation to at least an equivalent effect;

(b) Provide details of the manner in which the proposed mitigation is to be secured. Details to be submitted shall include arrangements for the ongoing maintenance and monitoring of any Suitable Alternative Natural Green Spaces which form part of the proposed mitigation measures together with arrangements for permanent public access thereto.

(c) The development shall be carried out in accordance with and subject to the approved proposals.

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

5. Before development commences, the following details shall be submitted to, and approved in writing by the Local Planning Authority.

- a) the external facing materials
- b) typical joinery details including window/doors,
- c) the rainwater goods

Development shall only take place in accordance with those details which have been approved.

Reason: To protect the character and architectural interest of the Listed Building in accordance with Policy DM1 of the Local Plan for the New Forest District outside the National Park. (Part 2: Sites and Development Management).

6. The development hereby permitted shall not be occupied until the spaces shown on plan ADP/1850/P/402A for the parking of motor vehicles and turning have been provided. The spaces shown on plan ADP/1850/P/402A for the parking of motor vehicles and turning 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 CS2 and CS24 of the Local Plan for the New Forest outside of the National Park (Core Strategy).

7. 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).

8. All external works (hard and soft landscape) as approved at Condition 7 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).

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

Reason: In view of the physical characteristics of the plot, and the design concept to achieve a spacious setting to the rear of a heritage asset, the Local Planning Authority would wish to ensure that any future development proposals do not adversely affect the visual amenities of the area and the amenities of neighbouring properties, contrary to Policy CS2 of the Local Plan for the New Forest District outside the National Park (Core Strategy) and to protect the character and architectural interest of the Listed Building in accordance with Policy DM1 of the Local Plan for the New Forest District outside the National Park. (Part 2: Sites and Development Management).

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 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.

11. Unless otherwise agreed by the Local Planning Authority, development other than that required to be carried out as part of an approved scheme of remediation must not commence until conditions relating to contamination no 12 to 14 have been complied with.

If unexpected contamination is found after development has begun, development must be halted on that part of the site affected by the unexpected contamination to the extent specified by the Local Planning Authority in writing until condition 15 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 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).

12. An investigation and risk assessment, in addition to any assessment provided with the planning application, must be completed in accordance with a scheme to assess the nature and extent of any contamination on the site, whether or not it originates on the site. The contents of the scheme are subject to the approval in writing of the Local Planning Authority. The investigation and risk assessment must be undertaken by competent persons and a written report of the findings must be produced. The written report is subject to the approval in writing of the Local Planning Authority. The report of the findings must include:

- i) a survey of the extent, scale and nature of contamination;
- ii) an assessment of the potential risks to:
 - human health,
 - property (existing or proposed) including buildings, crops, livestock, pets, woodland and service lines and pipes,
 - adjoining land,
 - groundwaters and surface waters,
 - ecological systems,
 - archaeological sites and ancient monuments;
- iii) an appraisal of remedial options, and proposal of the preferred option(s).
- iv)

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).

13. Where contamination has been identified, a detailed 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 must be prepared, and is subject to the approval in writing of the Local Planning Authority. The scheme must include all works to be undertaken, proposed remediation objectives and remediation criteria, timetable 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 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).

14. Where a remediation scheme has been approved in accordance with condition 13, 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. 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, and where remediation is necessary a remediation scheme must be prepared in accordance with the requirements of condition 12, 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 13.

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).

16. Where a remediation scheme has been approved in accordance with condition 13, 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).

17. Prior to the commencement of development, and notwithstanding the New Forest Ecological Consultants Ecological report dated 12th October 2018 a detailed scheme for biodiversity mitigation, compensation and enhancement shall be submitted to, and approved in writing by the Local Planning Authority. 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 Policy CS3 of the Local Plan for the New Forest District outside of the National Park (Core Strategy) and Policy DM2 of the Local Plan for the New Forest District outside the National Park (Part 2 : Sites and Development Management).

18. 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 routing as well as provisions for removing mud from vehicles and a programme of works has been submitted to and approved in writing by the Local Planning Authority. The approved details shall be implemented before the development hereby permitted is commenced and retained throughout the duration of construction.

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

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

- 1) 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;
- 2) 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
- 3) All measures forming part of that mitigation package have been provided to the Local Planning Authority.

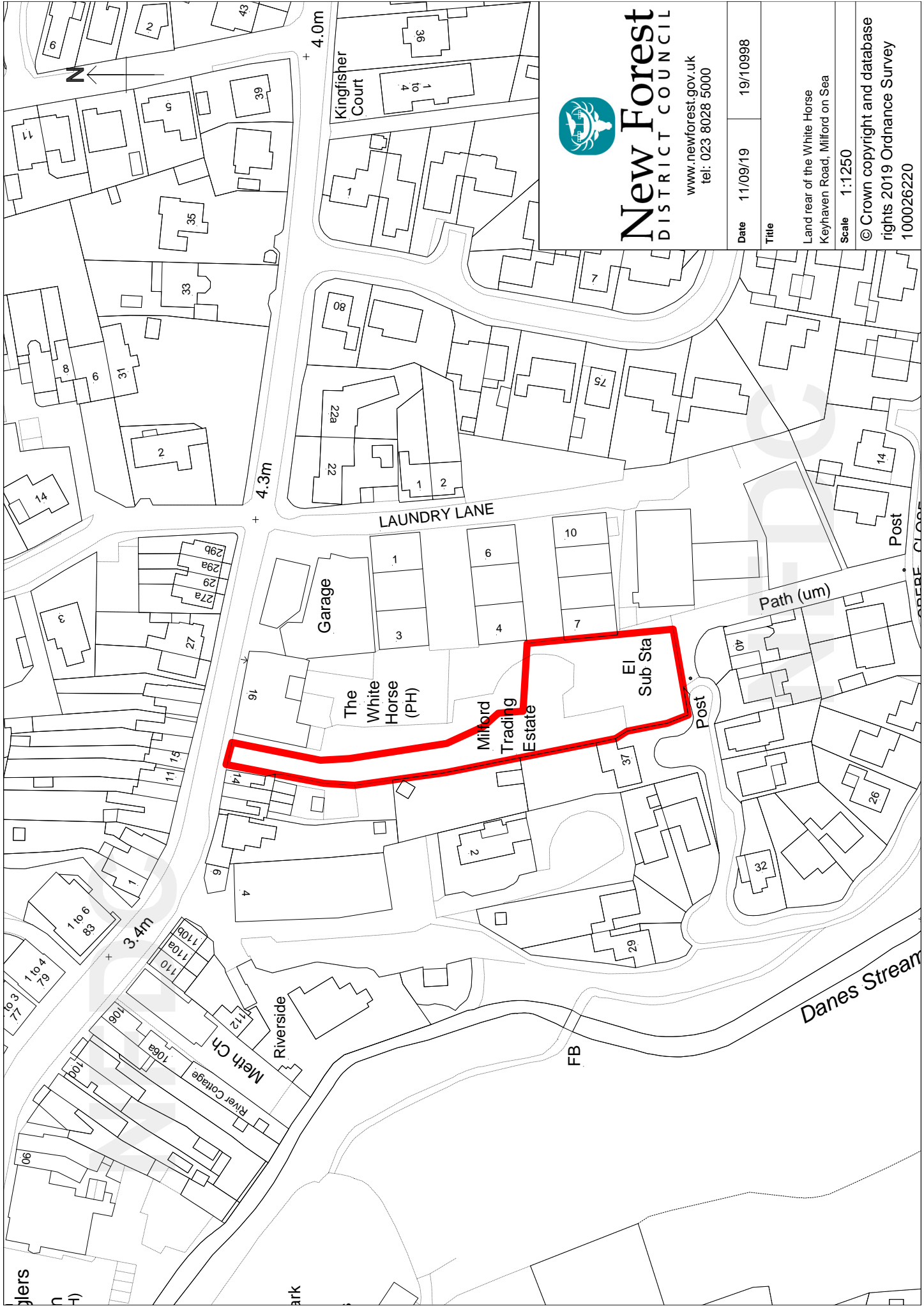
Reason: There is existing evidence of high levels of nitrogen and phosphorus in the water environment with evidence of eutrophication at some European designated nature conservation sites in the Solent catchment. The PUSH Integrated Water Management Strategy has identified that there is uncertainty as 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:

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Date	11/09/19	19/10998
Title	Land rear of the White Horse Keyhaven Road, Milford on Sea	
Scale	1:1250	
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