

Application Number: 19/10880 Variation / Removal of Condition

Site: 2 SOUTH STREET, HYTHE SO45 6EB

Development: Variation of condition 2 of planning permission 17/11646 to allow alterations to doors; windows; porches; balconies; smoke vent; brick pier support to undercroft parking; path; 2 single dormer windows on south east elevation.

Applicant: Churchill Retirement Living

Target Date: 15/10/2019

Extension Date: 14/02/2020

1 SUMMARY OF THE MAIN ISSUES

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

- 1) Impact on the character and appearance of the surrounding area, including the Hythe Conservation Area and the setting of listed buildings located nearby.
- 2) Impact on residential amenity.

This matter is before Committee as an objection to the originally submitted proposal has been received from the Hythe & Dibden Parish Council for the reasons set out above.

2 THE SITE

This application site is a prominent site located on the corner of St John's Street and South Street in the centre of Hythe, with a vehicular access onto South Street. The site extends to the rear of fairly traditional dwellings at 8, 8A and 10 South Street. It is bounded on its north-eastern side by St John's Street and on its north-western side by Lidl supermarket and an associated car park.

The wider area surrounding the application site is mixed in character, but includes a significant residential element, with many traditional buildings in residential use fronting onto the adjacent roads at South Street, St John's Street, and Shore Road. The site bounds the Hythe Conservation Area on its north-eastern, south-eastern and south-western sides, with a small area of the site being within the Conservation Area. A group of buildings opposite the corner of the site (37-44 Sir Christopher Court and 1-3 Shore Road) are Grade II Listed.

3 INTRODUCTION AND PROPOSED DEVELOPMENT

The site was formerly occupied by the company PC Building Supplies. In November 2016 planning permission was granted for a development consisting of 1 block of 36 sheltered apartments; communal facilities; access; parking and landscaping.

The following year, planning permission was refused for a larger development consisting of a higher number (43) of retirement apartments; communal facilities; access; parking and landscaping, as it was considered that the development was contrary to Policies CS2, CS3, CS15 and CS25 of the Council's Core Strategy for New Forest District outside of the National Park, Policy DM1 of its Local Plan Part 2: Sites and Development Management, and the guidance contained within the adopted Supplementary Planning Guidance - "Hythe - A Conservation Area Appraisal". In April 2019, an appeal for this development was allowed. The development was duly commenced in May 2019.

This submission seeks permission to vary condition 2 of the planning permission to allow the following changes:

- minor alterations to doors, windows, porches and balconies, including omission of an undercroft car park and replacement with a window on the Main Elevation facing south-west;
- replacement of a double width dormer window on the South-east Elevation with two single dormer windows.
- a smoke vent;
- alteration of a pier support to the undercroft parking;
- the provision of a hard surfaced path alongside the north-western boundary.

4 PLANNING HISTORY

16/11639 - 1 block of 36 sheltered apartments; communal facilities; access; parking and landscaping - Granted. 11/5/17.

17/11646 – 1 block of 43 retirement apartments; communal facilities; access; parking and landscaping. Refused. 14/03/2018. Appeal Allowed. 02/04/2019

19/10949 - Display of 11no. outdoor signs consisting of pictures, logos and text over 38 hoarding panels (Application for Advertisement Consent). Under consideration.

5 THE DEVELOPMENT PLAN AND OTHER CONSTRAINTS

Core Strategy

Objectives

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

Policies

CS2: Design quality

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

CS6: Flood risk

CS10: The spatial strategy

CS13: Housing types, sizes and tenure

CS15: Affordable housing contribution requirements from developments

CS20: Town, district, village and local centres

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

DM10: Residential accommodation for older people

DM16: Within town centres, outside Primary Shopping Areas and Secondary Shopping Frontages

HYD4: Hythe town centre opportunity sites

HYD5: Car park extensions

Neighbourhood Development Plan

Hythe and Dibden Neighbourhood Development Plan

6 RELEVANT LEGISLATION AND GOVERNMENT ADVICE

Relevant Legislation

Section 38 Development Plan

Planning and Compulsory Purchase Act 2004

Section 66(1) of the Planning Act (Listed Buildings and Conservation Areas) Act 1990

Section 72 (1) of the Planning Act (Listed Buildings and Conservation Areas) Act 1990

National Planning Policy Framework

Relevant Advice

SPG - Hythe - A Conservation Area Appraisal

SPD - Mitigation Strategy for European Sites

SPD - Parking Standards

7 PARISH / TOWN COUNCIL COMMENTS

Hythe & Dibden Parish Council

Comment: PAR 4: Recommend REFUSAL for the following reasons:

- 1) The proposal is a significant change from the original application. The changes are not in keeping with the conservation area and neighbouring properties.
- 2) The balconies are out of keeping with the street scene and the character of the area.
- 3) Overlooking from the balconies would have a detrimental impact on the neighbours opposite

8 COUNCILLOR COMMENTS

No comments received

9 **CONSULTEE COMMENTS**

The following is a summary of the representations received:

- 9.1 NFDC Conservation – no objection to revised scheme.
- 9.2 HCC Surface Water – no comments.
- 9.3 Southern Water – no objection.
- 9.4 SGN – advice only.
- 9.5 ESP Utilities Group – no comments.

Comments in full are available on website.

10 **REPRESENTATIONS RECEIVED**

1 letter has been received objecting to the proposed changes as they would negate the basis on which the appeal was allowed.

11 **OFFICER COMMENTS**

Principle of development

- 11.1 The principle of developing this application site for residential purposes, including 1 block of 43 retirement apartments; communal facilities; access; parking and landscaping has already been accepted. Therefore, the key issue is whether the proposed alterations to the building and landscaping would result in a development that would still have an acceptable impact on its surroundings.

Impact on the character and appearance of the surrounding area, including the Hythe Conservation Area and the setting of listed buildings located nearby

- 11.2 The originally submitted plans indicated a wide scope of changes, including the removal of a break in the roof of the South Street Elevation, the removal of a chimney to the end unit facing St Johns Street, the loss of elegant design columns in the car ports facing south-west, as well as changes to the design and size of multiple external doors and windows.
- 11.3 These changes were considered to result in the erosion of the design quality of the approved scheme and raised objections from the NFDC Conservation Officer and the Parish Council.
- 11.4 Subsequently, some of the initially approved features have been re-introduced, including the break in the roof facing South Street and the chimney to the end unit facing St Johns Street. The car port columns facing South West have been re-designed to achieve a more sympathetic appearance, and the size and design of windows and external doors have been revised to improve the proportions and strengthen the vertical emphasis in the appearance of the building. As amended, it is considered that the changes to the approved scheme would be of an acceptable appearance, maintaining the development's overall design quality. As such, it is felt the development would have an acceptable impact on its surroundings, including the listed heritage assets located nearby and the setting of the Hythe Conservation Area.

- 11.5 The NFDC Conservation Officer was consulted on the revised plans and, in summary, did not raise an objection, as the now proposed changes are relatively minor in nature.
- 11.6 Concerns have been raised by the Parish Council over the introduction of balconies on the elevations facing north-west and into the internal courtyard. The balconies would be visible from St John's Street. However, the visual impacts of the balconies would be reduced by their design consisting of vertical balustrading painted black, as well as the distance between the balconies and the vantage points alongside St Johns Street. Furthermore, the boundary treatment alongside the front boundary of the Lidl supermarket located to the north-west of the site would to some extent screen the views of the balconies. Therefore, it is not considered that the visual impact of the balconies on the character and appearance of the surrounding area, including the Hythe Conservation Area, would cause unacceptable harm to the character and appearance of the Conservation Area. The NFDC Conservation Officer did not raise an objection in respect of the provision of the balconies and their visual impact on the character and appearance of the Hythe Conservation Area.
- 11.7 As a result, insofar as the statutory duty imposed by Section 72 (1) of the Planning Act (Listed Buildings and Conservation Areas) Act 1990 is engaged, its objective of preserving the character or appearance of the Hythe Conservation Area is satisfied.
- 11.8 In respect of Section 66(1) of the Planning Act (Listed Buildings and Conservation Areas) Act 1990, it is considered that the proposal would preserve the listed buildings located nearby, their setting and any features of special architectural or historic interest which they possess.

Impact on residential amenity

- 11.9 Concerns have been raised by the Hythe and Dibden Parish Council on the basis of impact on residential amenity, and in particular loss of privacy, as a result of installation of a total of 8 balconies at first and second floor levels to elevations facing north-west and to the internal courtyard.
- 11.10 The proposed balconies would serve living rooms and their floor area would not exceed 4 square meters. It is noted that the distance between some balconies and neighbouring windows, as well as the distance between the balconies themselves would be modest and would often be no more than 6m.
- 11.11 However, given the size of the balconies, their design and spatial relationship with windows serving neighbouring units, it is considered that the proposed provision of balconies would not result in a loss of privacy to adjacent neighbours.

Nitrate neutrality and impact on the Solent SPA and SAC

- 11.12 New Forest District Council is committed to permitting sustainable development, as long as it includes the relevant environmental protections. Part of the consideration of this is whether there would be a detrimental impact on the water quality of any European Designated Nature Conservation Sites. Following recent case law, residential

development and other schemes providing overnight accommodation are expected to achieve 'nutrient neutrality'.

11.13 In this case, planning permission for the development of a block of 43 retirement apartments was allowed before the need to secure nutrient neutral development arose. However, as this submission seeks approval of only minor changes to the scheme, it is not considered that applying requirements relevant to nutrient neutral development would be justified in this case.

Habitat Mitigation

11.14 In accordance with the Habitat Regulations 2010 an assessment has been carried out of the likely significant effects associated with the recreational impacts of the residential development provided for in the Local Plan on both the New Forest and the Solent European Nature Conservation Sites. It has been concluded that likely significant adverse effects cannot be ruled out without appropriate mitigation projects being secured.

11.15 In this case, a habitat mitigation contribution of £31,346.00 has already been paid following the grant of planning permission 17/11646. However, a Section 106 legal agreement needs to be completed before any permission is issued to ensure that the habitat mitigation contribution that has been paid would apply equally to this variation of condition application.

Community Infrastructure Levy

11.16 The development has a CIL liability of £233,939.11. The first instalment, payable within 60 days of commencement and equating to £118,838.07 has been already paid. The second and final instalment (£118,838.07) is due within 1 year from commencement.

12 CONCLUSION ON THE PLANNING BALANCE

In light of the above, there are no reasons to resist this application to vary condition 2 of planning permission 17/11646 to allow alterations described above on the basis of design quality or harm to adjacent heritage assets (the Hythe Conservation Area and adjacent Listed Buildings) that would arise from the proposed changes. The proposed development complies with the design and amenity related provisions of the National Framework and Development Plan and accordingly is recommended for approval subject to the prior completion of the required Section 106 legal agreement.

13 OTHER CONSIDERATIONS

Crime and Disorder

No relevant considerations.

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.

Housing

The LPA is not currently able to demonstrate a 5 year supply of housing land when assessed against its most recent calculation of Objectively Assessed Need. Relevant policies for the supply of housing are therefore out of date. In accordance with the advice at paragraph 11 of the NPPF, permission should therefore be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits or specific policies in the NPPF indicate that development should be restricted.

Other Case Specific Factors

None

14. RECOMMENDATION

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

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

Proposed Conditions:

1. The development permitted shall be carried out in accordance with the following approved plans:

10085HY-PLOC;

10085HY-PA2-01D;

10085HYPA2-02 rev C;

10085HY-PA2-03 rev B;

10085HY-PA2-04 rev A;

10085HY-PA2- 05 rev A;

CRL : 10085HY : 100 rev #

CRL : 10085HY : 101 rev #

Reason: To ensure satisfactory provision of the development.

2. Any contamination that is found during the course of construction of the approved development that was not previously identified shall be reported immediately to the Local Planning Authority. Development on the part of the site affected shall be suspended and a risk assessment carried out and submitted to and approved in writing by the Local Planning Authority. Where unacceptable risks are found, remediation and verification schemes shall be submitted to and approved in writing by the Local Planning Authority. These approved schemes shall be carried out before the development is resumed or continued.

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).

3. The development shall be implemented in full accordance with the Churchill Retirement Living Construction Environmental Management Plan for 2 South Street, Hythe (amended version received 22/05/19); Site Set-Up Plan - CRL: 10085HY : 202 REV C; Decorative Displays as shown on drawings by GK Signs (JOB NO GL14355) approved on 18 June 2019 under Planning Permission 17/11646.

Reason: In the interest of residential amenity and highway safety.

4. Notwithstanding the details of materials indicated on the approved plans, the development shall only take place in accordance with those details of external materials (including brick, bond, mortar and joint details) approved on 24 October 2019 under Planning Permission 17/11646. The 2 roof tiles to be used on this development shall be Cabana Verde Natural Slates and Marley Acme single camber plain clay tiles.

Reason: To ensure an acceptable appearance of the development, and to safeguard the character and appearance of the Hythe Conservation Area in accordance with Policy CS2 and Policy CS3 of the Core Strategy and Policy DM1 of the Local Plan.

5. The hard and soft landscaping proposal shall be implemented so as to be in full accordance with the Soft Landscape Details & Specification as shown on James Blake Associates' Drawing JBA16/325-01 Rev C; Hard Landscape Details as shown on Drawing CRL:10085HY:201 Rev G; Front Boundary Wall & Railing Details as shown on Drawing CRL:10085HY:710 Rev B & CRL:10085HY:242 Rev G; Method And Programme as described in James Blake Associates' Measured Works Schedule dated 07/06/19, all as approved on 20 November 2019 under Planning Permission 17/11646.

Reason: To ensure that the development takes place in an appropriate way and to comply with Policy CS2 of the Core Strategy.

6. The development shall be implemented so as to be in full accordance with the detailed surface and foul water drainage design for the development, comprising ABMH Proposed Drainage Layout Drawing No FC2815/02 Rev E; Churchill Flood Flow Routes Drawing No CRL:10085HY:207 Rev #; Calculations for the Tank / Flow Control - Micro Drainage Calculations dated 09/07/2019, all as approved on 15 August 2019 under Planning Permission 17/11646.

Reason: To ensure that the drainage arrangements are satisfactory and to comply with Policy CS2 and Policy CS6 of the Core Strategy.

7. The development hereby permitted shall not be occupied until the spaces shown on the approved plans for the parking and turning of motor vehicles including mobility scooters have been provided. The spaces shall thereafter be retained and kept available for their intended purpose 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).

8. Before the installation of windows and doors, eaves, verges, bargeboards and chimneys, the following details shall be submitted to, and approved in writing by the Local Planning Authority.

- a) detailed drawings to show typical joinery details of the proposed windows and doors to include precise details of their external finish and cross-sectional drawings through the windows to illustrate the depth of reveals;

- b) detailed drawings to show typical eaves, verge and bargeboard details;
- c) details of the brick chimneys and the materials and finishes to be applied;
- d) details of the materials to be used for the window cills and headers;

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

Reason: To ensure an acceptable appearance of the development, and to safeguard the character and appearance of the Hythe Conservation Area in accordance with policies CS2 and CS3 of the Core Strategy and Policy DM1 of the Local Plan.

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

Reason: To ensure the appearance and setting of the development is satisfactory and to comply with Policy CS2 of the Core Strategy.

10. The development shall only take place in accordance with details of acoustic insulation measures that are to be incorporated into units 15, 16, 31 and 32: Details as specified in Laura Baker's E-Mail dated 18th October 2019 & Guardian Glass Acoustic Calculation dated 12th July 2018 & Acoustic Vent Detail dated 4th September 2017 approved on 1 November 2019 under Planning Permission 17/11646.

Reason: To ensure that potential noise impacts from the adjacent proposed retail service yard are reasonably minimised to safeguard residential amenities and to comply with Policy CS2 of the Core Strategy.

11. The Schwegler 1FF bat box installed on the site in accordance with the recommendation in the Phase 2 Bat Assessment by Ecosa dated November 2017 shall be retained on site until the completion of development.

Reason: To ensure the favourable conservation status of the common pipistrelle bats species at the site in accordance with Policy CS3 of the Core Strategy and Policy DM2 of the Local Plan.

12. The development hereby permitted shall take place in accordance with details of parking for mobility scooters within the site including details as shown on drawing no: CRL:10085HY:703 with roofing material to be Cabana Verde natural slate as specified in Laura Baker e-mail dated 18th

October 2019 as approved on 24 October 2019 under Planning Permission 17/11646. The spaces shown on the approved plans shall be provided prior to first occupation of the development and shall thereafter be retained and kept available for their intended purpose 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 Core Strategy.

13. Before the completion of development details of the biodiversity mitigation, compensation and enhancement measures that are to be incorporated into the development shall be submitted to and approved in writing by the Local Planning Authority in accordance with the recommendations of the Preliminary Ecological Appraisal by Ecosa dated November 2017 and the Phase 2 Bat Assessment by Ecosa dated November 2017. The measures shall include two artificial nest boxes and one 2FE Schwegler wall-mounted bat shelter. Development shall only proceed to completion in accordance with the approved details.

Reason: To safeguard biodiversity in accordance with Policy CS3 of the Core Strategy and Policy DM2 of the Local Plan.

14. No persons under sixty years of age and/or partner under fifty five years of age shall occupy any of the units hereby permitted with the exception of guests and/or wardens.

Reason: The level of on-site parking being provided would only be acceptable on the basis that the occupation of the proposed development is age restricted. If the development were not to be age restricted, there would be an unmet parking requirement that would be detrimental to highway safety and contrary to Policy CS24 of the Core Strategy.

Further Information:

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PLANNING COMMITTEE

February 2020

Item No: 3c and 3d

2 South Street
Hythe

19/10880 and 19/10949

Scale 1:1250

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

