

Application Number: 20/10979 Full Planning Permission

Site: MARINE HOUSE, HURST ROAD, MILFORD-ON-SEA SO41 0PY
Development: Change of use of first floor to two residential units; addition to roof to provide a further residential unit; associated external alterations
Applicant: The Marine
Agent: Jerry Davies Planning Consultancy
Target Date: 11/11/2020
Case Officer: Vivienne Baxter

1 SUMMARY OF THE MAIN ISSUES

The key issues are:

- 1) The principle of the development
- 2) Green Belt
- 3) Impact of the proposal on the character and appearance of the area
- 4) The effect on public highway including parking
- 5) The effect on the living conditions for neighbouring properties and future occupants
- 6) Habitat mitigation

This application is to be considered by Committee because it is contrary to policy

2 SITE DESCRIPTION

The site lies at the north-western end of Hurst Spit on the sea front in Milford on Sea. It contains a two storey detached building comprising café at ground floor level with a self contained residential unit, 5 further Bed and Breakfast rooms and an office at first floor level. Above this level is a roof terrace and WC accessed from or within an enclosed structure. Behind the parapet wall to the east is a dumb waiter. There is a garage/store building to the rear used in association with the cafe use.

The site is separated from the extent of the built up area of Milford on Sea by a former Council car park and open grassland. To the east is a current Council car park though which is accessed a Council depot (timber clad tiled roofed building), the bird hide at Sturt Pond and access to Hurst Spit and Sturt Pond.

Land surrounding the site, Council depot and car park is designated as the Sturt Pond Local Nature Reserve with the Solent and Southampton Water RAMSAR site and SPA, Solent Maritime SAC and the Hurst Castle and Lymington River Estuary SSSI around 86m from the western boundary of the site.

3 PROPOSED DEVELOPMENT

The proposal entails the change of use of the 2 Bed and Breakfast rooms at the front of the property to create 1 residential unit. This area was originally the restaurant part of the building. To the rear of the property, a change of use of 3 bed and breakfast rooms and office to provide further residential accommodation for the

existing residential unit is proposed. This would reflect the original residential unit previously occupied by the applicant. An additional floor at second floor level would provide a third residential unit. There are also associated elevational alterations including an external lift to access the second floor flat.

The ground floor cafe would be retained. There is an extant permission for the outbuilding to be used as a bed and breakfast accommodation (18/10341) although this has not been implemented and is used in association with the cafe use of the site.

4 PLANNING HISTORY

Proposal	Decision Date	Decision Description	Status	Appeal Description
18/10341 Use of outbuilding as bed & breakfast accommodation (Use Class C1); additional windows to rear and front	23/05/2018	Granted Subject to Conditions	Decided	
16/10676 Use first floor restaurant & office as 4 bed & breakfast rooms; window to west elevation	20/07/2016	Granted Subject to Conditions	Decided	
15/11783 Use of ground floor as bed & breakfast accommodation	15/02/2016	Granted Subject to Conditions	Decided	
13/10593 Change of use of the existing residential unit on the first floor to 3 bed & breakfast rooms & 1 self catering apartment	18/07/2013	Granted Subject to Conditions	Decided	
07/89326 Rebuild and extend former cafe and residential accommodation (Amendments to Planning Permission 73000)	29/03/2007	Granted Subject to Conditions	Decided	
04/81587 Erect new building as Cafe/Dwelling (demolish existing building)	17/08/2004	Refused	Appeal Decided	Appeal Dismissed
01/73000 Part Change of use of 1st floor to restaurant, extensions and alterations to existing cafe and residential accommodation	21/11/2001	Granted Subject to Conditions	Decided	
00/68183 Lawful development certificate (existing) for use as Cafe at ground floor with 2 flats at first floor with detached garage, toilet block and car park	23/03/2000	Withdrawn by Applicant	Withdrawn	
XX/LYB/13926 Extension to restaurant and alterations to toilet layout.	18/09/1972	Granted	Decided	

5 PLANNING POLICY AND GUIDANCE

Core Strategy (saved policy)

CS19: Tourism

Local Plan 2016-2036 Part 1: Planning Strategy

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

Policy ENV2: The South West Hampshire Green Belt

Policy ENV3: Design quality and local distinctiveness

Policy CCC2: Safe and sustainable travel

Policy IMPL1: Developer Contributions

Policy IMPL2: Development standards

Local Plan Part 2: Sites and Development Management 2014

DM2: Nature conservation, biodiversity and geodiversity

DM13: Tourism and visitor facilities

DM20: Residential development in the countryside

Supplementary Planning Guidance And Documents

SPD - Mitigation Strategy for European Sites

SPG - Milford-on-Sea Village Design Statement

SPD - Parking Standards

Relevant Legislation

Section 38 Development Plan

Planning and Compulsory Purchase Act 2004

National Planning Policy Framework

Relevant Advice

NPPF Ch.11 - Making effective use of land

NPPF Ch. 12: Achieving well designed places

NPPF Ch.13 - Protecting Green Belt land

NPPF Ch.15 - Conserving and enhancing the natural environment

6 PARISH / TOWN COUNCIL COMMENTS

Milford On Sea Parish Council

PAR1: We recommend PERMISSION but would accept the decision reached by the District Council's Officers under their delegated powers.

7 COUNCILLOR COMMENTS

No comments received

8 CONSULTEE COMMENTS

Drainage: No comment

Ecologist: No objection

Environment Agency: No comments received

9 REPRESENTATIONS RECEIVED

The following is a summary of the 5 representations received in support of the proposal.

- the proposal would enhance the appearance of the building
- the site has commercial limitations
- the existing ground floor tenants will not be affected
- previous concerns regarding noise from customers would be removed
- maintaining a cafe would benefit passers-by from Hurst Spit and Sturt Pond
- despite significant effort, the local environment has worked against the owner to sustain business through the winter months
- loss of tourist accommodation can be covered by other businesses in the village
- would result in additional trade for village shops and services
- building is not viable as wholly commercial

An objection raises the following points:

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- site previously contained a successful cafe
- current building is significantly larger
- creation of residential properties is unacceptable
- risk to migratory birds
- additional floor would be a blot on the landscape

10 PLANNING ASSESSMENT

Introduction

The current property is used as a cafe at ground floor level with a self contained residential unit, 5 individual rooms and an office used for bed and breakfast accommodation and its associated administration.

Efforts have been made in the past to try and maintain a viable commercial use for this property. Alterations have been made to the original cafe/restaurant and dwelling through a series of planning applications resulting in permission being granted for the change of use of the first floor flat to 3 Bed and Breakfast rooms, an office and a self-contained flat in association with the cafe/restaurant use and three further bed and breakfast rooms in place of the first floor restaurant.

Of the applications referred to above, it should be noted that 18/10341 remains extant and has not been implemented, 16/10676 was implemented in part, omitting the change of use of the office and 15/11783 was not implemented and has now lapsed.

Principle of Development

In principle the current proposal is contrary to a saved policy in the Core Strategy and two policies in the Local Plan Part 2. Policy DM20 resists new residential accommodation in the countryside which does not amount to limited residential extensions, agricultural workers dwellings, affordable housing or the replacement of an existing dwelling. Policy DM13 states that where hotel or guest house accommodation is not viable, the building should be used for an alternative leisure/visitor-based use which could continue to contribute to the local economy. In addition to this saved Policy CS19 protects tourism uses. It is noted that the first floor accommodation was in residential use until planning permission was granted in 2013 and that part is currently in residential use.

The current proposals would result in new residential development in the countryside which does not meet any of the exception criteria listed in Policy DM20 and the change of use of the first floor bed and breakfast accommodation back to residential use would also see a loss of tourism accommodation.

The applicant has attempted to maintain a variety of leisure/visitor-based uses on site from the original restaurant/cafe and subsequent conversion of the original flat into bed and breakfast accommodation which is in accordance with policy. However, in order to justify the current proposals as a departure from policy, the applicant has provided details of the trading difficulties encountered since the commercial elements of the building opened in 2010.

The applicant initially occupied the first floor residential accommodation until it became apparent that the commercial element of the building was sustaining significant losses. Rather than close the business down, permission was granted in 2013 to allow bed and breakfast accommodation at first floor level in order to support the remaining ground floor commercial element. Early in 2014 however, the building was severely damaged by a storm resulting in the temporary closure of the building in order to make the necessary and significant repairs. During this time, patrons found alternative destinations to go to and on reopening in June 2014, the owners began to experience difficulties attracting trade to the location which is relatively remote from the village centre.

The business operated for a further 17 months before the ground floor cafe/bar closed (December 2015) and the first floor remained open to facilitate the breakfasts associated with the tourism accommodation. A series of short term tenancies from early 2016 until 2019 prevented the business from being closed indefinitely. The visitor accommodation is a relatively new element on this particular site and the applicant has advised that it has never operated in excess of 55% capacity since the use commenced in 2013.

Having regard to this, it appears that the combination of the site's remote location relative to the village centre and the impact of seasonal weather makes it difficult to sustain the level of business anticipated with the original 2-storey cafe/restaurant or a combination of that use and approved letting accommodation.

At the beginning of 2020, a new lease for the cafe was agreed shortly before the national Covid-19 lockdown at the end of March although the operator has remained open where possible having regard to the government's restrictions on such facilities. A cafe has proved profitable in this location in the past and with the right support could be so again so as to maintain an element of commercial and tourism related activity on the site.

There has been residential accommodation in this location for many years, given the difficulties encountered by the numerous failed businesses in the past, consideration should also be given to what would make an appropriate and viable alternative use. This is an important material consideration. At present, the building includes a cafe and Bed and Breakfast accommodation. The Bed and Breakfast accommodation would be replaced by a permanent residential dwelling and additional accommodation for the existing, the occupants of which would contribute to the local economy. Were they to be purchased for holiday accommodation, the tourists would also contribute towards the local economy. The ground floor cafe would remain in either case and would continue to contribute to the economy. Given the location of the site and the amount of passing footfall it is considered that the café could be run as a viable business.

On balance, having regard to the history of the site and previous attempts to maintain some form of business/leisure use on site, it is considered that the provision of additional residential accommodation would allow the existing cafe use to be retained which would then continue to provide benefits to the local economy.

Having regard to the building as a whole continuing to contribute to the local economy together with the fact that the proposal is considered to be of an appropriate design, scale and appearance in keeping with the rural character of the area, it would not significantly impact upon the built development on the site within its setting nor would it be harmful in terms of traffic or other activity generated impacts it is considered that the proposal is justified with regard to policy DM20.

There are other matters to consider in this instance and they are dealt with below.

South West Hampshire Green Belt

New built form in the Green Belt is inappropriate unless it falls within one of the listed exceptions stated in paragraph 145 of the NPPF. Part c) of this paragraph states: *"the extension or alteration of a building provided that it does not result in disproportionate additions over and above the size of the original building;"*

The proposed development includes an addition to the building which would not be disproportionate to the original building and therefore is acceptable with respect to Green Belt Policy (NPPF Para 145 c)

With regard to the conversion of the first floor into a new flat and an enlarged flat, paragraph 146 d) of the NPPF states that the re-use of buildings is acceptable provided that the buildings are of permanent and substantial construction is not inappropriate in the Green Belt provided they preserve its openness and do not conflict with the purposes of including land within it.

In this respect, it is considered that the openness of the Green Belt is preserved as the change of use of the first floor and associated fenestration alterations would not be visually intrusive nor increase the size or visual impact to the building. It is also possible that the level of activity associated with the proposed use would be less than the lawful use as B&B accommodation. Furthermore the proposal would not conflict with any of the 5 purposes of including land within the Green Belt set out in Para 134 of the NPPF.

The proposal is therefore considered to be appropriate development in the Green Belt.

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

The proposed additional floor has been designed in keeping with the existing character of this Art Deco style building and is recessed between 2.8m and 5m from the front elevation and between 1.2m - 1.4m from the side elevations, reflecting the recessed nature of the first floor element which is set back some 2m from the ground floor. The height of the additional flat would not exceed the height of the existing stairwell to the roof terrace and given the existing parapet wall, 1.2m above the flat roof, this would have a limited impact on wider views of the building. The existing two roof structures which are dark in colour and at odds with the rest of the building would be removed.

Overall, whilst the additional built form would be seen from wider views, including from along Hurst Spit - at an elevated level to the building - it is not considered that the impact would be such that it would be harmful to the character or appearance of the area or that it would significantly impact on the openness of the Green Belt.

The proposed cladding would be in contrast with the current rendered building although subject to a condition relating to the final details of this (e.g. type and colour), the additional floor would appear recessive in this location.

To the rear, a small external lift structure is proposed in order to provide a level access to the new second floor accommodation in line with Visitable Standards required under Policy IMPL2. It would be finished in render, would be tucked into the recessed area adjacent to the stairwell and would have a limited impact on the character of the area. The current access to the roof terrace would become the entrance into the new flat and an additional door to access the remaining terrace area from the stairwell would be provided. In view of the proposed built form of the flat, this door would have a very limited impact on the building.

External alterations to the existing building are limited but include French Windows to the front elevation at first floor level which would reflect other openings on this elevation. The staircase leading from the first floor terrace to the roof terrace would be removed and this is considered to be a benefit of the scheme. At present, there is also a covered walkway to the front elevation of the property which is not indicated on either the existing or proposed elevations and its removal would further benefit the appearance of the building.

The area between the frontage building and store/garage is currently open and contains the refuse storage area for the property. It is proposed to provide a cover to part of this area in order to provide shelter for 2 vehicles parked at the rear. This canopy would be flat and coloured white to match the buildings and boundary wall. In visual terms, this would be screened by the Council's depot building from the east and from wider views to the west, would be seen with the backdrop of the boundary wall and depot building behind. It is not considered that the canopy would be either visually intrusive or harmful to the openness of the Green Belt.

Overall, the proposal offers some improvements to the current appearance of the building through the removal of less attractive features. The addition of the lift shaft and second floor accommodation have been designed so as to be recessive in nature and would have an acceptable impact on the character of the building and its environment and be appropriate development in the Green Belt as it would not affect its openness.

Highway safety, access and parking

The proposal includes 3 parking spaces which allows one space per dwelling but represents a shortfall of 2 spaces for the residential accommodation. However, the parking requirement for the current approved bed and breakfast use (including the 2018 approval which is extant but not implemented) is in excess of this level (8 spaces) and so the proposal would reduce the level of shortfall. It should be noted that there is time limited on street parking at this end of Hurst Road as well as two public pay and display car parks within a few minutes walk. Parking restrictions in the adjacent car park are between 6am and 6pm all year round whilst the larger, more formal car park to the west operates more seasonal restrictions.

The existing cafe use has never had any on-site parking although the land owner is able to utilise spaces for disabled customers in the adjoining Council car park. There is adequate space on site to provide cycle parking facilities for residents.

On balance, as the proposal would result in a need for fewer parking spaces than the current situation, it is considered that providing the site can accommodate one space per dwelling plus cycle parking facilities, no objections are raised in this respect.

Residential amenity

The site is sufficiently distant from existing residential properties not to give rise to unacceptable impacts such as overlooking or loss of light. Local residents have raised the point that concerns previously expressed in relation to the use of the roof terrace would be removed.

Whilst the building does not benefit from any private amenity space at ground floor level, each residential unit would benefit from extensive balcony areas overlooking the coast or Sturt Pond to provide amenity space. These areas would enable outdoor drying space.

Although the current use of the building above the café is bed and breakfast accommodation, it is considered that its use as permanent residential accommodation could be impacted upon by the existing use below. As such, it is considered appropriate to request details of the internal noise between the ground and first floor together with details of noise insulation if appropriate. The first floor flat to the rear is unlikely to be affected given the layout of the original building.

The site is able to accommodate areas for both commercial and domestic refuse storage and cycle parking for residents - the adjacent car park has cycle parking provision for users of the cafe.

Ecology

The site is situated adjacent to a sensitive Local Nature Reserve designation (LNR) and within 100m of other national designations. It would have no direct impact on the integrity of these areas and no objection has been received from the Ecologist.

Flood Risk

An area of less than 10m² covering the north east corner of the garage/store building falls within Flood Zone 2. There is an extant permission for this to be used as a letting room although at present, it would appear to be used in association with the cafe use of the site. The proposal does not include any specific works to this building and would not increase vulnerability on site. The Environment Agency were consulted on the proposal but have not responded.

Habitat Mitigation and off-site recreational impact

Habitat Mitigation

In accordance with the Conservation of Habitats and Species Regulations 2017 ('the Habitat Regulations') an Appropriate Assessment has been carried out as to whether granting permission would adversely affect the integrity of the New Forest and Solent Coast European sites, in view of that site's conservation objectives. The Assessment concludes that the proposed development would, in combination with other developments, have an adverse effect due to the recreational impacts on the European sites, but that such adverse impacts would be avoided if the applicant were to enter into a Section 106 legal agreement to secure a habitat mitigation contribution in accordance with the Council's Mitigation Strategy. In this case, the applicant has completed a Unilateral Undertaking, which secures the required habitat mitigation contribution.

Nitrate neutrality and impact on Solent SAC and SPAs

In accordance with the Conservation of Habitats and Species Regulations 2017 ('the Habitat Regulations') an Appropriate Assessment has been carried out as to whether granting permission which includes an element of new residential overnight accommodation would adversely affect the integrity of the New Forest and Solent Coast European sites, in view of that site's conservation objectives having regard to nitrogen levels in the River Solent catchment. The Assessment concludes that the proposed development would, in combination with other developments, have an adverse effect due to the impacts of additional nitrate loading on the River Solent catchment unless nitrate neutrality can be achieved, or adequate and effective mitigation is in place prior to any new dwelling being occupied. In accordance with the Council Position Statement agreed on 4th September 2019, these adverse impacts would be avoided if the planning permission were to be conditional upon the approval of proposals for the mitigation of that impact, such measures to be implemented prior to occupation of the new residential accommodation. These measures to include undertaking a water efficiency calculation together with a mitigation package to addressing the additional nutrient load imposed on protected European Sites by the development. A Grampian style condition has been agreed with the applicant and is attached to this consent.

Developer Contributions

As part of the development, the following has been secured via a Unilateral Undertaking:

- air quality monitoring
- habitat mitigation

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

Type	Proposed Floorspace (sq/m)	Existing Floorspace (sq/m)	Net Floorspace (sq/m)	Chargeable Floorspace (sq/m)	Rate	Total
Dwelling houses	324.5	324.5	0	0	£80/sqm	£0.00 *
Self Build (CIL Exempt)	206.23		206.23	206.23	£80/sqm	£21,194.10 *
Subtotal:	£21,194.10					
Relief:	£21,194.10					
Total Payable:	£0.00					

11 CONCLUSION

Although the proposal is in conflict with policy DM20 and DM13, it is considered that the combination of the justification provided, the limited impact of the built form on the character and appearance of the area and openness of the Green Belt, the continuing commercial use at ground floor level and reduction in the shortfall of parking spaces are such that approval is recommended.

As a departure to the development plan, the proposal has been advertised as such and a decision can be issued on its expiry on December 18th 2020.

12 OTHER CONSIDERATIONS

N/A

13 RECOMMENDATION

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

- i) the expiry of the advertising period
- ii) the receipt of no new material considerations and
- iii) the imposition of the conditions set out below

Proposed Conditions:

1. The development hereby permitted shall be begun before the expiration of three years from the date of this permission.

Reason: To comply with Section 91 of the Town and Country Planning Act 1990 as amended by Section 51 of the Planning and Compulsory Purchase Act 2004.

2. The development permitted shall be carried out in accordance with the following approved plans: P012, P013, P001, P002, P003, P004, P005, P006, P007, P008, P009, P010, P011, P014, P015.

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

4. The development hereby permitted shall not be occupied until the spaces shown on plan P013 for the parking of cars have been provided. The spaces shown on plan P013 for the parking of cars shall be retained and kept available for the parking of motor vehicles for the dwellings hereby approved at all times.

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

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

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

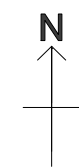
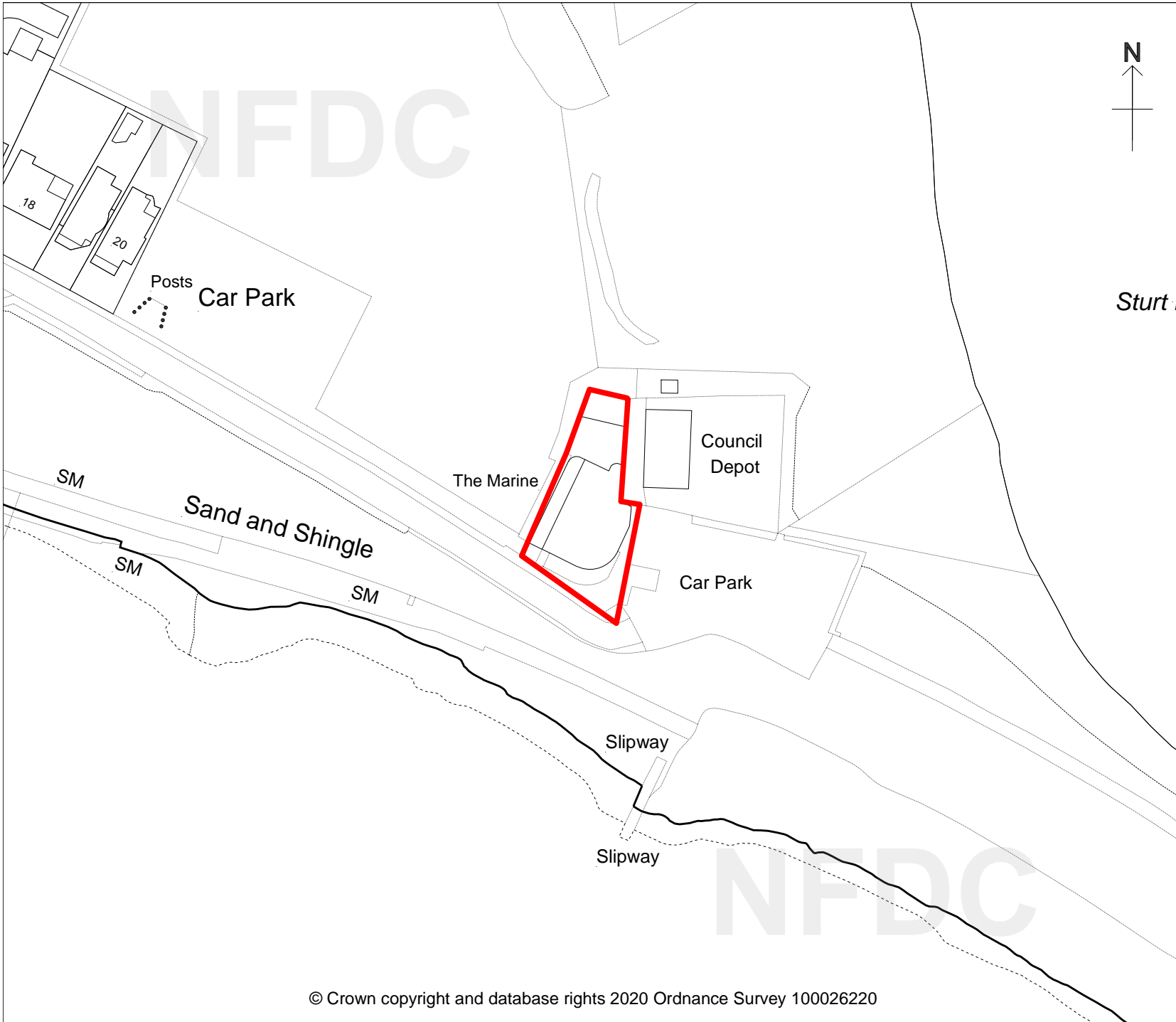
6. The first floor flat to the front of the building hereby approved shall not be occupied until a noise assessment is submitted considering the transmission of noise through the structure of the building from the ground floor cafe use to the residential flat above. Where it is found that the Noise Rating Curve (NR25 for bedroom, NR30 for living areas) is exceeded, mitigation measures shall be submitted for approval in writing by the Local Planning Authority and shall be installed, retained, and maintained in accordance with the approved scheme.

Reason: In the interests of the amenity of the adjoining neighbouring properties and in accordance with policy ENV3 of the Local Plan Part 1 (Planning Strategy).

Further Information:

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PLANNING COMMITTEE

December 2020

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20/10979

Scale 1:1250

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