

Application Number: 21/10486 Full Planning Permission

Site: THE OLD CINEMA, JUNCTION ROAD, TOTTON SO40 3BU

Development: Removal of part of existing roof structure and addition of a second floor extension to create 6 additional one-bedroom apartments; external staircase; fenestration alterations

Applicant: Mr Yeganegy

Agent: Studio Fifty Four

Target Date: 22/06/2021

Case Officer: Warren Simmonds

1 SUMMARY OF THE MAIN ISSUES

The key issues are:

- 1) Principle of Development
- 2) Design, site layout and impact on local character and appearance of area
- 3) Highway safety, access and parking
- 4) Residential amenity
- 5) Ecology
- 6) Habitat Mitigation

This application is to be considered by Committee because of the concerns expressed by Totton and Eling Town Council in respect of parking provision and amenity.

2 SITE DESCRIPTION

The Old Cinema is a detached former cinema which was subsequently converted to a factory in the late 1970's. The factory use ceased in the late 1990's and the building converted to flats. The building currently consists of 21 flats over 3 floors and has vehicular access from Junction Road and a limited area of hard surfaced outside space along the northern side and to the west (rear).

To the north of the site is the back of the Asda supermarket. To the west is the supermarket rear loading bay area. To the south west is a new development of flats under construction and to the south is the Fairways school. Terraced housing exists to the east on the opposite side of Junction Road.

3 PROPOSED DEVELOPMENT

The application proposes the removal of part of existing roof structure and addition of a second floor extension to create 6 additional one-bedroom apartments, together with an external staircase and associated alterations to fenestration.

4 PLANNING HISTORY

Proposal	Decision Date	Decision Description	Status	Appeal Description
20/10411 6 flats; associated hard and soft landscaping works; cycle store; window alterations to Old Cinema building	12/08/2020	Granted Subject to Conditions	Decided	
19/10302 New covered roof area over existing marshalling & service area; roller shutter doors to front and rear; remove existing security gates to yard	09/05/2019	Granted Subject to Conditions	Decided	
18/11666 Two storey building to comprise 4 flats; associated landscaping; cycle store; fenestration alterations to The Old Cinema building	03/12/2019	Granted Subject to Conditions	Decided	
18/10898 4 flats; associated landscaping; cycle store; fenestration alteration to The Old Cinema building	13/09/2018	Refused	Appeal Decided	Appeal Withdrawn
16/10533 Bin store	13/07/2016	Granted	Decided	
12/98892 1 block of 5 flats, parking alterations, bin & cycle stores	13/09/2012	Refused	Decided	
12/98417 Front extension; partial demolition of warehouse; alterations to service yard/access	05/12/2012	Granted Subject to Conditions	Decided	
09/95001 Front extension to provide increased sales area; mezzanine first floor; alterations to second entrance; first floor parking (car deck); service yard and access alterations	01/07/2011	Granted Subject to Conditions	Decided	

5 PLANNING POLICY AND GUIDANCE

Local Plan 2016-2036 Part 1: Planning Strategy

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

Policy ENV3: Design quality and local distinctiveness

Policy IMPL1: Developer Contributions

Policy IMPL2: Development standards

Policy STR1: Achieving Sustainable Development

Policy STR3: The strategy for locating new development

Local Plan Part 2: Sites and Development Management 2014

DM2: Nature conservation, biodiversity and geodiversity

Supplementary Planning Guidance And Documents

SPD - Parking Standards

Relevant Advice

NPPF Para.11: The presumption in favour of sustainable development.

NPPF Para.126: The creation of high quality, beautiful and sustainable buildings and places is fundamental to what the planning and development process should achieve. Good design is a key aspect of sustainable development, creates better places in which to live and work and helps make development acceptable to communities. Being clear about design expectations, and how these will be tested, is essential for achieving this. So too is effective engagement between applicants, communities, local planning authorities and other interests throughout the process.

NPPF Para.130: The National Planning Policy Framework 2021 Chapter 12 "Achieving well designed places" requires development to be sympathetic to local character and history, including the surrounding built environment and landscape setting and establish or maintain a strong sense of place, using the arrangement of streets, spaces, building types and materials to create attractive, welcoming and distinctive places to live, work and visit.

Constraints

Plan Area

Plan Policy Designations

Employment

Town Centre Boundary

Built-up Area

6 PARISH / TOWN COUNCIL COMMENTS

Totton & Eling Town Council

The existing building consists of 21 flats.

A new development of 6 flats has recently been granted planning permission (20/10411) directly to the south of the proposed site, with access onto Maynard Road, which has been approved as a car free development.

If this application is granted there is potential for 33 flats in very close proximity with limited parking.

Junction Road is mainly double yellow lines limiting on street parking.

The constant assumption that occupants will not have a car will lead to problems in the local area due to the lack of parking.

The site is in close proximity to the Asda service yard with 3 of the proposed flats directly over-looking it.

The potential over intensification of the site and lack of parking are the main areas of concern.

RECOMMENDATION REFUSAL

7 COUNCILLOR COMMENTS

No comments received

8 CONSULTEE COMMENTS

Comments have been received from the following consultees:

NFDC Building Control

Building control have no adverse comments to make at this stage.

Environmental Health Contaminated Land, Appletree Court

No concerns with this application.

Ecologist

No objections to proposals subject to the enhancement measures detailed being secured.

HCC Highways

Due to there being no changes to the existing access the Highway Authority raises no objection over this application. A trips analysis indicated that this proposed development would result in a small increase of trips which is considered acceptable in this instance.

However, it is noted that even though parking is a matter to be consider by New Forest District Council as the Local Planning Authority, the proposed parking provision is under current standards. Should the LPA have any concerns regarding overspill parking, it is requested to contact the Highway Authority for comment.

NFDC Environmental Health (Pollution), Appletree Court

No objection, subject to conditions.

Scotia Gas Networks (SGN)

No response received

9 REPRESENTATIONS RECEIVED

No third party representations were received.

10 PLANNING ASSESSMENT

Principle of Development

The application site is located within a town centre location within the settlement of Totton, with good access to a wide range of local services and facilities and with good public transport links to the wider community.

Within the local plan policies chapter 4 (Achieving sustainable development), policies STR3 (The strategy for locating new development) and STR4 (The settlement hierarchy) identify Totton as being within the most preferable tier of settlements (Towns) being the most sustainable locations for new residential, retail, leisure, cultural and business development, to improve their self-containment and to support and consolidate their local service offer.

Consequently the proposal for 6no. new one bed dwellings within the settlement is considered accordant in principle with local plan policy and national planning policy guidance.

Housing Land Supply

The Council cannot demonstrate a five-year supply of deliverable housing land and the Council Planning Policy team is currently engaging with developers in order to produce an updated five-year housing land supply figure that takes into account last year's delivery of new homes along with the latest information about sites coming forward. This will be published around the end of September 2021 and will be the formal position of the Council. However, it is anticipated that the updated housing land supply position will remain below the required 5 years.

In such circumstances the NPPF (para 11d) indicates that the 'tilted balance' is engaged, whereby in applying the presumption in favour of sustainable development even greater weight should be accorded in the overall planning balance to the provision of new housing (and affordable housing). Whilst the current proposal is for a very modest level of housing provision, the Council's current inability to demonstrate a five-year supply of deliverable housing remains a material consideration in the determination of the planning application.

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

The existing building is of generally rectangular form and of three story height. The second floor of the building as it currently exists is flat-roofed at the rear and contains four flats. The central and rear (eastern) part of the building at second floor level is covered by a dual pitched roof structure at a 'kilted' angle.

The application proposes the removal of the dual pitched roof element and the addition/continuation of the second floor under a flat roof to provide 6no. additional one bed flats. A revised spiral external fire escape is proposed to replace the existing external fire escape at the rear.

It is considered the resultant design of the proposed development would rationalise the existing second floor level by the removal of the partial dual pitched roof element and the continuation of the rectangular form of the front element of the second floor, to provide additional residential space.

In these respects, taken together with the proposed alterations being located at the rear of the building, the proposal is considered accordant with the design of the existing main building and would not have adverse impact(s) on the existing character of the surrounding area.

Highway safety, access and parking

The access and parking arrangements and provision for the application site remain the same as existing - no additional parking provision is proposed, and it is accepted that no additional parking provision is possible by reason of the limited amount of outside space available within the site.

As part of the Local Development Framework for its area, New Forest District Council adopted a revised Parking Standards Supplementary Planning Document (SPD) on 3 October 2012. The adopted SPD forms part of the Local Development Framework for New Forest District (outside the National Park) and outlines the recommended provision of cycle and vehicle parking for all new developments.

The NPPF (July 2021) at Para.107 provides guidance that, if setting local parking standards for residential and non-residential development, policies should take into account matters including:

- a) the accessibility of the development;
- b) the type, mix and use of development;
- c) the availability of and opportunities for public transport;

Whilst the proposal does not provide any additional off-street parking, the application is considered acceptable on balance nonetheless by reason of its sustainable town centre location and the benefits it would bring through the provision of additional new dwellings.

In respect of cycle parking, the applicant will accept a condition for 6 x cycle parking spaces to be provided as per the requirements of the SPD.

Residential amenity

The existing building is in residential use providing 21 flats, including 4no. 1 bed flats at second floor level. The proposed development would expand the existing residential use by the addition of 6no. 1 bed flats at second floor level in place of the existing dual pitched roof element at the rear.

The use of the second floor area for additional flats is considered a compatible and appropriate use in principle within the context of the existing use of the building and neighbouring/adjoining uses. The proposal would introduce new casement windows at second floor level within the north and south side facing elevations, and within the east facing rear elevation (facing towards the rear yard of Asda).

There are existing neighbouring dwellings to the south and the impact of new windows in terms of the potential for overlooking should be carefully considered. In this case, by reason of the existing ground, first and second floor windows serving flats within the south elevation of the Old Cinema building, it is considered the proposed additional flats would not result in an undue level of additional overlooking of those adjacent properties.

In respect of overshadowing impacts on adjoining properties, the existing dual pitched roof is significantly taller to the ridge than the proposed scheme for additional flats. Consequently it is considered the proposed development would not result in the undue overshadowing at adjacent properties.

In considering the amenity of future occupiers of the proposed flats, the Council's EHO has recommended conditions in respect of ensuring adequate noise mitigation (from the adjacent supermarket loading bay) to ensure adequate amenity safeguards.

Ecology

On Site Biodiversity and protected species:

The applicant has submitted a Preliminary Roost Appraisal (PRA) and Phase 2 Bat Emergence Survey Report for the site, in which a scheme of ecological enhancements to provide a biodiversity net gain (BNG) for the development is set out. The submitted PRA and scheme of BNG has been considered by the Council's Ecologist who raises no objection. The scheme of ecological enhancements can be made a Condition of the planning approval.

Habitats 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 would be required (prior to determination of this planning application) to enter into a Section 106 legal agreement or submit a unilateral undertaking, which secures the required habitat mitigation contributions as detailed in the section below.

Nitrate neutrality and impact on Solent SAC and SPAs

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. Natural England has now raised this with the Council and other Councils bordering the Solent catchment area and has raised objections to any new application which includes an element of new residential overnight accommodation unless nitrate neutrality can be achieved or adequate and effective mitigation is in place prior to any new dwelling being occupied.

To ensure that the proposal may proceed as sustainable development, there is a duty upon the local planning authority to ensure that sufficient mitigation is provided against any impacts which might arise upon the designated sites. The Council has a policy in its Local Plan, which seeks to safeguard against any adverse impact and that suitable mitigation is in place to avoid any harmful impact on sites of importance for nature conservation.

An Appropriate Assessment as required by Regulation 63 of the Habitat Regulations has been carried out, which concludes that the proposed project would have an adverse effect due to the additional nitrate load on the Solent catchment. As the Competent Authority, NFDC considers that there needs to be a mitigation project to provide this development with a nitrate budget.

For this reason, a Grampian style Condition can be imposed and a further Appropriate Assessment carried out on discharge of this condition.

Managing air quality

Since July 2020 the Council is required to ensure that impacts on international nature conservation sites are adequately mitigated in respect of traffic-related nitrogen air pollution (including NO_x, nitrogen deposition and ammonia). Given the uncertainties in present data, a contribution is required to undertake ongoing monitoring of the effects of traffic emissions on sensitive locations. A monitoring strategy will be implemented to provide the earliest possible indication that the forms of nitrogen pollution discussed (including ammonia concentrations) are beginning to affect vegetation, so that, if necessary, measures can be taken to mitigate the impact and prevent an adverse effect on the integrity of the SAC habitats from occurring.

A financial contribution is required (to be secured via a Section 106 legal agreement or unilateral undertaking) towards monitoring and, if necessary (based on future monitoring outcomes) managing or mitigating air quality effects within the New Forest SPA, SAC and Ramsar site.

Developer Contributions

As part of the development, the following will be secured via a Section 106 agreement or unilateral undertaking:

- Infrastructure contribution of £15,780
- Non-infrastructure contribution of £2,298
- Bird Aware Solent contribution of £2,166
- Air Quality monitoring contribution of £510

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
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Dwelling houses	351		351	351	£80/sqm	£35,964.00 *
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Subtotal:	£35,964.00
Relief:	£0.00
Total Payable:	£35,964.00

11 CONCLUSION

The proposed development constitutes a sustainable form of development, providing 6no. additional small dwellings within a town centre location with access to a good level of local services and facilities, together with good public transport links to the wider community.

The proposed development is considered acceptable in terms of access, scale and appearance. The proposal does not raise concerns in respect of impacts on the existing character of the surrounding area or upon neighbouring amenity.

Whilst the proposal does not provide any additional off-street parking, the application is considered acceptable nonetheless by reason of its sustainable town centre location and the benefits it would bring through the provision of additional new dwellings.

12 RECOMMENDATION

Delegated Authority be given to the Executive Head of Planning, Regeneration and Economy to **GRANT PERMISSION** subject to:

- i) the completion by the landowner of a planning obligation entered into by way of a Section 106 Agreement (or unilateral undertaking) to secure appropriate habitats mitigation (as detailed within the Committee report), and
- ii) 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:

1020 - BO1 BLOCK PLAN (dated March 2021)
1020 L01 LOCATION PLAN (dated March 2021)
1020 D10 REVISED PROPOSED ELEVATIONS (as submitted to the local planning authority on 6th July 2021)
1020 D09 REVISED PROPOSED ELEVATIONS (as submitted to the local planning authority on 6th July 2021)
1020 D08 PROPOSED SECOND FLOOR (dated March 2021)
1020 D07 PROPOSED FIRST FLOOR (dated March 2021)
1020 D06 PROPOSED GROUND FLOOR (dated March 2021)
Preliminary Roost Appraisal and Phase 2 Bat Emergence Survey Report (Peach Ecology, 6th July 2021)

Reason: To ensure satisfactory provision of the development.

3. Development shall be carried out in accordance with the enhancement measures (Mitigation and Enhancements) for biodiversity as set out in Section 5 of the submitted Preliminary Roost Appraisal and Phase 2 Bat Emergence Survey Report (Peach Ecology, 6th July 2021).

Reason: To provide an appropriate level of biodiversity net gain for the development.

4. Prior to the commencement of the development, a noise assessment shall be submitted considering noise from the nearby delivery yard in accordance with BS4142:2014+A1:2019. This assessment shall consider the Rating Level (L_{Ar},Tr) of the noise from the delivery noise against the background (LA₉₀) level at the boundary of the nearest residential properties. Where the rating level (L_{Ar},Tr) is found to exceed the background level, appropriate mitigation measures shall be submitted to, and agreed in writing by the local planning authority. The agreed scheme shall be installed prior to the occupation of the new flats and shall be retained and maintained in accordance with the approved scheme.

Reason: In the interests of amenity.

5. Prior to the commencement of the development, a scheme shall be submitted to ensure that internal and external noise levels for the residential accommodation shall not exceed the minimum standards stated in BS8233:2014, paragraphs 7.7.2 [table 4] and 7.7.3.2. The scheme shall be approved in writing by the Local Planning Authority and the approved scheme shall be implemented, maintained and retained.

Reason: In the interests of amenity.

6. Before first occupation of any of the new dwellings, details and the design of a cycle parking facility (to provide cycle parking for 6no. cycles) to serve the new flats shall be submitted to and approved in writing by the Local Planning Authority. Before the occupation of any of the flats hereby approved, the cycle parking facility shall be provided as approved and shall thereafter be retained, maintained and kept available for the occupants of the development(s) at all times.

Reason: To promote sustainable mode of travel.

7. The development hereby permitted shall not be occupied until:
- (i) 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; and
 - (ii) 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
 - (iii) The mitigation package shall include a timetable for implementation and measures for retention and maintenance of that mitigation package, which shall thereafter be implemented.

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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New Forest

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PLANNING COMMITTEE

August 2021

THE OLD CINEMA
JUNCTION ROAD
TOTTON, SO40 3BU
21/10486

Scale 1:1250

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

