

Application Number: 21/10286 Full Planning Permission

Site: 16 SALISBURY STREET, FORDINGBRIDGE SP6 1AF

Development: Use of the outside area from residential garden to cafe seating area; erection of 2no. single-storey outbuildings; demolition of existing structures; installation of air conditioning unit, decking and fencing. Alteration to route of existing pedestrian right of way from No.12 across site to Salisbury Street.

Applicant: Mr Cheal

Agent: Western Design Architects

Target Date: 07/06/2021

Case Officer: Jim Bennett

1 SUMMARY OF THE MAIN ISSUES

The key issues are:

1. Principle of Development
2. Impact upon Residential Amenity
3. Impact on the character and appearance of the area, including Fordingbridge Conservation Area
4. Impact on vitality and viability of town centre and on the local delivery of services, including local shops and pubs

This application is before committee as the recommendation is contrary to the view of Fordingbridge Town Council.

2 SITE DESCRIPTION

The site lies within the heart of the town centre, to the rear of Salisbury Street, where there is a mixture of shops, community and commercial uses including residential. The site lies within the built up area of Fordingbridge, Fordingbridge Town Centre, Fordingbridge Conservation Area and its Secondary Shopping Frontage. The site adjoins a Grade 2 listed building at Nos 18-20. The building sits along a high street of a typical historic town centre with traditional two and three storey building forms. The south east site boundary abuts the River Avon but the main building and most of the rear area is located outside the high risk flood zones (flood zones 2 and 3).

On the ground floor, there is a cafe with small children play area (Bubbles), with residential flats on the upper floors, which partly extends to the rear, the frontage building having been converted from a bank to a cafe/soft play facility following approval in 2016. When planning permission was granted for the commercial and residential uses, it was not clear how the land to the rear was intended to be used, although the application description and Design and Access Statement suggest the current use is as residential gardens.

3 PROPOSED DEVELOPMENT

This application is made retrospectively for operational development to facilitate the change of use of the outside area to cafe use (tables and chairs). The proposal seeks to expand the existing cafe and children's soft play facility (Bubbles) currently occupying the ground floor of the building to the outside area. The area has been furnished with heavy picnic benches, paving, decking, fencing, a small children's play area and works to provide cafe facilities to facilitate use of the rear curtilage as an outdoor area in association with the frontage premises, but use has yet to commence. It is proposed to utilise the outdoor area from 09:00 to 17:00 Monday to Saturday.

4 PLANNING HISTORY

Proposal	Decision Date	Decision Description
17/10912 Variation of Condition 2 of Planning Permission 16/11650 to allow amended plan numbers to relocate external staircase, infill high level side windows and new side door.	14/08/2017	Granted Subject to Conditions
16/11650 Use part of ground floor as cafe; use remaining part of building as 4 flats; front and rear dormers; glazed balcony; new windows & doors	22/05/2017	Granted Subject to Conditions

ENQ/ 19/20317/SSRC - In 2019 the applicant sought the Council's pre-application advice on the form of development now proposed. That advice concluded that the use of the outside space for cafe use and children's play area would have some impact on the amenity of nearby properties, but the impact was considered to be at a reasonable level taking into account the planning test related to noise impact. Use of the space will have other benefits such as maximising the use of the business leading to the benefits associated with economic, tourism and community which are all elements of government policy. The applicant was advised that whilst the balance was in favour of permission, careful consideration would need to be given to any comments received, following a formal submission. If significant objections arose, the applicant was advised that the Authority could grant a temporary planning permission for a year, to allow the Council to monitor the impact of the business use on the amenities of the neighbouring residential properties.

5 PLANNING POLICY AND GUIDANCE

Area based Planning Constraints and Planning Policies Relevant to the Proposal

Conservation Area
Adjacent to Listed Building
Built-up Area
Secondary Shopping Frontage
Town Centre Boundary
Flood Zone

Local Plan 2016-2036 Part 1: Planning Strategy

Policy ECON5: Retail development and other main town centre uses
Policy ECON6: Primary, secondary and local shopping frontages
Policy ENV3: Design quality and local distinctiveness

Local Plan Part 2 Sites and Development Management Development Plan Document

DM1: Heritage and Conservation
DM15: Secondary shopping frontages

Supplementary Planning Guidance/ Documents

SPG - Fordingbridge - A Conservation Area Appraisal
SPD - Fordingbridge Town Design Statement

Relevant Advice

National Planning Policy Framework

NPPF Chap 6: Building a strong competitive economy
NPPF Chap 7: Ensuring the vitality of town centres
NPPF Chap 12: Achieving well designed places
NPPF Chap: 14 Flood Risk
NPPF Chap 16: 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 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:

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

6 PARISH / TOWN COUNCIL COMMENTS

Fordingbridge Town Council - Recommend REFUSAL under PAR4. With both the Applicant and Residents making compelling statements for and against this application, Fordingbridge Town Council is left in the position that we remain unclear regarding the possible effects of noise, smell and loss of privacy. Further uncertainty exists surrounding the status of the location (garden) as to whether it has residential or commercial status. With these unknown entities and remaining concerns over noise, smell and privacy, we opt to recommend refusal.

7 COUNCILLOR COMMENTS

No comments received

8 CONSULTEE COMMENTS

Comments have been received from the following consultees:

Environment Agency - Following a site visit are satisfied that the structure can be left in situ and remove their previous objection. They advise the applicant that the development does not have a Flood Risk Activity Permit, and cannot be granted retrospectively and retain the right to change, remove or dismantle the decking if the need arises.

Environmental Health Section - The site is close to residential properties and shares a boundary on three sides. A number of properties surrounding the site also have line of sight into the proposed seating area from an elevated position. The proposed change of use would represent a significant change to the existing residential use and would inevitably alter the soundscape in the locality with hubbub from café users most likely being audible to those living nearby.

The proposed location of the play area (in the north-west corner of the site) is poor being below a residential balcony and should be re-located or removed from the application. Similarly, the proposed siting of an air conditioning unit adjacent to the play area has the potential to affect those living in very close proximity. From the information provided the unit will emit a sound power level (Lw) of 59dB when operating on the highest setting. Having done an approximate distance attenuation calculation this outlines that the resultant noise level at the nearest residential property is likely to be below the background noise level during the day, which is indicative of a low impact.

One of the outbuildings will be utilised to serve hot drinks and food. Provided any food preparation is low key (e.g. sandwiches, warming food in a microwave etc) no specific measures are necessary to control cooking odours, however if more comprehensive cooking is required then a dedicated extraction system and odour abatement equipment would be necessary. Consideration to granting a temporary permission in order to evaluate the level of impact upon the locality could be considered in the circumstances. Should permission be granted, conditions restricting the hours of use to those outlined within the application (09:00- 17:00hrs Monday to Saturday), restricting the type of cooking that could be undertaken are requested.

Community Safety Coordinator - No comments received

Natural England - No objections

NFDC Tree Officer - No objections. There is an Ash tree located to the eastern extent of the rear. The tree has a reasonable level of visual amenity as it can be seen from the nearby public bridge. Being Ash it has a limited future long term retention prospects due to prevalence of Ash dieback disease it would not be deemed appropriate to apply further protection through a Tree Preservation Order. The existing area around the tree is paved and raised it is therefore unlikely there will be any significant impact on the tree with raised decking above this level as detailed in the submitted plans.

NFDC Ecologist - No appreciable objection in terms of ecology, the works already having been completed. A review of historic aerial imagery suggests the site was formally much greener and vegetated. As such, a condition for providing landscaping of value in ecology terms, for example to pollinators is suggested. This could be in the form of climbing vegetation, planters, beds etc with details to be approved. The application references discrete lighting on timber posts approximately 1m in height around the edge of the seating area. It should be established if there is any lighting adjacent the river corridor. The decked area adjacent the river should be left unlit to avoid potential impacts on commuting and foraging bats.

9 REPRESENTATIONS RECEIVED

The following is a summary of the representations received.

For: 78

- The addition of a tea room in this location on the riverbank in Fordingbridge will be an added advantage to the town and its businesses.
- The proposal echoes traits of the past when Fordingbridge was a Regatta town and had several tea rooms along the riverbank.
- The town has limited outside space apart from a few pubs
- Would be a community asset and meeting place
- The proposal will help the viability of the existing business
- Would create appealing play space
- Outdoor space is needed during/following pandemic
- The site is far removed from its previously derelict state, which encouraged anti-social behaviour.
- There is sufficient parking in the central car park and a zebra crossing nearby, promoting sustainable and disabled access to an area to enjoy nature.

Against: 18

- Number 16 Salisbury Street has already advertised the eating/playground on a shop front, even though they have only just applied for permission.
- The site has already been used on two occasions for large gatherings
- The retrospective nature of the application is criticised
- Noise and disturbance caused by use of the site for the proposed purpose.
- There are better places in the town to have such a business.
- Out of keeping with the town and Conservation Area and heritage assets
- Land level has been raised, particularly in relation to the decked area.
- Loss of privacy
- All of the neighbours next to the cafe are residential, it is unfair on all residents living around this cafe to have this inflicted on us.
- The use will need to be supervised by staff.
- Loss of security for adjoining residents
- The application mentions two outbuildings, but three have been constructed, the largest of which is a commercial kitchen, meaning neighbouring residents will have to endure odours from cooking.
- Lack of parking and loading facilities
- Traffic generation
- In view of the level of support received, it appears that the applicant is attempting to win a popularity competition.
- Dangerous child location near river
- Lack of neighbour notification
- Use of the passageway between no.16 and no. 18 as access to the proposed commercial garden is objected to. An alternative access through the cafe is suggested.
- The proposed planting of laurels raises queries in respect of overbearing impact, light loss and invasiveness
- The proposed planting does not address all boundaries
- The decking stands 1.7m above the height of neighbouring gardens providing a direct line of sight into gardens. As it stands, it is absolutely
- The decking area should be removed
- The type of food to be prepared on site is queried in relation to odour nuisance
- Litter and vermin issues
- Flood risk
- Ecological harm
- Misleading information within application

10 PLANNING ASSESSMENT

Principle of Development

The application site lies within Fordingbridge's built-up area and Town Centre, where there is a presumption in favour of new development of the type proposed. However, the benefits of the proposal must be weighed against the potential harm caused, which is examined in the following sections, at the end of which a conclusion on the planning balance is reached.

Impact upon Residential amenity

Policy ENV3 states that new development shall not have unacceptable impacts upon residential amenity of existing and future occupiers, in terms of visual intrusion, overbearing impact, overlooking, shading, noise or light pollution.

The main issue is the effect of use of the external area on the living conditions of the occupiers of surrounding residential properties, which could be disruptive in terms of how it is operated and the likely level of disturbance caused to neighbouring occupiers. The proposed use of the outside area would result in intensified use of the site impact than use as residential gardens. The outdoor area could be a potential source of noise to noise sensitive receptors, by virtue of the limited degree of separation to surrounding residential properties and raised levels and these concerns are reflected in the comments of notified parties.

The Environmental Health Section acknowledge the close relationship between the site and adjoining residential curtilages, that the proposal may alter the soundscape in the locality. Consequently, they recommend a temporary permission in order to evaluate the level of impact upon the locality, in addition to conditions restricting the hours of use to those applied for (09:00- 17:00hrs Monday to Saturday). They do not consider that any specific measures are necessary to control cooking odours, due to the low key nature of food preparation proposed, subject to a condition restricting the type of cooking that could be undertaken. The proposed air conditioning unit has the potential to affect those living in very close proximity, but from the information provided noise generated is likely to be below the background noise level during the day, which is indicative of a low impact.

The applicant has provided solid, fixed seating which would lower noise impacts of furniture being moved around and this is considered a suitable option. The seating capacity of the outdoor area is therefore limited to the 12 no. solid timber benches in situ on site, in order to control the intensity of use and associated level of noise.

It is intended to utilise the larger outbuilding indicated on the plan as a kitchen/servery for the tea garden, indeed it has already been fitted out for such a use, although not operated recently. Staff operating the servery will essentially supervise the outdoor area, as would be the case for any tea garden. Staff will not supervise the site as a play area, that use having been deleted from the scheme. While children utilising the play area would have been supervised by parents visiting the facility, following comments about the potential for noise from the play area, it has been deleted from the scheme in the interests of adjoining amenity, the primary purpose of the use sought being as an outdoor tea garden.

Concern is raised that the land level has been raised, particularly in relation to the decked area. The latticework fencing installed on the north eastern boundary of the site has been installed at 1.6m in height, which allows views into adjoining curtilages. Consequently the applicant has been requested to increase the height of the fencing to 1.8m as well as its extent to the south east to prevent intervisibility. A

planting scheme has also been requested to supplement this boundary, likely to include climbing species in raised planters, which will also enhance visual amenity and ecology.

While use of the passageway between no.16 and no. 18 as access to the proposed commercial garden is objected to, there is no reason to suggest it will be unacceptable. The temporary permission will allow time to assess the impacts of the pedestrian access.

The proposed change of use as an outdoor eating area, for a limited period of one year and subject to the conditions outlined below, would not have direct impacts upon adjoining occupiers in respect of noise, loss of privacy or overbearing impact, in accordance with Policy ENV3 of the Local Plan Part 1.

Impact on the character and appearance of the area, including Fordingbridge Conservation Area

The impact of the proposal on the character and appearance of the Fordingbridge Conservation Area and the public realm need to be considered under the provisions of Policies ENV3 and DM1.

The built form of the proposal consists of two timber outbuildings, fencing, decking, benches and natural stone paving. The outbuildings are modest in scale and their appearance is typical of outbuildings found in domestic curtilages and in the locality. The decking is a more visible feature, particularly on the river bank, but is not obtrusive. The implemented fencing is of reasonable quality and coupled with appropriate boundary planting is acceptable, as are the benches and stone paving. The applicant has been requested to submit amended plans of the fencing to raise its height and incorporate climbing plants in the interests of visual amenity, privacy and ecological enhancement.

It is not considered that the operational development causes significant harm to the character and appearance of the Fordingbridge Conservation Area. Similarly use of the land for the proposed purpose would cause no harm to visual amenity in accordance with the provisions of Policy DM1 of the Local Plan Part 2 (Sites and Development Management DPD) 2014, Policy ENV3 of the NFDC Local Plan Part 1 2016-2036 and Paragraph 192 of the NPPF.

Impact on vitality and viability of town centre and on the local delivery of services, including local shops and pubs

Policy ECON05 places emphasis on retaining a good range of Main Town Centre Uses, where complementary to the retail function and would enhance the overall vitality of the centre. Paragraph 85 of the NPPF states that decisions should support the role that town centres play at the heart of local communities by taking a positive approach to their growth management and adoption. Moreover, the NPPF highlights the importance of meeting anticipated needs for retail, leisure, office and other main town centres uses. The emphasis of these policies is to ensure that the commercial vitality and function of the town centre and local shopping frontages is retained and where appropriate enhanced.

The development has not yet been operational, save for a handful on one-off events, and is promoted as providing a significant benefit to the continued operation of the existing cafe/soft play centre. The applicant states that in order for the existing cafe and soft play centre to survive, the business needs to expand to the outside space, particularly in light of the pandemic, where outdoor eating space is proving vital for such businesses.

The role of the town centre is important in local and national policies in delivering sustainable development. The area to the rear of the site is entirely within the defined Town Centre boundary, where a presumption in favour of commercial uses exists. While the proposal has a close relationship to the rear curtilages of residential properties, it is considered that the adverse impacts on adjoining occupiers can be addressed by the proposed alterations to the implemented scheme and by the conditions proposed. Accordingly, considerable weight should be attached to the overall benefits the use of the outside area would bring to the town.

Overall, it is felt that what is proposed would enhance the vitality and viability of the Town Centre, Primary Shopping Frontage and Area, in accordance with Policies ECON05 and ECON06 of the Local Plan Part 1 and Paragraph 85 of the NPPF.

Impact on highway safety, including matters relevant to car parking and loading

No off-street parking or loading space is provided for the proposal. However, as a proposal within a sustainable town centre location in close proximity to shops, public services, public car parks and proposing a use that is broadly acceptable in a town centre location, a refusal on the basis of a lack of parking cannot be substantiated.

It may be the case that the proposed tea garden would be a destination in its own right, which may result in a limited amount of additional traffic generation. However, the site is within a defined town centre, with ready access to public car parks, where the type of use proposed and associated traffic impacts are acceptable.

Flood Risk and Drainage

Much of the application site lies within Flood Zones 2 and 3, which is land defined by the Planning Practice Guidance for the National Planning Policy Framework (NPPF) for Flood Risk and Coastal Change as having a high and medium probability of flooding. The site is at risk of fluvial flooding from the immediately adjoining River Avon. While the footprint of the proposal is within the indicative flood zones, the type of development proposed (paving, fencing, decking and outbuildings) is not considered to be the most vulnerable development to flood risk and unlikely to increase the risk of flooding elsewhere.

The Environment Agency raise no objections to the proposal, but point out that the development does not have a Flood Risk Activity Permit, and cannot be granted retrospectively and so retain the right to change, remove or dismantle the decking if the need arises.

Impact on ecology and in particular protected species

From 7th July 2020, the Council has sought to secure the achievement of Biodiversity Net Gain (BNG) as a requirement of planning permission for most forms of new development. The Council's Ecologist raises no objections to the proposed development, subject to a condition for providing landscaping of value in ecology terms. Clarification is sought on whether there is any lighting adjacent the river corridor. The decked area adjacent the river should be left unlit to avoid potential impacts on commuting and foraging bats. Lighting has been installed on the site around the peripheries and is in situ on the decking, but 6m away from the river. It should, however be noted that the proposed hours of operation (09:00- 17:00hrs Monday to Saturday) dictate that lighting should not impact protected species. The hours of operation will be controlled by condition.

Other Matters

With regard to the comments of notified parties not addressed above, the retrospective nature of the application is criticised. It is unfortunate the applicant has carried out works prior to submitting a formal application, but is not sufficient justification in isolation to substantiate a reason for refusal. The proposal must be considered on its own merits and in light of material planning considerations. Similarly the inference that no. 16 Salisbury Street has already advertised the eating/playground and that the site has already been used on occasion for gatherings prior to permission being granted cannot substantiate a reason for refusal.

It is not anticipated that use of the land as a cafe seating area between the hours of 9-5 Monday to Saturday would result in a loss of security for adjoining residents.

It is clear from the level of support received that existing users of Bubbles have got behind the scheme and notified parties suggest the applicant has encouraged existing users to lend their support. The applicant has not erred in this respect and this cannot substantiate a reason for refusal.

It is suggested that the location is dangerous for children close to the river, but roll top fencing at 1m in height reasonably prevents direct access to the river.

With regard to comment over a lack of neighbour notification, a site notice was posted for the requisite period, adjoining neighbours notified by letter and the application advertised in the Hampshire Independent.

There is no reason to suggest that the existing operator of the premises would operate the tea garden in a manner that would give rise to increased litter and vermin issues. As a commercial premises selling food and drink the premises would be inspected by the Council's Environmental Health Section.

11 CONCLUSION

It is clear that the use of the outside space for cafe use will have some impact on the amenity of nearby properties. This impact is considered to be at a reasonable level taking into account the planning test related to noise impact. The additional use of the space will have other benefits such as maximising the use of the business leading to the benefits associated with economic, tourism and community which are all elements of government policy. The proposal causes no harm to the character and appearance of the area or Fordingbridge Conservation Area nor to adjoining amenity, while delivering tangible benefits to the vitality and viability of Fordingbridge Town Centre. Accordingly it is recommended for approval for a temporary period.

12 RECOMMENDATION

Grant Temporary Permission

Proposed Conditions:

1. The use shall cease on or before the expiry of one year from the date of this consent and the land restored to a condition which has first been agreed in writing by the Local Planning Authority.

Reason: In order to evaluate the level of impact of the proposed change of use upon the amenity of adjoining residents in accordance with Policy ENV3 of the Local Plan Part 1

2. The development shall be carried out/ retained in full accordance with the following approved plans: drawing no. 001 Site Location and Block Plans, drawing no. 002 Existing Site Plan, drawing no. 003 Rev B Proposed Site Plan, drawing no. 004 Existing Outbuilding, drawing no. 005 Proposed Outbuilding 1, drawing no. 006 rev A Proposed Outbuilding 2, drawing no. 007 Proposed Fencing and the Planning and Heritage Statement submitted by WDA.

Reason: To ensure satisfactory provision of the development.

3. No activity shall take place on the site in connection with the approved use other than between the hours of 09:00- 17:00hrs Monday to Saturday.

Reason: To safeguard the amenities of nearby residential properties in accordance with Policy ENV3 of the Local Plan for the New Forest District outside the National Park (Core Strategy).

4. No cooking processes shall be undertaken other than the preparation of hot and cold beverages, the heating of food in a microwave oven and or a sandwich/ panini type toaster and/ or a waffle iron. No other cooking equipment for hot food including frying or grilling shall be used without the prior written approval of the Local Planning Authority.

Reason: To minimise noise and odour nuisance, in the interests of environmental health and to comply with Policy ENV3 of the Local Plan Part 1 Planning Strategy for the New Forest outside of the National Park.

5. The outdoor area shall not be used for any private or public entertainment purposes including the use of amplified music, recorded background music, ancillary or otherwise.

Reason: To protect the amenity of adjoining residential occupiers in accordance with Policy ENV3 of the Local Plan Part 1 (2016-2036)

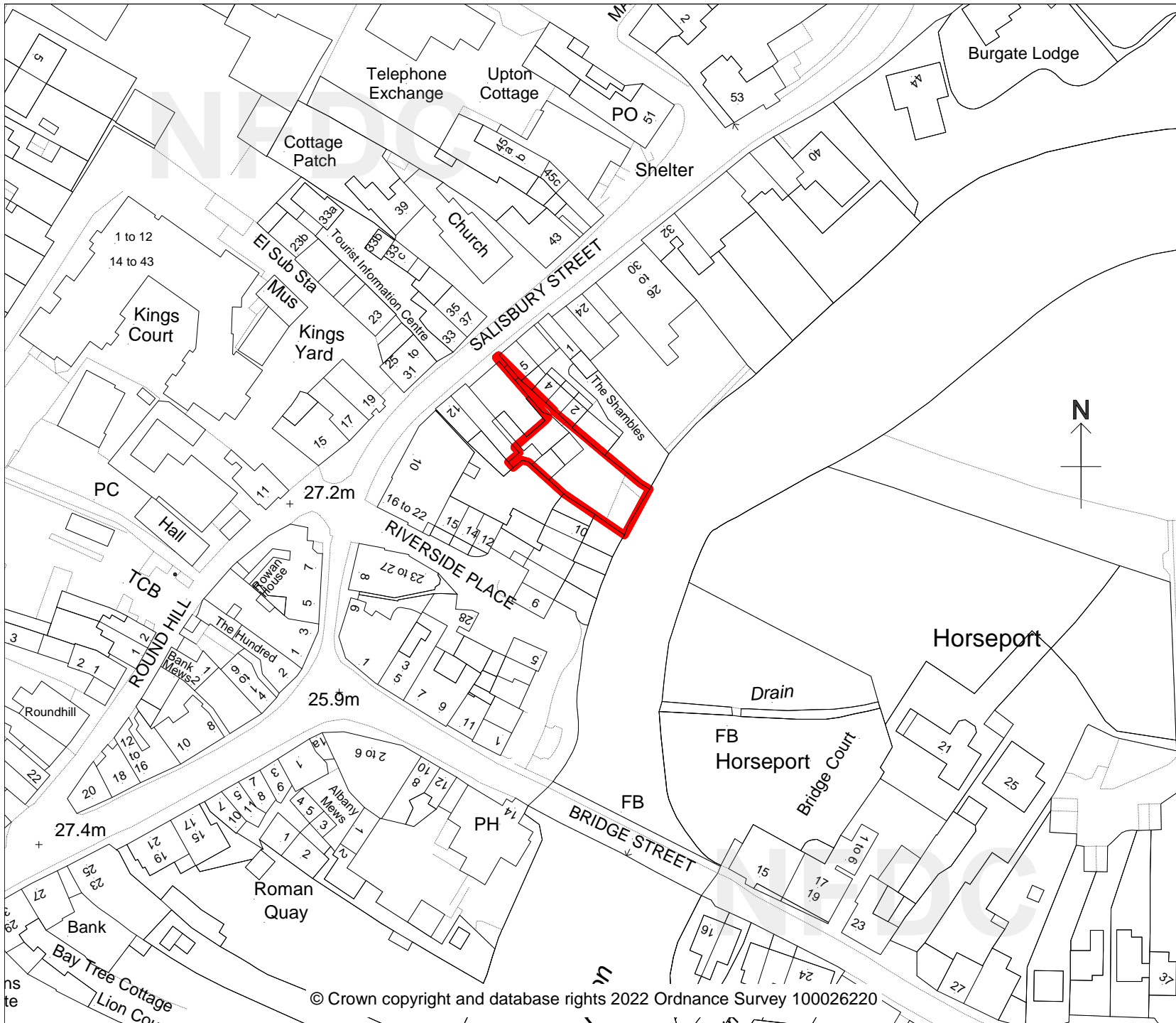
6. External seating on the site shall be limited to 12 no. picnic benches and no other external seating shall be provided without the prior written approval of the Local Planning Authority.

Reason: To minimise noise nuisance, in the interests of adjoining amenity and to comply with Policy ENV3 of the Local Plan Part 1 Planning Strategy for the New Forest outside of the National Park.

Further Information:

Jim Bennett

Telephone: 023 8028 5443



New Forest

DISTRICT COUNCIL

Tel: 023 8028 5000
www.newforest.gov.uk

Claire Upton-Brown
 Executive Head of Planning,
 Regeneration and Economy
 New Forest District Council
 Appletree Court
 Lyndhurst
 SO43 7PA

PLANNING COMMITTEE

March 2022

16 Salisbury Street
 Fordingbridge
 SP6 1AF
 21/10286

Scale 1:1250

N.B. If printing this plan from
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 scale.