

Application Number: 22/10424 Full Planning Permission

Site: 15-17 HIGH STREET, HYTHE SO45 6AG

Development: Two-storey building comprising of shops, two flats and a garage
(Retrospective)

Applicant: Mr Ghahramanizadi

Agent: KM Planning

Target Date: 20/06/2022

Case Officer: Warren Simmonds

1 SUMMARY OF THE MAIN ISSUES

The key issues are:

- 1) Principle of the proposed development
- 2) Design, site layout and impact on local character and appearance of area and Conservation area
- 3) Highway safety, access and parking
- 4) Residential amenity
- 5) Ecology

This application is to be considered by Committee because of the PAR4 recommendation of refusal received from Hythe & Dibden Parish Council.

2 SITE DESCRIPTION

The application relates to numbers 15-17 High Street in Hythe town centre.

The building extends the full depth of the plot with the rear element (known as 1 Waters Meet) fronting onto and having access from The Promenade.

The site lies within the designated Conservation Area of Hythe and is situated within the town centre in the main primary shopping frontage.

The adjacent building 'The Old Chandlery' situated on the eastern side of Waters Meet is a Grade II Listed Building. There are also GII listed buildings on the opposite side of the High Street at numbers 6, 6a and 6b.

The adjacent pair of semi-detached cottages fronting onto The Promenade 'Hythe View' and 'Pierview House' are identified as important unlisted buildings within the Hythe Conservation Area Appraisal.

3 PROPOSED DEVELOPMENT

The application is retrospective and seeks to regularise the 'as built' development to the rear of numbers 15-17 High Street which includes a two-storey building to accommodate shops and residential garage at ground floor and two dwellings at first floor.

4 PLANNING HISTORY

Proposal	Decision Date	Decision Description	Status	Appeal Description
06/88361 Two-storey extension to provide shops, 1 flat and garage	21/09/2006	Was Lawful	Decided	
06/86903 Erect two-storey building of shops; store; flat & garage (Renewal of Planning Permission 71210)	10/03/2006	Refused	Decided	
05/84736 Alterations to shopfront	30/06/2005	Granted Subject to Conditions	Decided	
03/78190 3 Shops and restaurant	19/08/2003	Refused	Appeal Decided	Appeal Dismissed
03/77550 Use of ground floor as betting office	08/05/2003	Refused	Decided	
01/71210 Extension of time limit on PP59465 (Erect 2 storey building of shops, store, flat & garage)	30/03/2001	Granted Subject to Conditions	Decided	
96/NFDC/59465 2 storey bldg inc'g shops/store/flat/gge-extnd time 40335:	13/11/1996	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 HOU1: Housing type, size, tenure and choice

Policy IMPL1: Developer Contributions

Policy IMPL2: Development standards

Policy ECON6: Primary, secondary and local shopping frontages

Policy STR1: Achieving Sustainable Development

Policy STR3: The strategy for locating new development

Local Plan Part 2: Sites and Development Management 2014

DM1: Heritage and Conservation

Supplementary Planning Guidance And Documents

SPG - Hythe - A Conservation Area Appraisal

SPD - Parking Standards

Ecology and Biodiversity Net Gain - Interim Advice and Information Note (July 2021)

Relevant Advice

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

NFSFRA Coastal
Plan Area
Flood Zone
Conservation Area: Hythe Conservation Area

Plan Policy Designations

Built-up Area
Primary Shopping Area
Town Centre Boundary

6 PARISH COUNCIL COMMENTS

Hythe & Dibden Parish Council

Comment: PAR 4: Recommend REFUSAL. The Committee objects to this application for the following reasons:

- 1) The Committee is disappointed that no action was taken to monitor the construction of this development and ensure that it was built according to the agreed specifications. The Committee requests that works are undertaken so that the development matches the proposal that was originally approved by the local authority.
- 2) The current development is out of keeping with the Conservation Area, which is contrary to the NFDC Local Plan and the Hythe and Dibden Neighbourhood Development Plan.
- 3) It is unneighbourly by way of its design and bulk.
- 4) It is overbearing and encroaches on neighbouring properties.
- 5) The current parking arrangements impact on highway safety.
- 6) There are concerns about the location of the area used for storing refuse.

7 COUNCILLOR COMMENTS

No comments received

8 CONSULTEE COMMENTS

Comments have been received from the following consultees:

Environment Agency

As the development does not result in an increase in flood risk, we have no objection to the proposal as submitted.

NFDC Conservation

No objection:

'While there is a small degree of harm relation to details and some materials this sits at a much lower end of the harm spectrum.'

9 REPRESENTATIONS RECEIVED

The following is a summary of the representations received.

For: 14

Against: 7

Grounds for objecting to the proposal include overdevelopment, additional traffic generated, refuse bin storage inadequate, design out of keeping, lack of parking provision, loss of private sea view, excess height and proximity too close to adjacent building.

Grounds for supporting the application included bringing employment and an appropriate town centre use, the building is attractive and the path to the Promenade is useful, parking does not cause any problems, refuse storage arrangements work well and don't cause any problems, additional residential accommodation is needed and welcomed, building does not look out of place, the footpath is always clean and tidy.

10 PLANNING ASSESSMENT

Principle of Development

The application relates to numbers 15-17 High Street in Hythe town centre.

The building extends the full depth of the plot with the rear element (known as 1 Waters Meet) fronting onto and having access from The Promenade.

The site lies within the designated Conservation Area of Hythe and is situated within the town centre in the main primary shopping frontage.

The adjacent building 'The Old Chandlery' situated on the eastern side of Waters Meet is a Grade II Listed Building. There are also GII listed buildings on the opposite side of the High Street at numbers 6, 6a and 6b.

The adjacent pair of semi-detached cottages fronting onto The Promenade 'Hythe View' and 'Pierview House' are identified as important unlisted buildings within the Hythe Conservation Area Appraisal.

The application is retrospective and seeks to regularise the 'as built' development to the rear of numbers 15-17 High Street which includes a two-storey building to accommodate shops and residential garage at ground floor and two dwellings at first floor.

The planning history of the site

Planning permission was originally granted under reference NFDC/88/40335 (Erect 2 Storey Bldg of Shops, Store, & Flat & Garage) for the re-development of the site which included the erection of a two-storey building comprising of shops, flat and a garage.

A further planning permission (extension of time) was granted for the development under planning reference 96/NFDC/59465.

In 2006 a Certificate of Lawfulness (planning reference 06/88361) was granted by the Council confirming that commencement of the earlier permissions had taken place and as such it formed an extant consent.

In 2019 an application to discharge the planning conditions was approved and building works recommenced in relation to this extant consent.

The 'as-built' scheme compared to the previously approved scheme

This application is retrospective and seeks to regularise the 'as built' development to the rear of numbers 15-17 High Street which includes a two-storey building to accommodate shops and residential garage at ground floor and two dwellings at first floor.

The 'as-built' proposal differs from the previously approved scheme in the following respects:

- Minor fenestration amendments to the side elevation fronting the access way.
- Change to the eaves height (from approx. 4.2m to approx. 4.7m) and roof height (from approx. 6.85, to varying height between approx. 7.35m at the rear to approx. 7.65m at the front towards the High Street end) and design where the two-storey building adjoins the rear of 15-17. It is understood the continuation of the roofline could not be implemented as the original approved plans did not depict the building heights accurately. The original approved plans showed the rear of 15-17 to be the same height as the proposed two-storey building, but this section actually has a lower roofline than that of the development approved. As a result, the roofline could not be continued.
- A change to the roof design and bay window detailing to the front elevation facing 'The Promenade'. This is also understood to be due to the inaccuracy of the original approved plans.
- Solar panels have been installed on the roof in order to comply with Building Regulations with regard to thermal efficiency.
- A reduction in floorspace serving the garage and corresponding enlargement of floorspace serving one of the retail units.
- The approved plans granted consent for one flat and a store above the shop at first floor level. The store above the shop has been converted into an additional flat.

The principle of the development of the site as previously approved has already been established (via the granting of planning consent). The matters for consideration for this current application are the consideration of the impacts and effects of the differences between the 'as-built' development and that previously approved.

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

The siting, layout and general form of the building are much as previously approved. The differences in the 'as-built' development now proposed generally amount to minor amendments to fenestration and external detailing and an increase in the height of the eaves and roof (by approx. 500cm) and the roof form over the building.

Considering the principle facing elevations facing onto High Street (south west) and The Promenade (north east), the appearance of the 'as-built' proposals are very similar to the previously approved consent. The main difference is that the roof form over the main linear extent of the building is higher, but from the 'human perspective' of views of the site from the High Street and The Promenade, these changes are not significantly visually evident.

In assessing the impact(s) of the proposal on the character of the surrounding area and designated Conservation area, the comments of the Conservation officer are an important consideration. They are as follows:

'I have now visited site and would make the following observations on the proposed building to the rear of 15 and 17 High Street.

- *This is a retrospective application due to certain elements of the extant structure not being built in accordance with the approved plans.*
- *I have viewed the site from both the rear and the front of the site and walked along the access route to the west of the range of buildings.*
- *In terms of general bulk, scale, massing and arrangement of buildings while there are some variations none if these are significant enough to cause any key concerns or impact on the conservation area.*
- *The key elevations to the rear and along the access route accord with the approved application aside from some smaller changes to detailing and the abutment with the older building to the High Street.*
- *The junction with the older building works better than the approved scheme as it breaks up a little more and leaves a bit of breathing space to the roofscape.*
- *The elements that let the scheme down are in the detailing in that windows, doors, and some of cladding elements are not carried out to the standard expected in a conservation area.*
- *The boxed soffits, the new staircase, plastic guttering etc. don't lend much quality to the proposal.*
- *Unfortunately these are smaller matters which in balancing up the proposal only create a small degree of harm to the conservation area.*
- *The addition of a flat unit within the scheme is welcomed as this adds living accommodation that adds to the vitality of Hythe centre.*

While there is a small degree of harm relation to details and some materials this sits at a much lower end of the harm spectrum.'

Taking into consideration the comments received from the Conservation officer, and taking into account the limited extent of the changes between the extent planning consent and the 'as-built' development now proposed, it is considered the proposal is acceptable in terms of its design, site layout and impact on the character of the locality and designated Conservation area.

Officers note that the addition of roof mounted solar PV panels could be undertaken on the building without the need for planning permission from the Council by virtue of the availability of permitted development rights under the provisions of Class J – *installation or alteration etc of solar equipment on non-domestic premises* of Part 14 (Renewable energy) of Schedule 2 to the Town and Country Planning (General Permitted Development) (England) Order 2015.

Highway safety, access and parking

The proposal, by reason of the amended internal layout of the building, has a reduction in parking provision from 4 (2 x 2 tandem) parking spaces to 2 parking spaces. This is a consequence of the increased retail area of the ground floor shop located towards the rear (north east) of the building.

At the same time, the additional 2 bed flat now proposed at first floor level would have a requirement for an additional 1.5 shared/communal parking spaces or 2 on-plot parking spaces. Similarly, in accordance with the Council's adopted Parking Standards SPD, the approved 2 bed dwelling (known as 1 Waters Meet) generates a requirement for 2 on-plot parking spaces (which it achieves).

Therefore on balance the proposed development 'as-built' generates a parking provision requirement of 3 shared/communal parking spaces or 4 on-plot parking spaces and it is deficient in meeting these requirements. However, the application site is located within the town centre whereby Principle PS1 of the Council's adopted Parking Standards For Residential and Non-Residential Development Supplementary Planning Document (SPD), whereby:

Residential development within the District should provide the recommended car parking standards as set out in Table 1 below, with the following exception:

- *In the main town Main Town Centre locations of Fordingbridge, Hythe Village, Lymington, New Milton, Ringwood and Totton, a reduced car parking provision will be acceptable subject to the site being well served by existing public and active modes of travel, and confirmation that factors influencing parking pressure set out in Annex 2 will not be exacerbated.*
- *Proposals in these Main Town Centre locations will be assessed on a site by site basis with account taken of the layout and design of the development and where relevant can also take into account future public and active travel projects, where there is sufficient certainty in their delivery*

As the additional 2 bed first floor flat is located within the Hythe Village centre, in an inherently sustainable location with access to a wide range of services, facilities and public transport, in this case it is considered a reduced level of car parking for the development can be considered acceptable.

Residential amenity

The siting, layout and general form of the building are much as previously approved. The differences in the 'as-built' development now proposed generally amount to minor amendments to fenestration and external detailing and an increase in the height of the eaves, height and roof form of the building.

No additional windows have been inserted at first floor above that approved by the extant consent. It should also be noted that there were no obscure glazing or other such conditions attached to the extant consent in relation to the first floor windows proposed. Consequently it is considered the development 'as-built' does not result in a greater loss of privacy to neighbouring properties.

Whilst the 'as-built' development has a taller eaves height and amended roof form over that previously approved, the increased height of the eaves is approximately 500cm over the extant consent and the ridge is increase from approx. 6.85m (extent scheme) to approx. 7.65. at the High Street end, reducing to approx. 7.35m at the Promenade end.

Notwithstanding concerns raised in third party representations and by the parish council, it is considered the amended height and roof form do not raise such issues with respect to neighbouring amenity as would justify a refusal of the application on amenity grounds.

Concerns have also been raised with respect to refuse bin storage and vehicle parking impeding the use of the permissive path from High Street to The Promenade (not a public right of way), however no such issues were noted by the case officer during his site visit and this matter has been further discounted by third parties who have made representations in support of the application.

Other concerns with respect to the proximity of the building to adjacent building(s) and issues relating to access for the maintenance of adjacent buildings would constitute a private, civil matter between landowners and would not be material to the determination of the planning application.

Ecology

Habitat Mitigation

a) Managing Recreational Impact

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 the adverse impacts would be avoided if the planning permission were to mitigate its impact in accordance with the Council's Mitigation Strategy or mitigation to at least an equivalent effect. In this case, an appropriate mitigation contribution could be secured through a S106 legal agreement or a Unilateral Undertaking.

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

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 have now raised this with the Council and other Councils bordering the Solent catchment area and have 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 consider 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 NOx, 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 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. An appropriate contribution can be secured through a S106 legal agreement or a Unilateral Undertaking.

Biodiversity net gain

As 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 in accordance with Policy DM2.

A proportionate view should be taken for non-Major applications with regard to the need for any biodiversity enhancement on site. In this case the proposal, constituting an additional 2 bed flat at first floor level, with no outside space, is minor in size and impact so as not to warrant any such proposals.

Developer Contributions

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

- Infrastructure contribution of £3,770
- Non-infrastructure contribution of £589
- Bird Aware Solent contribution of £563
- Air quality monitoring contribution of £91

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	191	0	191	191	£80/sqm	£19,511.38 *
Shops	110		110	110	No charge	£0.00 *

Subtotal:	£19,511.38
Relief:	£0.00
Total Payable:	£19,511.38

11 CONCLUSION

The proposed development does not present adverse impacts with respect to the impact of the 'as-built' development on the character of the locality or existing character of the designated Conservation area or adjacent heritage assets.

The proposal would introduce a modest additional residential unit within a sustainable town centre location and would not have undue amenity impacts with respect to adjoining occupiers or uses.

By reason of the location of the application site in an inherently sustainable location with access to a wide range of services, facilities and public transport, it is considered in this case a reduced level of car parking for the development is acceptable.

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 contributions in respect of habitats mitigation and air quality monitoring (as set out in the Committee report); and
- ii) the imposition of the conditions set out below.

Proposed Conditions:

1. The development permitted shall accord with the following approved plans:

hhs sht 2 Rev. X Elevations
hhs sht 1 Rev. X Floor Plans
hhs sht 4 Rev. X Site Location & Block Plans
APPENDIX 1 - EXTANT PLANS

Reason: For the avoidance of doubt.

2. Within three calendar months of the granting of this consent, the applicant shall submit:
 - 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; and
 - 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) The mitigation package shall include a timetable for implementation and measures for retention and maintenance of that mitigation package, which shall thereafter be implemented within three months of the submission of (a) and (b) to the local planning authority.

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

Further Information:

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PLANNING COMMITTEE

July 2022

15-17 HIGH STREET
HYTHE
SO45 6AG
22/10424

Scale 1:1250

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scale.

