

Application Number: 21/11633 Full Planning Permission

Site: AMPRESS PARK, AMPRESS LANE, LYMINGTON SO41 8LW
Development: Use of Buildings A, B and C (Granted by Permission 10/95414) from B1 and B2 use (restricted by Section 106 Agreement dated 12/06/12 in relation to land at Bridge Road, Lymington and land at Ampress Park) to uses within classes B2, B8 & E.
Applicant: Redrow Homes Limited
Agent: Ken Parke Planning Consultants
Target Date: 01/02/2022
Case Officer: James Gilfillan

1 SUMMARY OF THE MAIN ISSUES

The key issues are:

- 1) Planning history
- 2) Economic impact, employment and town centre vitality
- 3) Highway Safety

This application is to be considered by Committee because of the objection from Lymington & Pennington Town Council

2 SITE DESCRIPTION

The site is in the centre of a modern industrial employment estate on the north edge of Lymington. The estate has a mix of size buildings and uses, including a petrol station, warehouses, offices and manufacturing, including New Forest Ice Cream and Lymington Hospital.

The estate is relatively modern in design and appearance largely being developed since the mid 2000's.

The application site is occupied by a 'horseshoe' cluster of employment units around a courtyard of parking. The horseshoe is made up of three buildings, those on the east and west are small workshop style with high ceilings, the one along the north edge are small office units over 2 floors.

The buildings are completed to a shell, but have not been fitted out internally or brought in to use.

They were provided as start up units with 'easy in-easy out' short term lease arrangements for uses in classes B1 (offices, light industry etc. and B2 (general industry) of the 1987 use classes order.

3 PROPOSED DEVELOPMENT

Use of Buildings A, B and C (Granted by Permission 10/95414) from B1 and B2 use (restricted by Section 106 Agreement dated 12/06/12 in relation to land at Bridge Road, Lymington and land at Ampress Park) to uses within classes B2, B8 & E.

Class E was introduced in 2020 revisions to the Use Classes Order and provides a broader Commercial, Business and Service Use Class, taking in uses that were formerly divided in to different classifications. Class E uses include:

- Retail;
- Restaurant, Cafe;
- Financial and professional business services;
- Indoor Sport, recreation and fitness;
- Provision of medical or health services;
- Creche;
- Offices, Research and Development, Industrial processes, that can be carried out in a residential area without detriment to its amenity.

4 PLANNING HISTORY

Proposal	Decision Date	Decision Description	Status
11/97849 Mixed use development comprised: 168 dwellings; restaurant; retail/commercial space (Use Class A1 & A2) boat club; art gallery (Use Class D1); jetty with pontoon; access alterations; pedestrian bridge over railway; riverside walkway; car parking; landscaping; drainage (Former Webbs Chicken Factory)	14/06/2012	Grant with conditions	Decided
10/95414 26 offices (1 building) (Use Class B1); 12 workshops (2 buildings) (Use Classes B1 & B2); Industrial Unit (1 building) (Use Classes B1, B2 and B8); associated external works	31/08/2010	Granted Subject to Conditions	Decided

5 PLANNING POLICY AND GUIDANCE

Local Plan 2016-2036 Part 1: Planning Strategy

Policy STR1: Achieving Sustainable Development

Policy STR6: Sustainable economic growth

Policy ECON1: Employment land and development

Policy ECON2: Retention of employment sites and consideration of alternative uses

Policy ECON5: Retail development and other main town centre uses

Local Plan Part 2: Sites and Development Management 2014

LYM07: Ampress Park, Southampton Road

Supplementary Planning Guidance And Documents

SPD - Parking Standards

Relevant Advice

National Planning Policy Framework 2021

Constraints

SSSI IRZ Water Supply

SSSI IRZ Wind and Solar Energy

SSSI IRZ Waste
SSSI IRZ Residential
SSSI IRZ Rural Non Residential
SSSI IRZ Rural Residential
SSSI IRZ Minerals Oil and Gas
Aerodrome Safeguarding Zone
Groundwater Protection Zone
Planning Agreement
Plan Area
SSSI IRZ Compost
SSSI IRZ Discharges
SSSI IRZ Infrastructure
SSSI IRZ Air Pollution
SSSI IRZ All Consultations
SSSI IRZ Combustion

Plan Policy Designations

Employment
Built-up Area

6 PARISH / TOWN COUNCIL COMMENTS

Lymington & Pennington Town Council: PAR4: Recommend Refusal.

- The access road is private and unadopted.
- Councillors agreed it is crucial to preserve the commercial and industrial use class; to maintain the equilibrium of the Town.
- It is recommended the applicant applies to have the Section 106 condition nullified.
- Councillors agreed it is crucial that Ampress Park should be retained as a business park and not become a retail park.

7 COUNCILLOR COMMENTS

No comments received

8 CONSULTEE COMMENTS

Comments have been received from the following consultees:

Environmental Health Contaminated Land: No objection, the nature of the proposals have no bearing on ground conditions

HCC Highways: No Objection, unlikely that the range of uses permissible by Class E would generate additional traffic movements over and above the approved B1 mix of uses to prejudice highway or pedestrian safety, subject to preventing occupation by retail uses.

9 REPRESENTATIONS RECEIVED

2 Letters of representation have been received.

1 objects due to the lack of marketing and advertisement on site to highlight who to approach for information about potential occupancy

1 supports for the benefit for local businesses and the economy bringing these empty unused units in to use.

10 PLANNING ASSESSMENT

Principle of Development

The existing buildings were constructed in accordance with the 2010 permission described above. The units formed part of the justification for the erection of housing led development on the former Webbs factory, known as Lymington Shores, mitigating the loss of the employment space.

The buildings were secured by a legal agreement, requiring them to be substantially completed before occupation of the 150th residential unit. Substantial completion has been reached - however the buildings have not been brought into use.

At the time of approving the Webbs Factory redevelopment it was considered appropriate to manage the industrial units in such a way that they were beneficial to small businesses likely to be starting up, or moving in to such industrial premises for the first time.

The S106 included several requirements to ensure that they units were constructed and managed to be attractive to/suitable for small/starter businesses. The requirements are;

- Units shall be between 80Sq.m and 240Sq.m, and variations from the original size are permissible within that tolerance;
- No more than 560Sq.m to be used for B8 uses (Storage and distribution);
- For 5 years from the start date the units shall only be let on monthly licences;
- Undertake a Financial Review, after 2yrs operation of the first 1000Sq.m, of the viability of the site operating in accordance with the above clauses. Should it be demonstrated and agreed by the Council, Redrow and the operator of Ampress Park, that the site is unviable to continue operating in accordance with the above provisions then they would be accepted as being of no effect.

The Lymington Shores agreement also secured obligations in respect of;

- Affordable Housing;
- Footbridge and lift;
- Sustainable transport contribution
- Highway works;
- Commercial, restaurant and gallery units;
- Lymington Rowing Club;
- Open Space and footpaths:

These obligations would continue to be secured using an amended S106.

This application seeks planning permission to use the buildings for Class B1, B2 & E uses and remove the management restrictions that are in place. The applicant has stated that these amendments are necessary to enable the buildings to be brought into use and has provided a justification as to why the existing controls are responsible for the units not having been brought into use.

The rationale that the fit out of each unit being bespoke to users and therefore undeliverable without an identified end user is not considered a reasonable justification, as the fit out would not be revised each time a tenant changes and a generic fit out would have been sufficient for the nature of start up businesses the site was designed to serve. Although the cost of completing this work against uncertainty of occupation is clearly a risk that would suppress viability.

The short term lease arrangements giving 'easy in and easy out' for occupiers is shown to operate successfully in other locations, such as the Council operated New Forest Enterprise Centre at Rushington, and concerns over the lack of security of

tenure are not compelling either, but the churn of tenants and consequential management of changes or continued tenancies would have implications for viability.

The principle of the application has significant merit. The resultant scheme would still deliver employment generating uses, largely wealth creation and likely to be symbiotic with surrounding uses and businesses.

The supporting commercial review of the viability of the scheme demonstrates that should the site be fitted out and occupancy occur, it is likely that a review undertaken after 2 years, as required by the S.106, would demonstrate it was not viable to continue and the relevant provisions would be removed from the land charges register.

Local Plan part 2 policy LYM7: Ampress Park, identifies the site should include provision for managed workspaces designed to meet the needs of business start-ups and small local firms. In the time since this development was first considered appropriate to mitigate for the loss of employment at Webbs Chicken factory at Lymington Shores, the technology used by small and start up office based businesses has evolved dramatically.

That policy remains part of the Development Plan. The proposed change of use sought, without the imposition of the obligations of the 2012 legal agreement, would not preclude business start ups or local firms and would still make provision for employment, including significantly greater proportion of wealth generating businesses for the wider economy than the chicken factory would have contributed.

Economic impact, employment and town centre vitality.

The buildings are currently empty and have never been brought into use.

The employment generated on site would however be significant. Whilst it is very difficult to present a number of jobs that would be created, due to the uncertainties about the proportions of uses likely, or comparison with the number that could have been generated had the original start up/incubator units been occupied. The evidence relating to the viability of the original scheme suggests it would be unlikely to have delivered the amount of employment that is likely to come forward if the site is released from the obligations of the existing S.106 agreement.

Regardless of the number of employees who may work on the site, it is clear that enabling the site to be brought into use, would generate employment not currently present on site, with the positive benefits of additional spend by employees in nearby shops, services and facilities.

The NPPF at para 81 directs significant weight should be placed on the need to support economic growth and productivity.

Fundamentally this application promotes the use of land in an established employment area for employment use and is therefore in accordance with Local Plan policy ECON1.

The recently created Use Class 'E' Commercial, Business and Service, includes a variety of town centre uses, such as shops, restaurants, medical services and creche. It also includes offices, research and development and 'light' industrial. In the event the site were occupied as offices, light industrial or R&D, there is no condition on the original planning consent preventing conversion to other class E uses, albeit tenancy would be limited by the S.106 obligations.

Whilst the views of the Town Council regarding protecting the town centre are merited, it would be inappropriate to resist the direction of travel imposed by the Government in respect of the flexibility of uses to make efficient use of land and buildings.

However in recognition of the approach defined by ECON5 the applicant has accepted the imposition of a condition preventing occupation by retail shops. This also has implications for car parking, covered below. In supporting this application with such a condition, the Council retains greater control over the range of uses that could occupy the site than it does at present.

Highway safety, access and parking

There would be no changes to the access arrangements or the type of vehicle movements generated. The employment park is capable of accommodating the type of large vehicles that the proposed changes to the uses may generate.

The amount of parking on the site would be sufficient for the range of uses that might be attracted across Use Class E, except in the scenario when the entire site was used for retail purposes. Whilst the layout and arrangement of the buildings does not lend itself to single large retail use, the applicant has indicated a willingness to accept imposition of a condition preventing occupation by retail premises.

The representation from the Town Council does not provide any technical evidence or assessment as to what the concern is about the private ownership of the access roads, or why that should render the scheme unacceptable, or why this application has any different impacts from the consented but vacant scheme. As such, little weight can be applied to this objection.

The site would bring additional employment opportunities with easy walking and cycling distances of existing residential areas. The plans do not suggest sufficient cycle storage facilities have been provided to comply with current SPD requirements. Nor are any electric vehicle charging points provided for staff, business vehicles or customers. Both matters could be addressed by conditions, in order to enhance the provision towards sustainable and clean forms of transport.

As such, and as indicated in the response from Hampshire CC as highway authority, there would be no reason to resist the development on highway grounds.

Character and Appearance

The scheme does not propose to make any physical alterations to the appearance of the site, thereby preserving the current appearance of the buildings and their contribution to the character of the estate. Signage would require advert consent.

The mix of uses possible within Class E, would have an impact on the nature of customers and potentially introduce social, community and town centre type characteristics. Such a shift would be largely contained within the courtyard of buildings on the site and would not be detrimental to the entire area or prejudice the ability of the surrounding sites to continue operating as existing.

Residential amenity

The proposed change of use would allow uses and occupation with potential to generate nuisance and disturbance equivalent to the existing consent. Furthermore this is an established, designated employment site, where nuisance generating uses should be directed. The amenity of neighbours close to the site, across the railway line, would be preserved.

Ecology

Since the development was approved and built the requirement to deliver on site bio-diversity enhancement has been established. Whilst this application does not propose any physical alterations to the buildings, which are already in situ, some landscape enhancements in the parking courtyard are shown on the submitted plans, that would contribute to the character and appearance of the site and bio-diversity..

Other matters

In all other respects, matters of archaeology, drainage, flood risk, construction disturbance and contamination, have been implemented or dealt with by way of the construction works undertaken on site.

Heads of Terms

Deed of Variation to confirm:

- Schedule 5 to the original 2012 agreement would not be enforceable against the land.
- This permission would not fetter the remaining obligations of the 2012 agreement.

11 CONCLUSION

The proposal would bring this underused site in the urban area in to more optimal and flexible use, generating employment and delivering economic and environmental benefits for the town and district.

Conditions regarding the use can preserve the vitality and viability of Lymington High street and Town centre.

The proposal would comply with the development plan and would deliver sustainable development.

12 RECOMMENDATION

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

- i) the completion, within 6 months of the date of this resolution, of a planning obligation entered into by way of a Section 106 Agreement to secure a deed of variation to the 2012 S.106 agreement.
- ii) the imposition of the conditions set out below

BUT, in the event that the Agreement is not completed, Executive Head of Planning, Regeneration and Economy to **REFUSE PERMISSION** as the proposal is only acceptable on the basis that a s106 deed of variation is entered into.

Conditions to be attached to any consent:

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:

Location Plan 1:1250 received 07/12/21
Proposed Site Plan and Landscaping Drg No:100 received 07/12/21
Blocks A&B plans Drg No:101 received 07/12/21
Block C Plans Drg No:102 received 07/12/21
Elevations 1of 2 Drg No:103 received 07/12/21
Elevations 2of 2 Drg No:104 received 07/12/21
Roof Plan Drg No:105 received 07/12/21.

Reason: To ensure satisfactory provision of the development.

3. Before first occupation of the buildings hereby approved, a scheme for the installation of charging points for electric vehicles to serve the development shall be submitted to the Local Planning Authority for its written approval. Thereafter, the development shall be implemented in full accordance with the approved details and thereafter retained.

Reason: In the interests of sustainability and to ensure that provision is made for electrical charging points in accordance with Policy IMPL2 of the Local Plan Part 1 Planning Strategy for the New Forest (outside of the National Park).

4. Notwithstanding the provisions of the Town and Country Planning (Use Classes) Order 1987 and amended and the Town and Country Planning (General Permitted Development) Order 2015 and the Town and Country Planning (General Permitted Development) (Amendment) Order 2015 or any subsequent re-enactments thereof, the development hereby approved shall be used for uses falling within class B2, B8 and Class E of the use classes order only and for no other use purposes, whatsoever, including any Class E retail uses of the Town and Country Planning (Use Classes) Order 1987 as amended or any subsequent re-enactment thereof, without express planning permission first being obtained.

Reason: To reflect the character and nature of the site within a designated employment area, its out of town centre location and availability of parking and in accordance with Policies STR1, ECON1, ECON2, ECON5 and CCC2 of the New Forest District Local Plan Part 1: Planning Strategy 2020

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

Reason: To ensure the appearance and setting of the development is satisfactory and to comply with Policies ENV3 and ENV4 of the Local Plan 2016-2036 Part One: Planning Strategy for the New Forest District outside of the National Park.

6. Prior to occupation of any units in Blocks A and B, the equivalent of 1 sheffield style cycle rack per unit to be formed in those blocks shall be installed on the site, close to the entrance to the respective unit. The racks shall thereafter be retained.

Reason: In the interests of encouraging cycling, reducing reliance on motor vehicles, air quality and sustainability and in accordance with STR1 and CCC2 of the New Forest District Local Plan Part 1: Planning Strategy 2020 and the adopted Parking Standards SPD 2022.

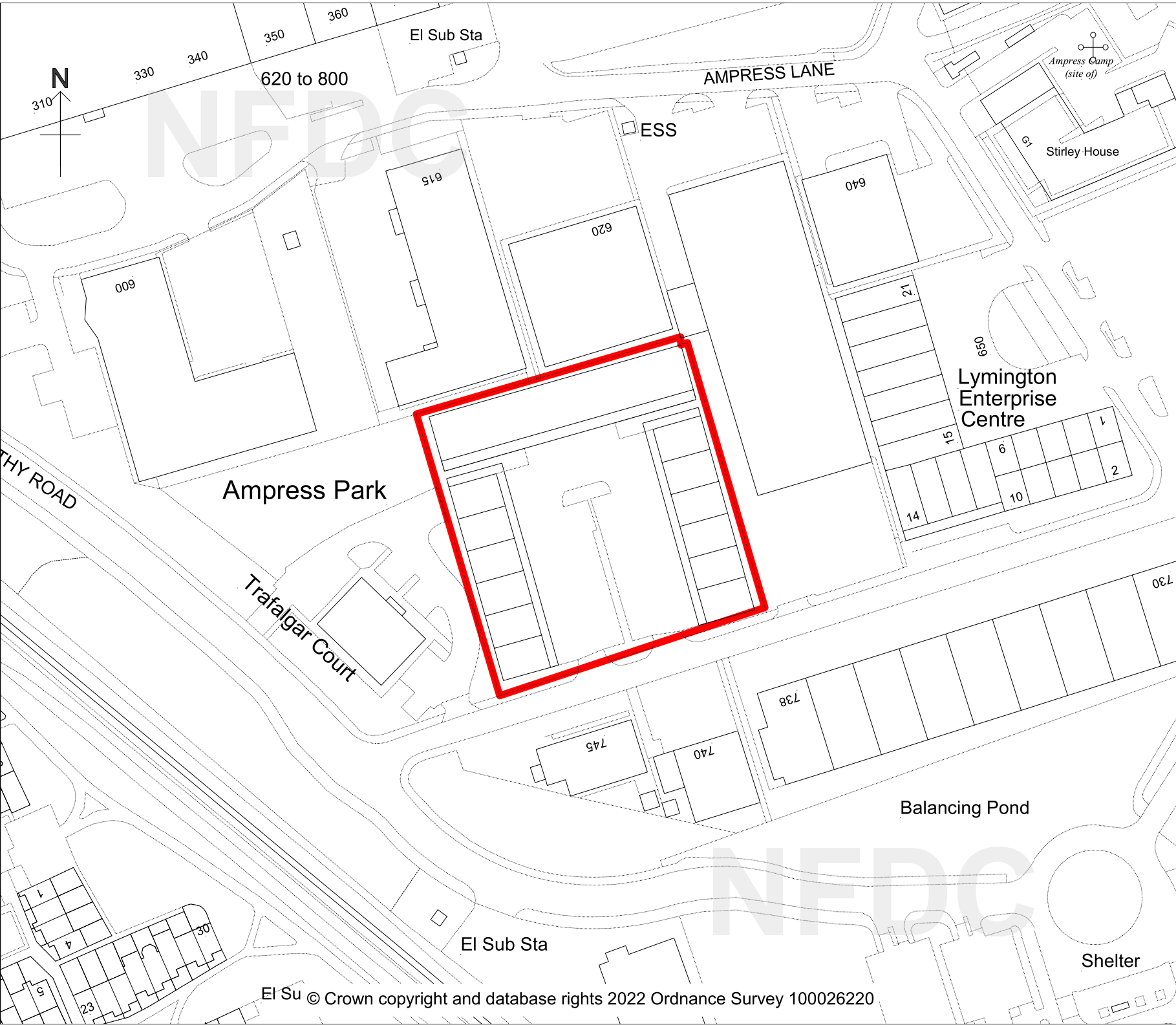
7. Prior to the commencement of use of any building, the Cycle and Bin stores shown on the approved plans shall be installed and available for use. They shall thereafter be maintained and retained for those uses.

Reason: In order to make appropriate provision for the respective storage of waste and cycles and to preserve on site highway safety and appearance, encourage cycling and sustainability and in accordance with policies STR1, ENV3 & CCC2 of the New Forest District Local Plan Part 1: Planning Strategy 2022 and the adopted Parking Standards SPD 2022.

Further Information:

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New Forest DISTRICT COUNCIL

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PLANNING COMMITTEE

September 2022

AMPRESS PARK
AMPRESS LANE
LYMINGTON SO41 8LW
21/11633

Scale 1:1250

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