

Application Number:	23/10225 Variation / Removal of Condition
Site:	THE COAL YARD, VICARAGE LANE, HORDLE SO41 0HS (SUBJECT TO LEGAL AGREEMENT)
Development:	Variation of condition 2 of planning permission 19/10007 to allow amendments to the site layout, relocate the public footway through the site and amend the design of the dwellings.
Applicant:	Amirez Ltd
Agent:	Pure Town Planning
Target Date:	29/05/2023
Agreed Extension of Time:	29/03/2024
Case Officer:	Judith Garrity
Officer Recommendation:	Service Manager authorised to grant subject to completion of a S106 or Unilateral Undertaking to secure uplift in habitat mitigation and air quality contributions.
Reason for Referral to Committee:	This application is to be considered by Committee due to a contrary view of Hordle Parish Council.

1 SUMMARY OF THE MAIN ISSUES

The key issues are:

1. The Principle of Development
2. Design, site layout and impact on local character and appearance of area
3. Impact upon Strategic Site 8
4. Impact on highway safety, including matters relevant to car parking;
5. Impact on residential amenity of adjacent neighbouring properties, in respect of light, visual intrusion and privacy
6. Impact on ecology and in particular protected species
7. Impact on public health and safety (land contamination, air quality)
8. Drainage
9. Habitat Mitigation
10. Housing Land Supply

2 SITE DESCRIPTION

The application site is 0.4 hectares in size and formerly lay in the countryside and Green Belt to the west side of Vicarage Lane. The site is now located within Strategic Site 8 as allocated in the Local Plan Part 1.

The site is set to the rear of detached residential properties on Vicarage Lane and is served by a relatively long access drive. The site is laid to hardstanding, with 2 former buildings recently demolished; which comprised a modest concrete block structure and a corrugated tin structure. The site is bounded by hedges on its

northern, southern and western sides, beyond which are open fields. The site has not been actively used for a number of years, but has a lawful use as a coal yard.

3 PROPOSED DEVELOPMENT

The application is a Section 73 variation application related to planning application ref. 19/10007. Amendments are sought to the layout of the scheme and changes to the design and appearance of the dwellings. It is important to note that planning permission 19/10007 for 10 dwellings was lawfully commenced and as such that permission for ten dwellings can be implemented.

The scheme is for a total of ten dwellings arranged around the footprint of the hardstanded area for the coal yard. The proposal remains a suburban layout, within hedgerows which bound the site, with spurs leading to the north and south into the wider allocated site.

The dwellings would be a mix of detached and semi-detached with hipped and gable ended roofs and materials which appear to be brick, timber with slate and tiled roofs.

4 PLANNING HISTORY

23/11089 - Continued implementation of planning permission 19/10007 for ten dwellings that was lawfully commenced on the 5th August 2023 (Lawful Development Certificate that permission is not required for proposal).
Lawful Development Certificate granted 21/11/2023.

22/10855 - Variation of condition 2 of planning permission 19/10007 to allow amended plans to enable material minor amendments to the approved plans in the form of amendments to the site layout, relocate the highway through the site and amend the design of the dwellings.
Refused 7/09/2022

19/10007 - 10 dwellings comprised; 3 pairs of semi-detached houses; 4 detached houses; garages to plots 7 & 8; associated parking, access & landscaping; demolition of existing.
Granted with conditions 05/08/2020

13/11596 - 14 business units (Use Class B1) comprised: 2 single-storey buildings & 1 two-storey building; parking; bin store; bike store; solar panels; demolition of existing.
Granted with Conditions 13/03/2014

5 PLANNING POLICY AND GUIDANCE

Local Plan 2016-2036 Part 1: Planning Strategy

Policy STR11 - Achieving Sustainable Development
Policy STR5 - Meeting our housing needs
Policy ENV1 - Mitigating the impact of development on International Nature Conservation sites
Policy ENV2 - The South West Hampshire Green Belt
Policy ENV3 - Design Quality and local distinctiveness
Policy HOU2 - Affordable Housing
Policy ECON2 - Retention of Employment Sites
Strategic Site 8: Land at Hordle Lane, Hordle
Policy IMPL2: Development standards

Local Plan Part 2 (Sites and Development Management DPD) 2014

Saved Policy DM2: Nature conservation, biodiversity and geodiversity
Saved Policy DM4: Contaminated land
Saved Policy DM20: Residential development in the countryside

Core Strategy (2009)

Saved Policy CS7 - Open spaces sport and recreation

Guidance

NPPF 2023
NPPG

Supplementary Planning Documents

Parking standards (April 2022)
Mitigation Strategy for European Sites (May 2021)
Air Quality Assessments in New Development (June 2022)

Supplementary Planning Guidance

Hordle Village Design Statement (2014)
Housing Design, Density and Character (2006)
Residential Design Guide for Rural Areas (1999)

Plan Policy Designations

New Housing Land Allocations
Built-up Area

6 PARISH / TOWN COUNCIL COMMENTS

Hordle Parish Council:

Original comments

Hordle Parish Council Accept a decision under delegated powers. Decision to be left to the Planning Officer.

Hordle Parish Council:

Amended comments (following minor changes to the design including the addition of chimneys and an landscaping scheme)

Recommend Refusal. Hordle Parish Council is concerned by the design of the properties; they are not in keeping with local area or Village Design Statement and are very 'urban' in nature. The Parish Council is concerned that if accepted, they could set a design precedent that would alter the character of the village. In addition, the footpath to the north of the site does not link to the SS8 ANRG but enters the retained land.

7 COUNCILLOR COMMENTS

No comments received

8 **CONSULTEE COMMENTS**

NFDC Tree Team: - no objection

Landscape Officer: no objection in principle, but several matters need to be addressed on the landscaping scheme, which can be dealt with by condition

HCC Highways - no objections.

HCC Surface Water - no objections raised to the amended information submitted subject to condition.

New Forest Ecologist - no objection subject to conditions.

Environmental Health Contaminated Land - no objection subject to conditions.

Hampshire Fire and Rescue Services: make comments on general fire related matters.

9 **REPRESENTATIONS RECEIVED**

The following is a summary of the representations received.

4 letters of objection received

- The site is located within the Green Belt
- Allowing the development, would set a precedent for other development on Sky End Lane
- Notices have not been served on correct landowner
- The site forms part of an allocated site, which is a material consideration and the proposal should provide all the necessary infrastructure and contributions, as one would have to for a strategic site allocation.
- The proposal should not affect or prejudice the strategic site allocation
- Infrastructure cannot cope with additional housing
- There are no pathways and this would lead to further danger on busy lane
- The impact on the rural nature of the area will affect how people currently use the area for recreation. Many people walk, run, cycle and horse ride around this locality. The site is also very close to the school which is gridlocked morning and afternoon.
- CIL_FORM-5961993, section 7 does not have a date for last lawful use. This may be because its last use as a coal yard was certainly more than 36 months prior to the application

10 **PLANNING ASSESSMENT**

The Principle of Development

This site benefits from an extant planning permission that was lawfully commenced. This was confirmed by the lawful development certificate that was granted on 21st November 2023. This current application proposes the same number of dwellings, with a similar layout as the extant permission.

Regardless of the existing planning permission, the site is located on brownfield/previously developed land within the allocation of the wider site of Strategic Site 8. As such, the principle of development is considered to be acceptable.

Impact upon Strategic Site 8

The application site lies within Strategic Site 8 "Land at Hordle Lane" which was allocated the site and its environs for at least 160 homes. Consequently this whole area will change and the current application site can be included and integrated as part of the whole development. The proposal needs to be considered in relation to whether it would achieve an integrated development with the wider site, providing suitable connectivity.

There is a current undetermined Outline planning application for up to 155 dwellings on the land to the north of the application site (planning reference 23/10661). That application proposes to develop a significant amount of the strategic site allocation (SS8). It should be noted that the field immediately to the north of the application site is not included within that Outline application, however, the north west corner of this application site does abut the red line of the Outline application.

The Outline application includes an illustrative masterplan, in which the land to the immediate north west of this application is shown as ANRG and open space. This reflects the Policy Concept Masterplan in which all of the land to the north of this current application will be ANRG and open space.

The application site represents a very small proportion of the SS8 allocation. It is bound tightly by hedges to the north, south and west, which are to be retained and so the site is quite self-contained and separate from the wider allocation. Furthermore, the site is within separate ownership to the remainder of the allocated site and there is no onus on the owner, requirement or guarantee that the site would come forward for residential development as part of a comprehensive scheme.

It should be noted that the Concept Masterplan that supports Local Plan Policy SS8 identifies that the current application site for residential. This means that there is an expectation for the application site to form the residential element of the strategic site allocation. This current application would therefore accord with the Concept Masterplan that supports Local Plan Policy SS8

The Local Plan Concept Masterplan identifies the land to the south and west of the application site as residential. Accordingly, there is no reason why bringing this current application forward for residential would prejudice or negatively impact any future applications that may come forward within the strategic site allocation. The short term delivery of this housing site, albeit modest would also assist the LPA in meeting its 5 year supply of housing land

It is important to note that it could be the case that the site comes forward as a stand alone employment scheme, as permitted in 2013, or revert to its previous use as a coal yard. In any case the site is a previously developed land and is capable of coming forward in isolation and separately from the main allocation as a stand alone development. .

Furthermore, comments have been made that given the site forms part of the strategic site allocation, this current application should provide the necessary requirements that are provided for the larger scale development or a strategic site

development. In response, the proposed development would make contributions towards habitat mitigation for both recreation impacts and air quality monitoring. However, given that there is an extant planning permission on the site for ten dwellings, in which no affordable housing, open space or on site ANRG provision was secured, it would not be reasonable under this S73 application to seek such contributions. It should also be noted that these matters were considered and assessed as part of the previous application, in which it was concluded that such contributions were not required.

On balance, as a self-contained, brownfield site, which would assist with meeting local housing needs, provide connectivity to the wider allocation the principle of residential development on the site coming forward in the short term without any adverse impact on the Strategic Site is acceptable.

Relevant planning history

Planning permission was granted for ten dwellings on this site, under planning reference 19/10007. A subsequent Lawful Development Certificate was approved that confirmed the commencement of planning permission 19/10007 for ten dwellings has lawfully commenced. This means that planning permission 19/10007 can be lawfully implemented this is a significant fallback position.

The extant permission sought to introduce a variety of bespoke mix of dwellings in a traditional style with single or semi-detached house types of different styles and materials, with articulated footprints and rooflines.

A subsequent Section 73 Application was refused for the variation of Condition 2 of planning permission 19/10007 to allow amended plans to enable material minor amendments to be made to the approved plans in the form of amendments to the site layout, relocate the public access through the site and amend the design of the dwellings.

This application was refused on the grounds that the changes to the plans constituted a retrograde step from the extant planning permission in terms of design, layout, materials and appearance, to the detriment of the character of the area. It was considered that there was a lack of variety compared to the extant consent and proposed very standard, unarticulated house types with a more limited palette of materials. It was also considered that the layout was diminished in terms of provision of landscaping and heavy standard tree specimens within the public realm and it was not clear if brick wall boundary treatments would be provided in all public realm facing situations, which was a feature of the previous approval.

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

Policy ENV3 of the Local Plan, the Hordle Village Design Statement and Chapter 12 of the NPPF, stipulate that new development will be required to be well designed to respect the character, identity and context of the area's towns. The site was until recently occupied by buildings, hardstanding and paraphernalia of limited visual merit, but it needs to be considered whether the submitted design and layout would be consistent with adopted design guidance.

The layout now proposed broadly reflects the extant permission and the mix of dwellings has changed to three pairs of semi-detached house (previously two pairs of semi-detached houses), three detached houses and one detached bungalow. There is no material increase in the amount of building footprint or the amount of hard surfacing on the site as a result of the proposed amendments. A

landscaped scheme has been included within the submission showing hedgerows and trees within the street, and the hard surfacing materials and boundary treatments.

The layout of the site and siting of the residential units is similar to the approved scheme, however some minor material amendments have been made to the location of some of the parking spaces and areas of soft landscape. Car ports have also been included for units 5, 6 and 7 as opposed to being for units 6, 7 and 8. The footprint of the units and the orientation of units 3, 5 and 7 has also been slightly amended. The pedestrian footpath route which connects to the ANRG of SS8 has been amended to run between units 7 and 8, as opposed to between units 8 and 9.

The proposed layout has been designed with the dwellings set back from the internal road enabling space in the street for soft landscaping, trees and greenery. The car parking is to the side of the dwellings or under car ports, which helps prevent vehicles from cluttering the street. Space for planting is shown to several of the dwellings, which soften the development and together with the provision of hedgerows and trees create a semi-rural context to the development. In comparison to the refused application, this current application has provided a detailed landscaping scheme which demonstrates a high quality layout design that is contextually appropriate.

Further proposed amendments to the design of the approved units are also part of this application, which would alter the overall scale and massing of built form on the site. Decorative gables of varying style and designs have been introduced as well as amendments to the fenestration arrangements and eave and header details. Traditional porch features have been added as well as bay window features to some of the dwellings. decorative ridge tiles, with exposed rafter feet at the eaves and chimney features have also been added to the design of some of the dwellings.

The scale and massing of Plot 8 would be significantly reduced by changing it from a two storey house to a bungalow. The amended roof designs of the houses would only have a minor impact on the overall scale and massing of the two storey units when viewed from outside the site. In terms of the appearance, the proposal would still be for a mix of house types of different styles, roofs and materials, including brick, timber cladding and clay tiles.

It is considered that the proposed dwellings have been designed to a high standard, offer richness in their appearance, with traditional forms and massing, and a reasonable variety to provide visual interest. Natural surveillance would be provided throughout the development, views onto the pedestrian route and views overlooking the future green space that will form part of SS8.

The Parish Council have made comments about the urban nature of the proposals. However, the site lies within the strategic site allocation where there is an expectation that a significant amount of new dwellings will be built. In addition, the scheme proposes housing provision at a density of 25 units per hectare and so it cannot be considered overly dense, where the rule of thumb would be 30 dwellings per hectare. A density of 25 dph is considered to be acceptable in this location.

Overall, the current application has elements which are an improvement in design compared to the extant planning permission. Accordingly, it has demonstrated that the proposal would not impact significantly or harmfully on the character of the area or countryside, and so is in accordance with adopted policy.

Impact on highway safety, including matters relevant to car parking

The access to the site from Vicarage Lane in the same position as the extant permission, in which the County Highway Authority were satisfied with the proposals. It is noted that this proposed access is not the same position as the intended access for SS8, which lies further east along Vicarage Lane. Consequently, the proposal is considered to be acceptable in terms of accessibility and the Highway Authority does not raise any objection to this current application.

The internal access layout is broadly the same as the extant permission in relation to the tracking of vehicles. Swept path analysis plans have been submitted showing how a refuse truck, delivery van and fire tender would satisfactorily use the proposed internal road within the proposed development. The Highway Authority's have no fundamental concerns with the internal layout from a highway safety perspective.

With regard to parking, paragraph 111 of the NPPF (2023) specifically addresses car parking. It does not prescribe standards, but provides guidance for councils when setting out local standards for residential and non-residential development. These standards should take into account the accessibility of the development, the availability of and opportunities for public transport and the need to ensure an adequate provision of spaces for charging plug-in and other ultra-low emission vehicles. Local Plan Policy CCC2: 'Safe and sustainable travel requires new development to provide sufficient car and cycle parking.

The NFDC adopted car parking standards SPD informs on an adequate standard of car parking spaces and car space sizes. The proposed parking provision is predominantly driveway/on-plot parking and in car ports. Tandem parking is provided together with parking side by side.

The development proposes an average parking ratio of 2.3 spaces per dwelling, together with 2 visitor spaces and this would comply with the parking standards. The Car Parking SPD accepts tandem parking for individual properties, but does highlight that to accommodate side-by-side parking on a driveway, an additional width (3 metres wide space) will be required where it is also used for pedestrian access to the rear of a property. The submitted layout shows car parking spaces will be 3 metres wide which accords with the SPD.

The amount of parking provision accords with the Councils adopted standards. Cycle parking would also be provided in garages, sheds or cycle stores. These would be secured via planning conditions.

Policy IMPL2 relates to development standards and places a requirement on new developments to make provision to enable the convenient installation of charging points for electric vehicles. Whilst this was previously secured by planning condition, changes to the Building Regulations require the provision of electric charging points and therefore such a condition is not considered necessary.

Impact on residential amenity of adjacent neighbouring properties, in respect of light, visual intrusion and privacy

Policy ENV3 also requires the Planning Authority to consider the impact of development proposals upon the amenity of existing adjoining occupiers and upon the amenity of future occupiers of the new units. It is not considered that the proposed development would have an adverse impact to the surrounding area or residential amenity in terms of overbearing impact, loss of light, noise or privacy

given the degree of separation involved. Conversely, use of the site for its approved use as a coal yard would be much more disruptive to local residents. There is an extant planning permission for ten dwellings, and there are no material changes in this current application. The private open space arrangements for the proposed dwellings are generally satisfactory. Consequently the proposed development would not result in any adverse impact to adjoining or future amenity of residents.

There would be first floor side windows (east) of Plots 1 and 10 facing towards the rear gardens of 'The Croft' and 'Colville'. However the distance of these plots from the boundary of the application site would exceed 5 m and there would be an overall separation of 26 m between Plot 1 and to The Croft, and 32 m between Plot 10 and Colville. Given this separation and that these windows would serve bathrooms, a condition requiring these windows to be obscurely glazed would not be necessary or reasonable. Furthermore there was a similar relationship of first floor side windows to these neighbours in the extant scheme and no obscure glazing condition was imposed.

Impact on ecology and in particular protected species

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.

The approved application (19/10007) was supported by a preliminary ecological assessment (Abbas Ecology Nov 2018), undertaken by a suitably qualified professional ecologist, in which the Council's Ecologist raised no objections, subject to the mitigation and enhancement measures detailed in the report. A condition was imposed for the works to take place in accordance with those details.

Given the time that has passed since these original ecological surveys were undertaken it was considered that updated surveys in relation to bats and reptiles were necessary to identify any new potential ecology issues have been undertaken and associated mitigation proposed. These surveys were submitted following clearance of the site which was undertaken following implementation of planning consent 19/10007.

Dormice are a protected species. The hedgerows, trees and scrub on the site boundary with the adjacent site (SS8) contain some suitable foraging plant species for dormouse and limited nesting opportunities. It is possible that dormice are present in low numbers in these boundary hedges and this would be of local level importance. The current proposals include the removal of a very small section of habitat and the planting of approximately 25m of new species-rich native hedgerow around the northern eastern boundary of the site. This would seek to ensure that there would be no net loss of dormice habitat. The clearance works will be undertaken under a non-licence method statement, at the correct time of year.

A planning condition is however recommended for a non-licensed construction method statement to be submitted prior to the commencement of any development associated with the creation of the footpath link through the hedgerow to the northern and southern boundaries of the site. This statement shall include full details of timing, approach to vegetation clearance and mitigation measures in respect of dormice.

Ecological enhancement measures to include hedgehog fencing, bird and bat boxes, swift sparrow and bee bricks are included within Appendix 3 of the ecological report and these can be secured to be provided prior to occupation of the dwellings and thereafter retained in perpetuity by a planning condition.

Land contamination

An intrusive site investigation was undertaken as part of the previously approved application, by Structural Soils Limited (SSL) in 2014, the assessments from which were updated in their "Interpretative Report on Ground Investigation" ref 734153-(00) dated 1st November 2018. .

For the current application, the applicant has provided further information in relation to contaminated land, in the form of Remedial Strategy, which details the proposed remedial measures to address the identified risks to make the site suitable for the proposed redevelopment. A condition can be imposed for works to take place in accordance with the submitted Remediation Strategy, although a verification report will need to be submitted prior to first occupation.

Drainage

The submitted drawing has been amended to highlight the location of an optional discharge point and rate to the nearby watercourse if additional infiltration testing does not give sufficient infiltration rates. This is acceptable subject to condition requiring submission of a detailed surface water drainage layout that this based on the principles set out within the proposed drainage layout. HCC Drainage Authority raise no objection subject to the details of surface water drainage being secured by condition.

Air Quality

In response to the requirements of the recently adopted 'Air Quality Assessments in New Development Supplementary Planning Document 2022, the applicant has provided information explaining the measures that they will take to reduce the potential adverse impact new development can have upon air quality, thereby lessening the negative effects upon health and wellbeing. The provision includes the following; secure cycle storage lockers for each dwelling, the installation of electric vehicles charging points and the proposals incorporate green infrastructure retaining hedges and the planting of new trees and shrubs within the site.

Habitat Mitigation

a) Recreational Impacts

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. As part of the development, the required uplift contributions has been secured via a completed Section 106 agreement unilateral undertaking dated 31.1.24.

b) Air quality monitoring

To ensure that impacts on international nature conservation sites are adequately mitigated, 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. There is potential for traffic-related nitrogen air pollution (including NO_x, nitrogen deposition and ammonia) to affect the internationally important Annex 1 habitats for which the New Forest SAC was designated, and by extension those of the other International designations. 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. As part of the development, the required contributions has been secured via a completed Section 106 agreement unilateral undertaking dated 31.1.24

c) 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 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 new 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, had permission been forthcoming a Grampian Condition would have been imposed and a further Appropriate Assessment carried out on discharge of this condition.

d) Bird Aware Solent Contributions

The application site is within 5.6km of the Solent and Southampton Water SPA which requires a uplift contribution, which can be secured by a completed S106 Agreement Unilateral undertaking dated 31.1.24.

Housing Land Supply .

The Government published a revised National Planning Policy Framework (NPPF) in December 2023. Crucially, planning applications registered before 19 December 2023 remain subject to the policies of the previous NPPF in relation to the requirement to demonstrate a five-year housing land supply. Despite the Council only having adopted its Local Plan in July 2020, the Council is currently unable to demonstrate a five-year land supply. In such instances, the previous

NPPF (para 11d) made it clear that the tilted balance is engaged so there is a general presumption in favour of sustainable development when determining such planning applications. 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). The current proposal is for a modest level of housing provision and is considered to be acceptable in planning terms in respect of character, amenity and habitat impacts which weighs in favour of the proposal. The current proposal is for a modest level of housing provision and no more than a previously consented scheme, which has had a legal commencement.

Response to concerns that the application site extends over land outside the control of the applicant and has not served the correct notices

Concerns have been expressed that the applicant has not served the correct notices, in that part of the application site extends over land which it is claimed to be in a different land ownership. In response, the applicant has now served the correct notices (Certificate B) on the other landowner, but has highlighted that the dispute is under consideration. The planning application has been correctly submitted and this land ownership dispute is a civil matter.

Developer Contributions

As payments have been made on commencement of the extant consent 19/10007 the required contributions relate to the uplift in contributions required. Habitat mitigation (infrastructure) is not payable as this is covered by CIL payments that have already been made.

As such, as part of the development, the following has been secured via a Section 106 agreement unilateral undertaking dated 31.1.24.

- a) Air Quality Monitoring contribution: £1030
- b) Recreational Habitat Mitigation Non-Infrastructure: £3408.17
- c) Solent Bird Aware Solent: £1774.38

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	983		983	983	£80/sqm	£107,373.85 *
Dwelling houses	15.8		15.8	15.8	£80/sqm	£1,725.85 *

Subtotal:	£109,099.70
Relief:	£0.00
Total Payable:	£109,099.70

11 CONCLUSION/PLANNING BALANCE

In summary, the proposed development would be contextually appropriate and would not have an adverse impact on the character and appearance of the area. The proposals have been designed so as not to lead to any adverse impact on the living conditions of the neighbouring properties, trees or public highway safety. There are no concerns on ecological matters and the proposal would provide opportunities for ecological enhancements.

The proposed development has addressed the concerns raised in the previously refused S73 application, in relation to design matters. This current application proposes a significant improvement in the design of the dwellings, which provide richness in detail, variety of styles with traditional forms and massing. The layout also provides space for soft planting and trees within the street to create a semi rural feel, which would be appropriate in this context.

As a self-contained development, it proposes an acceptable form of development, which would assist with meeting local housing needs, provide connectivity to the wider site allocation in the Local Plan, Part 1 the balance is tipped in favour of the proposal.

The proposed development has been considered against all relevant material considerations including the development plan, relevant legislation, policy guidance, government advice, and the views of interested consultees and 3rd parties.

The Council cannot demonstrate a five year land supply, however, whilst the creation of ten dwellings will certainly help towards this need, the level of weight attached would be small. Nevertheless the proposal is considered to be acceptable.

As the required legal agreement has been completed, planning permission is therefore recommended to be granted subject to the condition as set out.

12 RECOMMENDATION

GRANT the VARIATION of CONDITION

Proposed Conditions:

1. The development permitted shall be carried out in accordance with the following approved plans:

Location Plan
Block/Site Plan: 9416/200 Rev D
Units 1 and 2: 9416/202 Rev C
Units 3 and 4: 9416/203 Rev C
Unit 5: 9416/204 Rev C
Unit 6: 9416/205 Rev C
Unit 7: 9416/206 Rev B
Unit 8: 9416/207 Rev C
Units 9 and 10: 9416/208 Rev C
Air Quality Statement
Ecological Appraisal dated 23rd November 2023 Cherry Tree Ecology Ltd
Proposed Drainage layout C2704_101 PL02

Reason: To ensure satisfactory provision of the development.

2. Prior to the commencement of any works above slab level of any of the dwellings hereby permitted, a full schedule of materials to be used on all dwellings i.e. facing bricks, tile hanging, timber cladding including finish and colours, roofing materials, eaves boards, rainwater goods, ridge tiles, details of all new windows and doors and any other joinery details for porches and support pillars shall be submitted to and agreed in writing with the Local Planning Authority. Only such materials so agreed are to be used on the development unless a written variation has been agreed beforehand by the Local Planning Authority.

Reason: To ensure an acceptable appearance of the buildings in accordance with Policy ENV3 of the Local Plan 2016-2036 Part One: Planning Strategy for the New Forest District outside of the National Park.

3. The development hereby permitted shall only be constructed in accordance with the slab levels in relationship to the existing ground levels as shown on Drawing No PP1209/201-00 Rev P7 approved to discharge condition 4 of planning consent 19/10007 unless otherwise first agreed in writing by the Local Planning Authority.

Reason: To ensure that the development takes place in an appropriate way in accordance with Policy ENV3 of the Local Plan 2016-2036 Part One: Planning Strategy for the New Forest District outside of the National Park.

4. Prior to the commencement of any works above slab level of any of the dwellings hereby permitted, a scheme of landscaping of the site shall be submitted for approval in writing by the Local Planning Authority. This scheme shall include :

- (a) the existing trees and shrubs which have been agreed to be retained;
- (b) a specification for new planting (species, size, spacing and location);
- (c) areas for hard surfacing and the materials to be used;
- (d) other means of enclosure and boundary treatments;
- (e) a method and programme for its implementation and the means to provide for its future maintenance.

The approved landscaping scheme shall be fully implemented by the end of the planting and seeding season following the occupation of the dwellings or the completion of the development, whichever is the sooner. 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 a similar size or species, unless the Local Planning Authority gives written consent to any variation.

Reason: To ensure that the development takes place in an appropriate way and to comply with Policies ENV3 and ENV4 of the Local Plan Review 2016-2036 Part One: Planning Strategy for the New Forest District outside of the National Park.

5. The trees/hedges on the site which are shown to be retained on the approved plans shall be protected during all site clearance, demolition and building works in accordance with the measures set out in the Tree Protection Plan by Harper Tree Consulting Ref 2018108/TPP001 Reference Number: 2018108 v1.0 Report dated 23 November 2018 and plan 2018108/TPP001 approved to discharge condition 7 of planning consent 19/10007 unless otherwise agreed in writing by the Local Planning Authority.

Reason: To ensure the retention of existing trees and natural features and avoidance of damage during the construction phase in accordance with Policy ENV3 of the Local Plan Part 1

6. Before development commence a detailed surface water drainage scheme for the site, based on the principles within the Proposed Drainage Layout, shall be submitted to and approved in writing by the Local Planning Authority. The submitted details should include:
 - a. A technical summary highlighting any changes to the design from that within the approved Flood Risk Assessment.
 - b. Infiltration test results undertaken in accordance with BRE365 and providing a representative assessment of those locations where infiltration features are proposed and demonstrating the 1m unsaturated zone.
 - c. Detailed drainage plans to include type, layout and dimensions of drainage features including references to link to the drainage calculations.
 - d. Detailed drainage calculations to demonstrate existing runoff rates are not exceeded and there is sufficient attenuation for storm events up to and including 1:100 + climate change.
 - e. Evidence that urban creep has been included within the calculations.
 - f. Exceedance plans demonstrating the flow paths and areas of ponding in the event of blockages or storms exceeding design criteria.

Development shall only take place in accordance with the approved details.

Reason: In order to ensure that the drainage arrangements are appropriate and in accordance with Policy ENV3 of the Local Plan Review 2016-2036 Part One: Planning Strategy for the New Forest District outside of the National Park and the New Forest District Council and New Forest National Park Authority Strategic Flood Risk Assessment for Local development Frameworks.

7. Prior to the first occupation of any of the dwellings on the site, details for the long-term maintenance arrangements for the surface water drainage system approved under condition 8 shall be submitted to and approved in writing by the Local Planning Authority. The submitted details shall include maintenance schedules for each drainage feature type and ownership including the section of watercourse along the site boundary. The drainage arrangements shall thereafter be maintained in accordance with the approved details.

Reason: In order to ensure that the drainage arrangements are appropriate and in accordance with Policy ENV3 of the Local Plan Review 2016-2036 Part One: Planning Strategy for the New Forest District outside of the National Park and the New Forest District Council and New Forest National Park Authority Strategic Flood Risk Assessment for Local development Frameworks.

8. The development hereby permitted shall not be occupied until:

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;

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

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.

9. The approved remediation scheme by Forge Environmental Management Ltd report ref. HOR389.D/RS/001 Rev 1 dated April 2023 and approved in accordance with condition 15 of planning consent 19/10007 shall be carried out in accordance with its terms prior to the first occupation of the development hereby approved, unless otherwise agreed in writing by the Local Planning Authority. The Local Planning Authority must be given two weeks written notification of commencement of the remediation scheme works. Following completion of measures identified in the approved remediation scheme, a verification report that demonstrates the effectiveness of the remediation carried out must be produced and submitted, and is subject to the approval in writing of the Local Planning Authority prior to occupation of the development.

Reason: To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors in accordance with Policy CCC1 of the Local Plan 2016-2036 Part One: Planning Strategy for the New Forest District outside of the National Park and Policy DM5 of the Local Plan For the New Forest District outside the National Park. (Part 2: Sites and Development Management).

10. In the event that contamination is found at any time when carrying out the approved development that was not previously identified, development must be halted on that part of the site affected by the unexpected contamination to the extent specified by the Local Planning Authority in writing, until an investigation and risk assessment has been undertaken in accordance with Environment Agency's technical Land Contamination Risk Management (LCRM) guidance. Where remediation is necessary a remediation scheme must be prepared to bring the site to a condition suitable for the intended use by removing unacceptable risks to human health, buildings and other property and the natural and historical environment must be prepared, and is subject to the approval in writing of the Local Planning Authority. The scheme must include all works to be undertaken, proposed remediation objectives and remediation criteria, timetable of works and site management procedures. The scheme must ensure that the site will not qualify as contaminated land under Part 2A of the Environmental Protection Act 1990 in relation to the intended use of the land after remediation. Following completion of measures identified in the approved remediation scheme, a verification report that demonstrates the effectiveness of the remediation carried out must be produced, and is subject to the approval in writing of the Local Planning Authority.

Reason: To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors in accordance with Policy CCC1 of the Local Plan 2016-2036 Part One: Planning Strategy for the New Forest District outside of the National Park and Policy DM5 of the Local Plan For the New Forest District outside the National Park. (Part 2: Sites and Development Management).

11. The development hereby permitted shall not be occupied until the spaces shown on plan No 9416/200 Rev D for the parking of motor vehicles and cycle parking have been provided. The spaces shown on plan No 9416/200 Rev D for the parking of motor vehicles and cycles shall be retained and kept available for the parking and garaging of motor vehicles and cycles for the dwelling hereby approved at all times.

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

12. The works hereby approved shall be undertaken in strict accordance with the Updated preliminary Ecological Appraisal (Cherry Tree Ecology Ltd Dated 23 November 2023) unless otherwise first agreed in writing with the Local Planning Authority. The ecological enhancements identified in Appendix 3 of this report shall be installed prior to the first occupation of the approved dwellings and thereafter retained in perpetuity.

Reason: To safeguard protected species in accordance with Policies ENV3, ENV4 of the Local Plan 2016-2036 Part One: Planning Strategy for the New Forest District outside the National Park and Policies DM1, DM2 and DW-E12 of the Local Plan for the New Forest District outside the National Park (Part 2: Sites and Development Management).

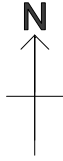
13. Prior to the commencement of any development associated with the creation of the footpath link through the hedgerow to the northern and southern boundaries of the site, a non-licensed construction method statement shall be submitted to and approved in writing by the Local Planning Authority. This statement shall include full details of timing, approach to vegetation clearance and mitigation measures in respect of dormice. The approved non-licensed construction method statement shall be implemented in accordance with an approved programme of works under supervision of an appropriately qualified ecologist. The appropriately qualified ecologist shall provide a letter to confirm works were undertaken in accordance with the approved method statement.

Reason: To safeguard protected species in accordance with Policies ENV3 and ENV4 of the Local Plan 2016-2036 Part One: Planning Strategy for the New Forest District outside the National Park and Policies DM1, DM2 and DW-E12 of the Local Plan for the New Forest District outside the National Park (Part 2: Sites and Development Management).

Further Information:

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PLANNING COMMITTEE

February 2024

The Coal Yard
Vicarage Lane
Hordle
23/10225

Scale 1:1000

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the internet, it will not be to
scale.

