

**Application Number:** 16/10197 Full Planning Permission

**Site:** LAND SOUTH OF OLD FERRY HOUSE, UNDERSHORE ROAD,  
BOLDRE SO41 5SA

**Development:** Access road to Haven Marine Park and Island Point Flats

**Applicant:** Lymington Yacht Haven Ltd

**Target Date:** 11/04/2016

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**1 REASON FOR COMMITTEE CONSIDERATION**

Contrary to Parish Council view (in Part)

**2 DEVELOPMENT PLAN AND OTHER CONSTRAINTS**

Green Belt  
Countryside outside the New Forest  
Adjacent New Forest National Park Authority  
SINC  
Flood Zone 2/3  
Conservation Area (adjacent)

**3 DEVELOPMENT PLAN, OBJECTIVES AND POLICIES**

**Core Strategy**

**Objectives**

1. Special qualities, local distinctiveness and a high quality living environment
5. Travel
7. The countryside
8. Biodiversity and landscape

**Policies**

**Core Strategy**

- CS1: Sustainable development principles
- CS2: Design quality
- CS3: Protecting and enhancing our special environment (Heritage and Nature Conservation)
- CS6: Flood risk
- CS10: The spatial strategy
- CS17: Employment and economic development
- CS24: Transport considerations

**Local Plan Part 2 Sites and Development Management Development Plan Document**

DM2: Nature conservation, biodiversity and geodiversity

#### **4 RELEVANT LEGISLATION AND GOVERNMENT ADVICE**

Section 38 Development Plan  
Planning and Compulsory Purchase Act 2004  
National Planning Policy Framework

#### **5 RELEVANT SUPPLEMENTARY PLANNING GUIDANCE AND DOCUMENTS**

None

#### **6 RELEVANT PLANNING HISTORY**

None of direct relevance

#### **7 PARISH / TOWN COUNCIL COMMENTS**

Boldre Parish Council: Object to this application, as we feel the applicant has not demonstrated why there is a requirement for a new entrance. We consider the proposed entrance to be less safe than the existing entrance in view of its proximity to a bend in the road, a garage and ferry terminal. It would also be opposite an existing lane and there is a hazardous road junction close by. We also consider this proposal to be detrimental to the SINC.

#### **8 COUNCILLOR COMMENTS**

None

#### **9 CONSULTEE COMMENTS**

- 9.1 Hampshire County Council Highway Engineer: No highway objections
- 9.2 New Forest National Park Authority: Objection. The proposal will impact on the character and setting of the adjacent Conservation Area and locally Listed Buildings and impact on the wider rural context and the New Forest National Park.
- 9.3 Ecologist: Objection. No professional ecological information has been submitted to support the application. This would normally be expected for a development affecting a Site of Importance for Nature Conservation and involving operations such as hedgerow removal. No information is available to consider the possible impact on protected species, given the surrounding habitat the presence of protected species is reasonably likely.
- 9.4 Environment Agency: No objection
- 9.5 Natural England: No objection. The proposal is not likely to have a significant effect on the interest features for which Solent & Southampton Water (Ramsar and SPA), Solent & Isle of Wight Lagoons (SAC) and Solent Maritime (SAC) and will not damage or destroy the interest features of the Lymington River SSSI, Lymington River Reedbeds SSSI and Hurst Castle and Lymington River Estuary SSSI.
- 9.6 Conservation officer: Comments will be updated when available.

## **10 REPRESENTATIONS RECEIVED**

- 10.1 2 letters of support. The proposed access road is required to support the requirements of the business. The proposed access would provide a much enhanced access to serve the business and flats with less maintenance and the free passage of water under the new roadway. Improved sightlines. There are several legal rights including a right to re-positioning the access track to Island Point, a right of access to the fields and a right of free passage of running water to drain the Old Ferry House. These are fundamental to allow the fields adjacent to Old Ferry House to act as a flood plain and the re-positioning of the access and raising the road height will facilitate the design and provision of appropriate flood drainage.
- 10.2 7 letters of objection concerned that the existing access track has served the residential flats and Lymington Yacht Haven for many years adequately. Impact on flooding. Impact on the rural character of the area and environment and loss of hedgerow, which would impact on the wider Conservation Area. Impact on SSSI. Impact on noise and traffic on the area and dangers to public highway safety. Visibility splays are not accurate or correct. Impact on locally undesignated heritage assets. Impact on wildlife and habitat. Concerns over who will own the land and manage/maintain the land. Issues over access rights over land and permissions to close the lane, which the applicant does not have. The applicant will need to justify the proposals. Utilities are all under existing lane.

## **11 CRIME & DISORDER IMPLICATIONS**

No relevant considerations

## **12 LOCAL FINANCE CONSIDERATIONS**

Local financial considerations are not material to the decision on this application

## **13 WORKING WITH THE APPLICANT/AGENT**

In accordance with paragraphs 186 and 187 of the National Planning Policy Framework and Article 35 of the Town and Country Planning (Development Management Procedure) (England) Order 2015, New Forest District Council take a positive and proactive approach, seeking solutions to any problems arising in the handling of development proposals so as to achieve, whenever possible, a positive outcome.

This is achieved by

- Strongly encouraging those proposing development to use the very thorough pre application advice service the Council provides.
- Working together with applicants/agents to ensure planning applications are registered as expeditiously as possible.
- Advising agents/applicants early on in the processing of an application (through the release of a Parish Briefing Note) as to the key issues relevant to the application.
- Updating applicants/agents of issues that arise in the processing of their applications through the availability of comments received on the web or by direct contact when relevant.

- Working together with applicants/agents to closely manage the planning application process to allow an opportunity to negotiate and accept amendments on applications (particularly those that best support the Core Strategy Objectives) when this can be done without compromising government performance requirements.
- Advising applicants/agents as soon as possible as to concerns that cannot be dealt with during the processing of an application allowing for a timely withdrawal and re-submission or decision based on the scheme as originally submitted if this is what the applicant/agent requires.
- When necessary discussing with applicants/agents proposed conditions especially those that would restrict the use of commercial properties or land when this can be done without compromising government performance requirements.

No pre application advice was sought. The applicants have been made aware that the application will be presented at the Planning Development Control Committee for determination.

## 14 ASSESSMENT

- 14.1 The proposal is to create a new private access road and footpath from Undershore Road to serve Haven Marine Park and Island Point Flats. This application has been submitted by Lymington Yacht Haven. The proposed access road would cut through an existing hedgerow adjacent to Undershore Road and would run across an area of open pasture land. The proposed access and footpath would measure approximately 7.5 metres wide by 75 metres long and be constructed from tarmac. Banking would be provided on either side of the access road and the total width of the access including banking would extend from between 12 metres at the western end to 19 metres adjacent to Undershore Road. The existing access would be abandoned and left to return to a natural state, apart from access to serve the residential property known as The Old Ferry House.
- 14.2 The site lies within a very sensitive location and there are many constraints. The site lies outside the built up area within the designated Green Belt and Site of Importance for Nature Conservation. The New Forest National Park and a Conservation Area lie on the northern side of Undershore Road. The site lies within Flood Zone 3 and is located on the eastern side of the Lymington Estuary and is physically distinct from the town of Lymington.
- 14.3 Contextually the site is located in a rural location with scattered houses along Undershore Road with a large detached dwelling to the north known as 'The Old Ferry House'. To the west of the site is a small industrial type yard known as Haven Marine Park and a residential block of ten flats known as Island View which are all currently accessed from a gravel track from Undershore Road. Due to its relative position and boundary screening there are few direct views of the site from the public realm. In support of the application, the applicants state that the current access onto Undershore Road is not suitable in the long term for the business at Haven Marine Park, which is used for boat building works. It has been stated that boats cannot be transported off site without the co-operation of the adjacent land owner (Old Ferry House) and the removal of a section of fence every time a large boat is moved off site. The current unmade track is not sufficient for vehicles to pass and the

current restrictive access is affecting the economic viability of the business. Moreover it has been stated that a significant number of benefits would be provided which include improved access into Haven Marine Park and Island Point flats, a separated pedestrian and vehicular access, improved road surfacing, safer in the event of an emergency and greater width to enable vehicles to pass by.

- 14.4 In assessing this proposal, the site lies in the Green Belt where the fundamental aim is to prevent urban sprawl by keeping land permanently open and to assist in safeguarding the countryside from encroachment. Green Belt policy makes it clear that inappropriate development is, by definition harmful to the Green Belt and should not be approved except in very special circumstances. The existing low lying land, which is predominantly open with only a few scattered trees set behind a hedgerow contributes significantly to the openness of the Green Belt and rural character of the area. The proposal to create a 7.5 metre by 75 metres access road and footpath constructed from tarmac, with banking on either side, would be inappropriate development which would not preserve the openness of the Green Belt.
- 14.5 Visually the proposed access would result in the loss of approximately 20 metres of hedgerow adjacent to Undershore Road. The existing hedgerow currently runs between the existing access track adjacent to The Old Ferry House and the entrance to the Ferry Crossing. It is considered that the hedgerow is a distinctive feature which makes a positive contribution to the rural character of the area and the loss of a considerable section of the hedgerow would have a negative impact on the rural character of the road and wider landscape.
- 14.6 Given the nature of the surfacing (tarmac), its siting and the overall width and length of the proposed road and footpath, it would be an imposing feature in the landscape that would have an urbanising effect which would result in some encroachment into the countryside. The proposed access would be highly visible from Undershore Road and as such it would be harmful to visual amenity. Indeed the proposed access would result in the removal of a large section of hedgerow and its position would cut centrally across the open pasture land, whereas the existing access track runs along the boundary, maintaining the existing hedgerow, and is considered to be sited in a more visually sensitive location. In regards to the impact on the character and appearance of the adjacent Conservation Area and the setting of Listed Buildings, the comments of the Conservation Officer are awaited and will be updated when available. It is noted that the National Park Authority are concerned about the impact of the proposals on the wider rural context of the special qualities of the National Park. While there would be some impact, this is not considered to warrant a reason for refusal in its own right but it does add weight to the concerns about this development.
- 14.7 Consideration is given to the need to sustain the economic viability of the business at Lymington Yacht Haven which is an important employment facility. The applicants have made a detailed case as to why the proposed access is required, which has been given due weight. However, the economic benefits do not override the impact on the Green Belt or wider landscape. There may be scope to provide either improvements to the existing access or to investigate a more sensitive design and location which preserve the openness of the Green Belt and the rural character of the area.

- 14.8 In relation to public highway safety matters, Undershore Road has the status of a classified road and the Highway Authority does not raise any objections to the proposal. The existing access to the north which currently also serves Old Ferry House would be altered / stopped up within the site so that it would provide access solely to this property on completion of the new access. Given the width of the proposed road and visibility splays, together with the footpath, the proposal would be acceptable to the Highway Authority.
- 14.9 In relation to other matters, the proposed development would not have any adverse impact on residential amenity. While the access road would be nearer to Island Point Flats, this relationship is acceptable.
- 14.10 Concerning flooding matters, the site lies within Flood Zone 2/3 and the application has been accompanied by a Flood Risk Assessment. There is an existing network of drainage ditches within the site which connect with the river. The proposed road crosses three of these drainage ditches so culverts would be used under the road and banking, to maintain the flow of water in all existing locations. The camber of the road would induce surface water from the road to discharge onto the open fields either side over the length of the road. No additional discharge would be created by the construction or directed towards adjacent buildings. The Environment Agency does not raise any objections to the proposal.
- 14.11 The Ecologist has raised an objection on the grounds that no professional ecological information has been submitted to support the application. This would normally be expected for a development affecting a Site of Importance for Nature Conservation and involving operations such as hedgerow removal. No information is available to consider the possible impact on protected species, given the surrounding habitat the presence of protected species is reasonably likely.
- 14.12 In conclusion while it is recognised that the proposed access is needed for the economic viability of the business and there are some benefits to public highway safety, this does not justify the visual impact on the rural character of the area and wider landscape and openness of the Green Belt. Officers consider that an alternative design approach could be put forward to provide an access that serves both the residential flats and Lymington Yacht Haven, however this will need to be closer to, or an enlargement of the existing access track. Moreover, consideration needs to be given to its size, including banking and the type of surfacing to be used.
- 14.13 In coming to this recommendation, consideration has been given to the rights set out in Article 8 (Right to respect for private and family life) and Article 1 of the First Protocol (Right to peaceful enjoyment of possessions) of the European Convention on Human Rights. Whilst it is recognised that this recommendation, if agreed, may interfere with the rights and freedoms of the applicant to develop the land in the way proposed, the objections to the planning application are serious ones and cannot be overcome by the imposition of conditions. The public interest and the rights and freedoms of neighbouring property owners can only be safeguarded by the refusal of permission.

## 15. RECOMMENDATION

### Refuse

#### Reason(s) for Refusal:

1. By virtue of its siting across open pasture, the significant loss of hedgerow, its length and width and the harsh nature of surfacing to be used, the proposed development is inappropriate development that would impact on the openness of the Green Belt and would be visually intrusive in its setting that would have an adverse impact on the wider landscape and rural character of the area which lies within a Site of Importance for Nature Conservation and is close to the New Forest National Park.. For this reason, the development is contrary to Policy CS2, CS3 and CS10 of the Core Strategy for the New Forest District Outside the National Park.
2. In the absence of an appropriate biodiversity survey / ecological assessment, it has not been adequately demonstrated that the proposed development could be implemented without adversely affecting protected species, biodiversity interests, and the ecological interest of adjacent land that is designated as a Site of Importance for Nature Conservation. As such, the proposal would be contrary to Policy CS3 of the Core Strategy for New Forest District outside of the National Park and Policy DM2 of the Local Plan Part 2: Sites and Development Management.

#### Notes for inclusion on certificate:

1. In accordance with paragraphs 186 and 187 of the National Planning Policy Framework and Article 35 of the Town and Country Planning (Development Management Procedure) (England) Order 2015, New Forest District Council takes a positive and proactive approach, seeking solutions to any problems arising in the handling of development proposals so as to achieve, whenever possible, a positive outcome by giving clear advice to applicants.

No pre application advise was sought. The applicants were made aware that the application will be presented to the Planning Development Control Committee for determination.

#### Further Information:

Major Team  
Telephone: 023 8028 5345 (Option 1)

