

Application Number: 16/10332 Full Planning Permission

Site: HARLEYS, 1 SHAFTESBURY STREET,
FORDINGBRIDGE SP6 1JF

Development: Ancillary smoking area and temporary parasols

Applicant: Mr Ashford

Target Date: 28/07/2016

1 REASON FOR COMMITTEE CONSIDERATION

Contrary to Town Council view

2 DEVELOPMENT PLAN AND OTHER CONSTRAINTS

Built-up Area
Primary Shopping Area
Town Centre Boundary
Fordingbridge Conservation Area

3 DEVELOPMENT PLAN, OBJECTIVES AND POLICIES

Core Strategy

CS2: Design Criteria
CS3: Protecting and enhancing our special environment

Local Plan Part 2 Sites and Development Management Development Plan Document

DM1: Heritage and Conservation

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

Fordingbridge Conservation Area Appraisal
Village and Town Design Statement Fordingbridge

6 RELEVANT PLANNING HISTORY

6.1 14/11743 - Use as garden and supervised children's play area - refused March 2015 - not appealed

6.2 11/97065 – continued use of land as beer garden, retention of pergola, decking and smoking shelter – refused June 2011 – appeal dismissed

- 6.3 09/93833 - retention of pergola and decking, relief of condition 4 of 16327. Refused 13.5.09, appeal dismissed
- 6.4 07/91423 - retention of pergola and decking, relief of condition 4 of 16327. Refused 22.5.08, appeal invalid
- 6.5 EN/07/0627 - Enforcement Notice issued 2.6.09. No appeal. The notice required cessation of the use of the land for the purposes of a garden/courtyard area and removal of seating, tables, decking and pergola for use by patrons of the premises.

7 PARISH / TOWN COUNCIL COMMENTS

Fordingbridge Town Council - recommend refusal as concern is raised over the potential negative impact on neighbouring properties from noise, bad language and smoke.

8 COUNCILLOR COMMENTS

None

9 CONSULTEE COMMENTS

- 9.1 Conservation Officer - The scheme is much reduced from the previous proposals and now does not include pergola, outdoor seating and smoking shelter. The proposal is for two much lower impact fixed parasols, which has a much more limited impact on the conservation area and the host building than previous schemes. The application still has limited information to illustrate how the parasols sit adjacent to the building and no elevational drawings showing height and relationships. This said, the dimensions shown for the parasols that these will have a much reduced impact visually and have limited views from the street. The scheme as submitted would have a less than significant impact upon the conservation area and would appear as a simple low key addition to the rear of this focal historic building. No significant concerns are raised about the proposed application.
- 9.2 Environmental Health (Pollution) - The use of the rear area at this premises has been the subject of complaint and planning restriction in the past. Given the proximity to noise sensitive premises and the level of intensification of the rear yard which this development represents, it is recommended that any permission is granted on a temporary basis, to enable assessment of alleged nuisance, in particular from smoke reaching nearby property; and in any event the use of the outside area by customers and staff should cease by 21:30hrs.
- 9.3 Environmental Health (Commercial) - no objections
- 9.4 Land Drainage Section - no objections
- 9.5 Southern Gas Networks - give informatives

10 REPRESENTATIONS RECEIVED

Two letters have been received from neighbouring occupiers, objecting to the proposal on grounds on noise and smoke nuisance.

11 CRIME & DISORDER IMPLICATIONS

None

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.

In this case all the above apply and as the application was acceptable as submitted no specific further actions were required.

14 ASSESSMENT

- 14.1 The site lies within the built up area of Fordingbridge in the Fordingbridge Conservation Area and Primary Shopping Frontage. The premises is an established bar on the corner of Shaftesbury Street, Market Place and Provost Street. The proposal follows four previous applications and the serving of an Enforcement Notice. The Enforcement Notice was served requiring the removal of pergolas, decking, smoking shelter, fish pond, wall and picket fence together with the cessation of the use of the land as a garden area. The paraphernalia has now been

removed from the wider site, which is in a poor visual state, although the portion of yard area closest to the premises is tidier and appears to be in use as an outdoor smoking area. The site has a very close relationship to residential land uses to the south and west.

- 14.2 The proposal is toned down in respect of the extent of the site area, appearance of the shelters and the degree of permanence of structures proposed, by comparison with the proposal refused in March 2015. The proposal is now for 2 parasols within a yard area delineated by a greyed out area on drawing no. JA-022 (site plan). The proposal does not extend into land to the rear of nos. 5, 7 and 9 Shaftesbury Street as previously proposed. It is proposed to use part of the rear curtilage as an outdoor area in association with the main premises between the hours of 08:00 and 23:00.
- 14.3 The main issues remain the impact the proposal would have on the character and appearance of the Fordingbridge Conservation Area and the effect of the proposal on the living conditions of the occupiers of surrounding residential properties and in these respects the comments of the Council's Conservation Officer and Environmental Protection Section were sought.
- 14.4 The Conservation Officer acknowledges that the scheme is much reduced from the previous proposals and now does not include the pergola, outdoor seating and smoking shelter. The visual impact of parasols has a much more limited impact on the conservation area and the host building than previous schemes. No significant heritage concerns are raised about the proposed application, which complies with the provisions of Policies CS3 and DM1.
- 14.5 The Environmental Protection Section note that the use of the rear yard area at this premises has been the subject of complaint in the past. Given the proximity to noise sensitive premises and the level of intensification of the rear yard which this development represents, they recommended that any permission is granted on a temporary basis, to enable assessment of alleged nuisance impacts, in particular from smoke reaching nearby properties. In any event the use of the outside area by customers and staff should cease by 21:30hrs, which may be controlled by condition.
- 14.6 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 there may be an interference with these rights and the rights of other third parties, such interference has to be balanced with the like rights of the applicant to develop the land in the way proposed. In this case it is considered that the protection of the rights and freedoms of the applicant outweigh any possible interference that may result to any third party.

15. RECOMMENDATION

Grant Subject to Conditions

Proposed Conditions:

1. The use of the rear yard area for smoking purposes by customers of the premises shall cease on or before 12th August 2017, unless prior written approval has first been agreed by the Local Planning Authority.

Reason: In order to assess the environmental impacts of the proposed use on the amenity of adjoining occupiers, in accordance with Policy CS2 of the Local Plan for the New Forest District outside the National Park (Core Strategy).

2. The development permitted shall be carried out in accordance with the following approved plans: JA-001, JA-002 and JA-003

Reason: To ensure satisfactory provision of the development.

3. Use of the rear curtilage as an ancillary smoking area shall apply only to the greyed out area shown on drawing no. JA-002 and no other area within the curtilage of the application property, without the express planning permission of the Local Planning Authority.

Reason: In the interest of the amenities of the locality in accordance with policy CS2 of the Local Plan for the New Forest District outside the National Park (Core Strategy).

4. Use of the external smoking area to the rear of the premises by customers shall be limited to between the hours of 09:00 and 21:30 only.

Reason: To safeguard the amenities of nearby residential properties in accordance with Policy CS2 of the Local Plan for the New Forest District outside the National Park (Core Strategy).

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.

In this case all the above apply and as the application was acceptable as submitted no specific further actions were required.

Further Information:

Major Team

Telephone: 023 8028 5345 (Option 1)



New Forest
DISTRICT COUNCIL

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

David Groom
Service Manager
Planning and Building Control
New Forest District Council
Applefree Court
Lyndhurst
SO43 7PA

**Planning Development
Control Committee
August 2016**

Item No: 3cc

Harleys
1 Shaftesbury Street
Fordingbridge
16/10332
SU1414

Scale 1:1250

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

