

Application Number: 16/11701 Full Planning Permission

Site: 4 SOUTH STREET, PENNINGTON, LYMINGTON SO41 8ED

Development: Use of ground floor as 1 flat

Applicant: DMG Retirement Trust

Target Date: 08/02/2017

1 REASON FOR COMMITTEE CONSIDERATION

Contrary to Policy; Contrary to Town Council View

2 DEVELOPMENT PLAN AND OTHER CONSTRAINTS

Built-up area

3 DEVELOPMENT PLAN, OBJECTIVES AND POLICIES

Core Strategy

Objectives

- 1. Special qualities, local distinctiveness and a high quality living environment
- 3. Housing
- 4. Economy
- 6. Towns, villages and built environment quality

Policies

- CS2: Design quality
- CS20: Town, district, village and local centres
- CS24: Transport considerations
- CS25: Developers contributions

Local Plan Part 2 Sites and Development Management Development Plan Document

- DM3: Mitigation of impacts on European nature conservation sites
- DM17: Local shopping frontages in the built-up areas of Totton, Hythe, Lymington, New Milton, Ringwood and Fordingbridge

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

- SPD - Lymington Local Distinctiveness
- SPD - Mitigation Strategy for European Sites
- SPD - Parking Standards

6 RELEVANT PLANNING HISTORY

None

7 PARISH / TOWN COUNCIL COMMENTS

Lymington & Pennington Town Council: recommend permission - reluctantly approve subject to report from Highways

8 COUNCILLOR COMMENTS

None

9 CONSULTEE COMMENTS

9.1 Hampshire County Council Highway Engineer:- no objection

10 REPRESENTATIONS RECEIVED

None

11 CRIME & DISORDER IMPLICATIONS

No relevant considerations

12 LOCAL FINANCE CONSIDERATIONS

If this development is granted permission the Council will receive New Homes Bonus (net increase in dwellings 1 x £1224 = £1224 in each of the following four years, subject to the following conditions being met:

- a) The dwellings the subject of this permission are completed, and
- b) The total number of dwellings completed in the relevant year exceeds 0.4% of the total number of existing dwellings in the District

From the 6 April 2015 New Forest District Council began charging the Community Infrastructure Levy (CIL) on new residential developments.

Based on the information provided at the time of this report this development has a CIL liability of £3,696.00.

Tables setting out all contributions are at the end of this report.

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, the application proposals were not the subject of pre-application advice. Given the nature of the main objection outlined in the report below, it is not felt there is scope to negotiate on the application proposals to secure an acceptable outcome to this application.

14 ASSESSMENT

- 14.1 This application relates to the ground floor of 4 South Street, which is a vacant commercial unit with a shopfront that is situated within the Pennington Local Shopping Frontage. The most recent use of the building was as a cafe. It is understood that this use ceased trading in December 2015.
- 14.2 The submitted planning application seeks to convert the building to a single 2-bedroom flat. The proposed residential conversion would include some minor external alterations to the side of the building, which abuts an undercroft access leading to a rear parking area. The proposal would be contrary to Policy DM17 of the Local Plan Part 2 which indicates that residential development will not be permitted at ground floor level in premises within the defined Local Shopping Frontage. As such, planning permission should not be granted for this proposed development unless there are material considerations to justify a departure from policy.
- 14.3 Many of the adjacent and nearby premises within this part of the Local Shopping Frontage, including the 2 neighbouring commercial units, have been the subject of Prior Approval Applications to convert the former shops / commercial uses to residential dwellings. The Local Planning Authority initially resisted one of these proposals, refusing a Prior Approval application at nearby Linden House on the basis that the proposal would have been harmful to the sustainability of a key shopping area. However, an appeal inspector disagreed. He noted that the units at Linden House had been vacant for some time, had been marketed without generating interest, and were in an area where there were a number of other vacant units. The appeal inspector did not feel there

was a reasonable prospect of the building being put back into active retail use. The appeal inspector concluded that a residential change of use would not have an undesirable impact on the sustainability of the shopping area in which Linden House was sited. Subsequently, other Prior Approval applications have been submitted for other adjacent units, and in the light of the appeal decision at Linden House, the Local Planning Authority has concluded that their residential conversion is acceptable based on what can legitimately be considered through the Prior Approval process, (which is much more limited than with an equivalent planning application).

- 14.4 Because the last use of 4 South Street was as a cafe, there are no permitted development rights to convert the building to a dwelling, and therefore the Prior Approval process cannot apply. Instead, full planning permission is needed for the proposed change of use. Notwithstanding this fact, because the loss of adjacent commercial units has been accepted through the Prior Approval process, it is felt there is no longer a reasonable case to resist the principle of a residential conversion. 4 South Street forms one of a group of commercial units within the Local Shopping Frontage that have been struggling to survive. Given what has already been accepted, it is not felt the loss of this small, vacant retail unit would have a materially harmful impact on the vitality of the Pennington Local Shopping Frontage.
- 14.5 While the principle of a residential conversion is considered acceptable, it is still necessary to consider a number of detailed impacts. In this case, the use and the physical alterations would not have an adverse impact on the character and appearance of the area. Nor would the proposed development have any material adverse impact on the amenities of adjacent properties. However, the proposed flat itself would have a particularly poor quality living environment. The flat would be small with no outdoor amenity space. The 2 bedrooms would have a dark and gloomy outlook onto an undercroft access, while the small combined kitchen / living room would also have side widows facing onto this undercroft access. The kitchen / living room would have an outlook directly onto the street at the front as well. Given the public nature of the flat's surroundings, the flat would enjoy limited privacy, and the flat would also be subject to relatively high levels of disturbance. These factors would all combine to result in a property where the levels of amenity afforded to future occupants would be unacceptable. It should be noted that the level of amenity afforded to future occupants is not a matter that can be considered through the Prior Approval process, and so it was not a relevant issue when determining the recent Prior Approval applications affecting adjacent premises. However, it is very much a relevant issue to consider as part of this planning application.
- 14.6 The flat would not have any allocated off-street car parking space, which would be acceptable from a highway safety perspective, having regard to the views of the Highway Authority.
- 14.7 In accordance with the Habitat Regulations 2010 an assessment has been carried out of the likely significant effects associated with the recreational impacts of the residential development provided for in the Local Plan on both the New Forest and the Solent European Nature Conservation Sites. It has been concluded that likely significant adverse effects cannot be ruled out without appropriate mitigation projects being secured. In the event that planning permission were to be granted for

the proposed development, a condition would be required that would prevent the development from proceeding until the applicant has secured appropriate mitigation, either by agreeing to fund the Council's Mitigation Projects or otherwise providing mitigation to an equivalent standard. The full habitat mitigation contribution that would be required in this case would be £3050.

- 14.8 Following recent changes to national planning policy, it is not considered that a contribution to affordable housing would be justified. In essence, on this particular point, national planning policy is felt to carry greater weight than the Council's Core Strategy Policy CS15.
- 14.9 Overall, it not felt there is a compelling case to resist the loss of this commercial use within the Local Shopping Frontage, taking into account recent changes / decisions affecting adjacent premises, and given the limited impact there would be on the vitality of the overall Shopping Frontage. As such, a decision contrary to Local Plan Policy DM17 would be justified. However, what would not be justified would be the creation of a dwelling with such a poor quality of amenity as that proposed. For this reason, it is felt that planning permission should be refused.
- 14.10 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.

Section 106 Contributions Summary Table

Proposal:			
Type of Contribution	NFDC Policy Requirement	Developer Proposed Provision	Difference
Habitats Mitigation			
Financial Contribution	£3050		

Cil Summary Table

Type	Proposed Floorspace (sq/m)	Existing Floorspace (sq/m)	Net Floorspace (sq/m)	Chargeable Floorspace (sq/m)	Rate	Total
Dwelling houses	42		42	42	£80/sqm	£3,696.00 *
Subtotal:	£3,696.00					
Relief:	£0.00					
Total Payable:	£3,696.00					

* The formula used to calculate the amount of CIL payable allows for changes in building costs over time and is Index Linked using the All-in Tender Index Price published by the Build Cost Information Service (BICS) and is:

$\text{Net additional new build floor space (A)} \times \text{CIL Rate (R)} \times \text{Inflation Index (I)}$

Where:

A = the net area of floor space chargeable in square metres after deducting any existing floor space and any demolitions, where appropriate.

R = the levy rate as set in the Charging Schedule

I = All-in tender price index of construction costs in the year planning permission was granted, divided by the All-in tender price index for the year the Charging Schedule took effect. For 2017 this value is 1.1

15. RECOMMENDATION

Refuse

Reason(s) for Refusal:

1. The proposed flat would provide an unsatisfactory living environment and unacceptably poor levels of amenity and privacy for future occupants, having regard to the flat's small size, its dark and unattractive outlook onto an undercroft vehicular access, its lack of any outdoor amenity space, and due to the relatively high levels of disturbance that would arise from the flat's immediate outlook. As such, the proposal would be a poor design that would be contrary to Policy CS2 of the Core Strategy for New Forest District outside of the National Park.

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, the application proposals were not the subject of pre-application advice. Given the nature of the main objection, it is not felt there was scope to negotiate on the application proposals to secure an acceptable outcome to this application.

Further Information:

Major Team

Telephone: 023 8028 5345 (Option 1)



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**Planning Development
Control Committee
February 2017**

Item No: 3p

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South Street
Pennington Lymington
16/11701
SZ3194

Scale 1:1250

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

