

Application Number: 16/11137 Full Planning Permission

Site: Land south of OLD FERRY HOUSE, UNDERSHORE ROAD,
BOLDRE SO41 5SA

Development: Access road to Haven Marine Park & Island Point Flats

Applicant: Lymington Yacht Haven Ltd

Target Date: 06/10/2016

1 REASON FOR COMMITTEE CONSIDERATION

Contrary to Parish Council view

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
- 4. Economy
- 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
- DM22: Employment development in the countryside

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

6.1 Access road to Haven Marine Park and Island Point Flats (10197) Refused on the 11th May 2016

6.2 14 industrial units in 2 linked blocks with covered boardwalk; access road; parking; landscaping; demolition of existing; (Use Class B1) including marine based use (17/10121) Recently registered, Pending decision.

7 PARISH / TOWN COUNCIL COMMENTS

Boldre Parish Council: Recommend refusal. Boldre Parish Council sees no reason to change its previous comments. (Application 16/10197 and 16/11137) 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 subject to conditions.

9.2 New Forest National Park Authority: objection. Despite the revisions, those concerns which were raised previously over the scheme remain. Principally that a suburban feature will be introduced into the landscape contrary to this distinctive area, the verdant hedgerow is still to be partially removed and opened up, and an area of hard surface will be created across the area of open space which contributes to the setting of the National Park and the Conservation area.

9.3 Environment Agency: no objection subject to condition. The proposed development will only meet the requirements of the National Planning Policy Framework if the measures as detailed in the Flood Risk Assessment (July 2016) submitted with this application are implemented and secured by way of a planning condition.

9.4 Natural England advises that if the proposal is undertaken in strict accordance with the details submitted, it is not likely to have a significant effect on the interest features for which Solent and Southampton Water Ramsar and SPA, Solent and Isle of Wight Lagoons SAC and Solent

Maritime SAC have been classified. Natural England therefore advises that the Authority is not required to undertake an Appropriate Assessment to assess the implications of this proposal on the sites Conservation objectives. In addition, Natural England is satisfied that the proposed development being carried out in strict accordance with the details of the application, as submitted, will not damage or destroy the interest features for which Lymington River Reedbeds and Hurst Castle and Lymington River Estuary SSSIs have been notified.

- 9.5 Ecologist: no objection subject to condition. Given the scale and nature of the proposal, the recent degradation of the locally designated conservation site and the possibility for the provision of compensation, the impact of the development is such that it is not considered there are grounds for in principle objection. It would however be important to obtain final details of biodiversity compensation/enhancement measures, whilst these are generally suitable it would be important to ascertain some further details.
- 9.6 Southern Gas: the proposed development lies close to a low/ medium/ intermediate pressure gas system and there should be no mechanical excavations taking place above or within 0.5 metres of a low /medium system or above or within 3 metre of an intermediate pressure system.
- 9.7 Conservation Officer: comments on the amended plans will be updated at the meeting.

10 REPRESENTATIONS RECEIVED

10.1 4 letters of support:

The current access is inadequate for both Island Point residents and the marine industrial units and the proposed new access track will be a significant improvement. Recent works on the site involving the replacement of the sluice gates and reinstatement of the filed ditches and culverts have reduced the frequency of tidal flooding around Island Point. It is important that the field lands south of Old Ferry House are allowed the free passage of any flood waters regressing through the boat yard sea wall across the existing gravel track to the river estuary via a culvert and sluice gate positioned under the railway embankment. 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 1 letter of objection:

Concerned with the new access across the SINC will be damaging to the local environment.

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.

Revised plans have been submitted to address the concerns raised by Officers in relation to the extent of road and the type of surface treatment and detailing to the access and entrance to Undershore Road.

14 ASSESSMENT

- 14.1 The site consists of open pasture land with a few scattered trees lying within a very sensitive location in which there are many constraints. In recent years the site has been subjected to drainage measures to protect adjoining properties from flooding, resulting in the land level being raised by the introduction of imported material. The site is intersected by several deep drainage ditches which are protected from tidal inundation with sea water by sluice gates. There is an existing track running from Undershore Road along the north western edge of the site which provides vehicle access to the Haven Marine Park and the flats at Island Point.
- 14.2 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 Point which are all currently accessed from a gravel track from Undershore Road.
- 14.4 This application has been submitted by Lymington Yacht Haven and proposes a new private access road and footpath from Undershore Road to serve Haven Marine Park and Island Point flats. The existing access road across the land would be abandoned with new grassed areas to replace the track, although a short part of the access would remain to serve the residential property known as The Old Ferry House. The proposed access road would cut through an existing hedgerow adjacent to Undershore Road and would run across an area of open pasture land and its width would range from 3.8 metres to 6.6 metres wide by 75 metres long and be constructed from tarmac and resin bonded gravel, together with new soft landscaping. A separate gravel footpath would run adjacent to the proposed access road.
- 14.5 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.
- 14.6 It should be noted that a current separate planning application (17/10121) has been submitted for Haven Marine Park which proposes to demolish the existing industrial units on the site and the construction of two buildings containing 14 new units with offices at first floor level and storage at ground floor level. That application also proposes new parking areas and associated soft and hard landscaping. The application is pending a decision. It should be noted that this current application for a new access is a stand alone application despite the fact that a separate application has been submitted at Haven Marine Park to redevelop the site.
- 14.7 The current proposal for a new access and footpath follows a refusal of planning permission for a new access and footpath on this site (16/10197). Indeed Members may recall considering the application at the meeting on the 11th May 2016.
- 14.8 The previous application was refused for two reasons, the first of which raised concerns on character grounds. It was previously considered that 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 would have been 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. The second reason for refusal was on ecological grounds, as it had 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. This was because of the absence of an appropriate biodiversity survey/ ecological assessment.

- 14.9 This application follows pre application advice when officers strongly encouraged the applicant to utilise, upgrade and widen the existing access track, rather than to create a new access through the land. However, the applicants made it very clear that this option has been explored but was not practical or feasible because of ownership issues in order to achieve the desired access onto Undershore Road. Accordingly, the current application proposes to position the access in the same position as previously submitted, but to make a number of other changes and improvements which are set out below.
- 14.10 These changes include the proposed footpath being separated from the main access road reducing the overall extent of hardsurfacing and reducing the width and size of the access track. The overall loss of hedgerow immediately adjacent to Undershore Road has been reduced. A length of approximately 10 metres would be lost, whereas the previous application had shown an opening of around 20 metres. New hedgerows are also proposed along the first section of the new access. The width of the proposed access road has been narrowed from 7.5 metres to 3.8 metres, although where margins are provided the overall width of the access increases.
- 14.11 Further changes have been made to the quality and detailing of the surface treatment of the access onto Undershore Road which are shown with a combination of flush edging's and conservation blocks. The side banking has been shown to be largely removed and it is now proposed that the land on either side of the road comprises mixed grass seed and wild flowers. The application includes further justification for the need for the access. The application has also been accompanied by an Ecological Report setting out some biodiversity enhancements.
- 14.12 In assessing this current proposal, it is necessary to start with the Green Belt test, in which the fundamental aim is to prevent urban sprawl by keeping land permanently open and seeks 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. Paragraph 89 states that a local planning authority should regard the construction of new buildings as inappropriate in Green Belt. In this case, the proposal is not for a new building. Paragraph 90 is relevant and states that certain forms of development are also not inappropriate in Green Belt provided they preserve the openness of the Green Belt and do not conflict with the purposes of including land in Green Belt. These include engineering operations, such as the proposed road.
- 14.13 The main issue in this case is whether the proposed road preserves the openness of the Green belt and does not conflict with the purposes of designation. One of those purposes is to assist in safeguarding the countryside from encroachment.

- 14.14 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 existing track which runs through the site and measures approximately 4.2 metres by 55 metres has some impact on the openness of the Green Belt and the submitted plans show the track would be replaced with grass. The proposed access would be greater in length, however, the majority of the access track will be narrower measuring only 3.8 metres. In comparing the actual size of the proposed access road with the existing, there is not a considerable difference in size. The most notable difference is the proposed location which will essentially be across the middle of the paddock. Overall it is considered that the proposed access road, subject to the existing track being landscaped with grass, will not result in a significant encroachment and impact on the preservation or openness of the Green Belt and accords with Paragraph 90 of the NPPF.
- 14.15 Visually, considerable improvements have been made to the design and size of the access track and its overall impact on the landscape and the adjacent New Forest National Park and conservation area. Reducing the width of the access road across the field and its entrance onto Undershore Road, the provision of new grass and wild flower throughout the site and the incorporation of smaller access margins would minimise the visual and landscape impact of the road. Equally, the removal and replacement of the existing gravel access track demonstrates that new landscaping will be provided to reduce the impact. The quality of the surface materials to be used at the entrance to Undershore Road would create a high quality finish and more sympathetic appearance adjacent to the National Park and conservation area.
- 14.16 The proposal would also accord with local and national policies. In terms of other national planning policies, Paragraph 28 of the National Planning Policy Framework urges support and expansion of all types of business and enterprise in rural areas. Local Plan Policy CS21 relates to the rural economy and seeks to keep existing employment sites, and encourage improvements and redevelopment that will help maintain and enhance the environment, and contribute to local distinctiveness. Local Plan Part 2 Policy DM22 is also applicable and relates to employment development in the countryside and gives general support for existing rural development but should not be harmful to the rural character of the area by reason of visual impact, traffic and other activity generated or other impacts.
- 14.17 Having regard to the ground level nature of the track and access, the character of the area, the purpose of the track and the fact that the proposal would replace an existing track it is considered that the proposed development would not adversely affect the openness of the area or the character and appearance of the National Park or the adjacent conservation area.
- 14.18 In terms of the ecological matters, the Ecologist states that the ecological statement does, in part, provide information on protected species and the condition of the habitat, which does make a contribution to resolving previous reasons for objection. The report confirms that the area was of nature conservation importance in the past, with some remnants of vegetation characteristic of wetlands remaining in places. It also identifies that common reptile species are likely to be present but

has not undertaken appropriate surveys to establish the level of impact as an approach of habitat manipulation is proposed to address legal protection. However given the scale and nature of the proposal, the recent degradation of the locally designated nature conservation site and the possibility for the provision of compensation, the impact of the development is such that the Ecologist does not consider there are grounds for in-principle objection.

- 14.19 It would however be important to obtain final details of biodiversity compensation/enhancement measures, while these are generally suitable it would be important to seek some further details such as the enhancement being delivered via natural regeneration or use of local provenance seed, and this can be dealt with by a planning condition.
- 14.20 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. It should be noted that the Highway Authority did not raise any objections to the previous application.
- 14.21 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
- 14.22 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, to maintain the flow of water in all existing locations. The camber of the road would ensure surface water from the road is discharged 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.
- 14.23 In conclusion, while these proposed changes still need to be balanced against the unfortunate opening of a new entrance onto Undershore Road, and a new access road that would be more obvious compared to the existing gravel track, subject to quality detailing along the entrance to Undershore Road and landscaping, the proposal is supported and the concerns previously raised have been addressed.
- 14.24 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 development hereby permitted shall be begun before the expiration of three years from the date of this permission.

Reason: To comply with Section 91 of the Town and Country Planning Act 1990 as amended by Section 51 of the Planning and Compulsory Purchase Act 2004.

2. The development permitted shall be carried out in accordance with the following approved plans: 372/4B, 372/6B, 372/8C

Reason: To ensure satisfactory provision of the development.

3. Prior to the use of the access hereby approved, the existing access track shall be permanently stopped up and effectively closed as shown on Drawing No 372/6B and in accordance with details that are submitted to and approved by the Local Planning Authority, so that vehicles using Haven Marine Park and Island Point flats can only enter and leave the highway via the access hereby approved.

Reason: In the interest of highway safety and in accordance with Policy CS2 and CS24 of the Local Plan for the New Forest District outside of the National Park (Core Strategy).

4. Prior to the use of the access hereby approved, visibility splays of 2.4 x 90 metres in both directions at the junction of the approved vehicular access with Undershore Road shall be provided and these splays shall be kept free from any obstruction greater than 600mm high at all times.

Reason: In the interest of highway safety and in accordance with Policy CS2 and CS24 of the Local Plan for the New Forest District outside of the National Park (Core Strategy).

5. Notwithstanding the submitted strategic landscape details under Drawing No 372/6B and the landscaping specification, the following additional details shall be submitted to and approved in writing by the Local Planning Authority:

- (a) the existing trees and shrubs which have been agreed to be retained;

- (b) a specification for new planting to include trees and hedgerows (species, size, spacing and location);
- (c) areas for hard surfacing, block paving, edging and the materials to be used;
- (d) other means of enclosure;
- (e) a method and programme for its implementation and the means to provide for its future maintenance.

No development shall take place unless these details have been approved and all planting, seeding or turfing comprised in the approved details of landscaping shall be carried out in the first planting and seeding seasons following the completion of the development or first use of the access hereby approved whichever is the sooner. Any trees or plants which within a period of 10 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 prevent inappropriate within this sensitive countryside location lying within a SINC and adjacent to the New Forest National Park and conservation area to comply with Policy CS2 of the Local Plan for the New Forest District outside the National Park (Core Strategy).

6. Prior to the commencement of development, and in accordance with the submitted New Forest Ecological Consultants Report dated 8th August 2016 a detailed biodiversity, mitigation and enhancement and compensation strategy shall be submitted to, and approved in writing by the Local Planning Authority. All works shall then proceed in accordance with the details and recommendations as approved in the strategy with any amendments agreed in writing. Thereafter, unless otherwise agreed in writing by the Local Planning Authority, the mitigation measures shall be permanently maintained and retained in accordance with the approved details.

Reason: To safeguard protected species in accordance with Policy CS3 of the Core Strategy for the New Forest District outside the National Park.

7. The development hereby approved shall only be carried out in accordance with the approved Flood Risk Assessment (FRA) (July 2016) unless otherwise agreed by the Local Planning Authority.

Reason: To manage the risk of flooding in accordance with Policy CS6 of the Core Strategy for the New Forest District outside the National Park and the New Forest District Council and New Forest National Park Authority Strategic Flood Risk Assessment for Local Development Frameworks.

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.

Revised plans have been submitted to address the concerns raised by Officers in relation to the extent of road and the type of surface treatment and detailing to the access and entrance to Undershore Road.

2. This decision relates to amended / additional plans received by the Local Planning Authority on the 22nd February 2017.

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
Appletree Court
Lyndhurst
SO43 7PA

**Planning Development
Control Committee
April 2017**

Item No: 3d
Land South of
Old Ferry House
Undershore Road Boldre
16/10197
SZ3295

Scale 1:1250

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

