

Application Number: 17/10735 Full Planning Permission

Site: DSI, THE SQUARE, FAWLEY SO45 1DD

Development: Use of ground floor as 2 flats; remove shopfront; single-storey front extension; fenestration alterations; parking; bin and cycle stores

Applicant: DSI Group

Target Date: 18/07/2017

RECOMMENDATION: Grant Subject to Conditions

Case Officer: Ian Rayner

1 REASON FOR COMMITTEE CONSIDERATION

Contrary to Policy

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
6. Towns, villages and built environment quality

Policies

- CS2: Design quality
- CS5: Safe and healthy communities
- CS15: Affordable housing contribution requirements from developments
- 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
- DM18: Local shopping frontages in Marchwood, Blackfield, Holbury, Fawley, Milford on Sea, Hordle, Bransgore

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 - Mitigation Strategy for European Sites
SPD - Parking Standards

6 RELEVANT PLANNING HISTORY

6.1 Use as end terrace house (08/92328) - granted 3/7/08

6.2 Use as mid terrace house (08/92327) - granted 3/7/98

6.3 Use of Ground Floor as 2 flats; remove shopfront; single-storey front extension; fenestration alterations (16/11469) - withdrawn 20/12/16

6.4 Use as 3 houses (Use Class C3) (LDCP) - was lawful 10/5/17

7 PARISH / TOWN COUNCIL COMMENTS

Fawley Parish Council:- Recommend permission

8 COUNCILLOR COMMENTS

None

9 CONSULTEE COMMENTS

9.1 Southern Gas Networks:- Advise on site's proximity to gas main

9.2 Health & Safety Executive:- Do not advise against the granting of permission.

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 the New Homes Bonus amounting to £2448 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.

Based on the information provided at the time of this report this development has a CIL liability of £0.00.

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

14 ASSESSMENT

14.1 This application relates to a ground floor commercial unit that forms part of an existing 3-storey building within the Fawley Local Shopping Frontage. The submitted application seeks to change the use of this ground floor unit from its current use as an office to 2 flats. The application also seeks to remove an existing projecting shopfront and replace this with a small projecting lean-to with new front doors and windows to the street. New full length windows are also proposed within an existing lean-to at the rear of the property. The surrounding area is a mix of commercial and residential uses, with the 2 upper floors above the application site being in residential use.

14.2 Because the site is within the Fawley Local Shopping Frontage, Policy DM18 of the Local Plan Part 2 is relevant. This policy states that residential development will not be permitted at ground floor level in premises within the defined frontage. The submitted application is therefore contrary to this policy. As such, the proposal should not be approved unless there are material considerations that would justify a departure from this policy.

- 14.3 The applicant has not sought to justify their proposal. Notwithstanding this, the site's recent planning history is of some relevance. In 2008, planning permission was granted (through 3 separate planning permissions) to convert the building which the application site forms a part of (which includes 7 The Square) to a terrace of 3 houses. As such, in 2008, (when there was a different policy framework) the loss of the existing ground floor commercial units was considered acceptable. Subsequently, in 2011, the applicant made changes to the first floor windows at the front of the building in line with the physical alterations shown on the 2008 planning permissions. In so doing, they have kept the 2008 planning permissions to convert the building to 3 terraced dwellings alive. A Lawful Development Certificate confirming that the 2008 planning permissions can still be lawfully implemented was granted earlier this year.
- 14.4 Given that there is a legitimate fallback position whereby the existing ground floor office units can be lawfully converted to residential use pursuant to the 2008 planning permissions, it is felt that there is a sound basis to permit the residential conversion that this application now proposes, even though this would be contrary to Local Plan policy. It is also relevant to note that the existing office use, which is sited towards the edge of the Local Shopping Frontage, makes only a limited contribution to the vitality of the Fawley Local Shopping Frontage. There are other vacant premises within the shopping frontage, and a number of other former commercial units have recently been granted planning permission to be converted to residential use, which is indicative of a shopping frontage that has struggled in recent years. Given this context, it is not felt the proposed residential conversion would be materially harmful to the vitality of the Shopping Frontage, which adds further weight to the conclusion that the proposed residential conversion would be acceptable.
- 14.5 The proposed residential conversion, resulting in 2 additional ground floor flats, would be a more intensive residential conversion than the conversion that was permitted in 2008. Given the site's village centre context, it is not felt the intensity of residential use would be materially harmful. The proposed flats would be provided with an appropriate area of rear garden amenity space, and they would also be served by an adequate parking area to the rear. The proposed residential conversion would not have any material impact on the amenities of adjacent residential and commercial properties.
- 14.6 The proposed physical alterations to the building would be broadly in line with the physical alterations that were approved pursuant to the 2008 planning permissions. The simple lean-to that is proposed to the front of the building would give the building a more domestic character and would be of an appropriate appearance.
- 14.7 The application site is situated within the Fawley Major Hazard (middle) Consultation Zone. The Health and Safety Executive have previously raised no objection to an identical proposal (submitted last year). Consequently, there would be no conflict with Policy CS5.
- 14.8 It is not felt that a contribution to affordable housing would be justified in the light of national planning policies.

- 14.9 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 is granted for the proposed development, a condition is recommended 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 mitigation contribution required in this case is £4100.
- 14.10 Overall, the proposed development would not accord with Local Plan Policy DM18. However, it is felt that there would be a compelling justification to permit this proposal contrary to policy, having regard to the site's planning history, the existence of extant planning permissions to convert the ground floor commercial units to residential use, and the specific limited contribution the premises makes to the vitality of the existing shopping frontage. The development could be provided without detriment to the character and appearance of the area and without harming the amenities of neighbouring properties. As such, the application is recommended for permission.
- 14.11 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.

CIL Summary Table

Type	Proposed Floorspace (sq/m)	Existing Floorspace (sq/m)	Net Floorspace (sq/m)	Chargeable Floorspace (sq/m)	Rate	Total
Dwelling houses	98	107	-9	-9	£80/sqm	-£750.46 *
Subtotal:	£0.00					
Relief:	£0.00					
Total Payable:	£0.00					

* 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:

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

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

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: 163.02, 163.03, 163.04, 163.05 rev A.

Reason: To ensure satisfactory provision of the development.

3. No development shall be carried out until proposals for the mitigation of the impact of the development on the New Forest and Solent Coast European Nature Conservation Sites have been submitted to and approved in writing by the local planning authority, and the local planning authority has confirmed in writing that the provision of the proposed mitigation has been secured. Such proposals must:

- (a) Provide for mitigation in accordance with the New Forest District Council Mitigation Strategy for European Sites SPD, adopted in June 2014 (or any amendment to or replacement for this document in force at the time), or for mitigation to at least an equivalent effect;
- (b) Provide details of the manner in which the proposed mitigation is to be secured. Details to be submitted shall include arrangements for the ongoing maintenance and monitoring of any Suitable Alternative Natural Green Spaces which form part of the proposed mitigation measures together with arrangements for permanent public access thereto.
- (c) The development shall be carried out in accordance with and subject to the approved proposals.

Reason: The impacts of the proposed development must be mitigated before any development is carried out in order to ensure that there will be no adverse impacts on the New Forest and Solent Coast Nature Conservation Sites in accordance with Policy DM3 of the Local Plan Part 2 and the New Forest District Council Mitigation Strategy for European Sites Supplementary Planning Document.

4. The external facing and roofing materials (brick and tile) shall match those used on the existing building.

Reason: To ensure an acceptable appearance of the building in accordance with policy CS2 of the Local Plan for the New Forest District outside the National Park Core Strategy.

5. The use hereby permitted building shall not be first occupied until
 - (a) details of the treatment of the boundaries of the site have been approved in writing by the Local Planning Authority, and
 - (b) these means of enclosure have been implemented in accordance with the details thus approved.

Reason: To ensure that the development takes place in an appropriate way in accordance with Policy CS2 of the Local Plan for the New Forest District outside the National Park (Core Strategy)

6. The development hereby permitted shall not be occupied until the spaces / areas shown on the approved plans for the parking of motor vehicles and cycles have been provided. The spaces / areas shall thereafter be retained and kept available for their intended purposes at all times.

Reason: To ensure adequate parking provision is made in the interest of highway safety and in accordance with Policy CS2 and CS24 of the Local Plan for the New Forest outside of 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, as the application was acceptable as submitted no specific further actions were required.

2. In discharging condition No 3 above the Applicant is advised that appropriate mitigation is required before the development is commenced, either by agreeing to fund the Council's Mitigation Projects or otherwise providing mitigation to an equivalent standard. Further information about how this can be achieved can be found here <http://www.newforest.gov.uk/article/16478/>.

Further Information:

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New Forest DISTRICT COUNCIL

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**Planning Development
Control Committee
August 2017**

Item No: 3h

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Scale 1:1250

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

