

**Application Number:** 17/10540 Full Planning Permission

**Site:** YACHT HOUSE, QUAY STREET, LYMINGTON SO41 3AS

**Development:** Change of use of first floor office (Use Class B1a) to residential flat (Use Class C3)

**Applicant:** Mr Denison

**Target Date:** 15/06/2017

<b>RECOMMENDATION:</b> Grant Subject to Conditions
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<b>Case Officer:</b> Richard Natt
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**1 REASON FOR COMMITTEE CONSIDERATION**

Contrary to Policy and Town Council View

**2 DEVELOPMENT PLAN AND OTHER CONSTRAINTS**

Town Centre  
Listed Building  
Conservation Area  
Flood Zones 2 and 3  
Primary Shopping 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

**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  
CS15: Affordable housing contribution requirements from developments  
  
CS17: Employment and economic development  
CS20: Town, district, village and local centres  
CS24: Transport considerations

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

DM1: Heritage and Conservation

DM3: Mitigation of impacts on European nature conservation sites

DM14: Primary shopping frontages

### **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**

SPG - Lymington - A Conservation Area Appraisal

SPD - Lymington Local Distinctiveness

SPD - Mitigation Strategy for European Sites

SPD - Parking Standards

### **6 RELEVANT PLANNING HISTORY**

6.1 Change of use of 1st floor residential flat to offices and parking at Nelson Cottage (1987/34048) Granted with conditions on the 30th September 1987

6.2 Remove stud walls, block staircase (17/10541) current listed building application

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

Lymington Town Council: Recommend refusal - in support of Conservation Officer

### **8 COUNCILLOR COMMENTS**

None

### **9 CONSULTEE COMMENTS**

9.1 Conservation Officer: No objection to the principle of the conversion. Whilst initial concerns were raised, these can be addressed as part of the separately Listed Building Application. Accordingly, there are no objections in principle to the change of use to a flat.

9.2 Environment Agency: No principle objection

9.3 Hampshire County Council Highway Engineer: No highway objection

9.4 Natural England: No objection subject to appropriate mitigation being secured

9.5 Environmental Health (historic land use): No comment to make

## **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 £1224 in each of the following four years, subject to the following conditions being met:

- a) The dwelling the subject of this permission is 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 planning application proposes the change of use of the first floor office (Use Class B1) to a one bedroom flat (Use Class C3). The first floor of the building was originally used as a residential flat but was converted to an office in the mid 1980s and has been used as an office ever since. It should be noted that because the building is listed, a separate listed building application has been submitted for internal alterations. Due to this, the Conservation Officer has advised she has no objections/
- 14.2 The site comprises a three storey building located on the corner of Quay Hill and Quay Road. The property is a grade 2 listed building located in a small commercial area on the Quayside, within the Lymington Conservation Area and Primary Shopping Area. The ground floor of the building is currently used as a estate agent and a separate office on the first floor. Access to the first floor offices is provided by a door via Quay Hill. The second floor of the building is used as a separate residential unit. The site also lies within Flood Zone 3.
- 14.3 The site lies within a very attractive and busy part of Lymington town centre which comprises a mixture of uses including shops, commercial uses, residential, and restaurants. The upper floor of the buildings in the locality are typically used for residential and office purposes.
- 14.4 In assessing this proposal, the starting position would be local and national policy. Core Strategy Policy CS20 relates to town, district and local centres and the policy seeks to protect the primary retailing role, within the context of maintaining a broader mix of uses, including service, office, entertainment and leisure uses. Core Strategy Policy CS10 is applicable and supports new residential development within town centres. Core Strategy Policy CS17 is applicable and relates to employment and economic development and the strategy is to provide for new employment in order to provide a diverse local economy. The policy seeks to keep all existing employment sites and allocations for employment use, except for the few small sites identified for release in the Employment Land Review. In assessing the proposal against these policies, while residential uses are supported in town centres, and in particular on upper floors, policies seek to protect and retain existing employment uses and accordingly the proposal conflicts with policy CS17.
- 14.5 In assessing the proposal against the policy, it is considered that the proposed change of use does not comply with Core Strategy Policies CS17 or CS20, although it does comply with other policies in the plan which supports provision of residential uses in town centres. As such, the proposal is contrary to local plan policy unless there are material considerations to justify a departure from policy.
- 14.6 In terms of central government guidance, it is clear that there is a general steer and emphasis towards creating new residential development. This is highlighted in government legislation as set out in

the Town and County Planning (General Permitted Development) Order, which permits the change of use of a building from offices (Class B1), to residential (Class C3) without requiring planning permission, but would need to be subject of a Prior Approval Application. In this case, the change of use does require planning permission because the building is listed. However, this does highlight the government's intention to permit this type of change of use.

- 14.7 In terms of the impact on the listed building, the Conservation Officer raises no objections to the change of use, however any internal or external changes proposed would need to be considered as part of a separate Listed Building Application. The Conservation Officer considers that there is a way of achieving a change of use of the first floor to a flat without compromising the Listed Building.
- 14.8 In terms of car parking matters, the site currently has no on site car parking facilities and there are no proposals to provide any. The Parking Standards Supplementary Planning Document provides a recommended average provision of 2 spaces for a one bedroom flat and for the current office use recommends a parking requirement of just over 2 spaces. It is therefore considered that the existing lawful use of the site would be likely to result in a greater demand for parking compared with that which might occur as a result of the proposed use. Moreover, the site is sustainably located within the town centre of Lymington with good access to shops, services and employment opportunities and public transport.
- 14.9 In terms of flooding matters, the application site lies within Flood Zone 3 defined by the Environment Agency Flood Map as having a high probability of flooding. Paragraph 103, footnote 20 of the National Planning Policy Framework (NPPF) requires applicants for planning permission to submit a Flood Risk Assessment (FRA) when development is proposed in such locations. While there is no requirement for the Sequential Test to be undertaken for a change of use, there is still a need to consider flood risk. The Environment Agency does not raise any objection and while the submitted Flood Risk Assessment does not provide detailed information of the flood risk, given the residential use is on the first floor it will remain free of inundation over its lifetime.
- 14.10 The FRA does provide details on safe refuge, which will be onto Quay Hill where the land rises steeply to areas outside flood zones. The application is also accompanied by a Flood Response Plan and Flood Warning Scheme. Having regard to the applicant's FRA and Flood Response Plan, the proposed flat would provide a safe refuge to its occupants in a Flood Risk event. While safe access and egress would not be assured in a flood risk event, the Flood Response Plan indicates that the residential unit would have a flood plan in place, which includes a requirement for all owners to be signed up to the Environment Agency's Flood Warning Scheme, which means that there would be some scope for occupants to evacuate before the building floods. Overall, therefore, the flood risk associated with the proposal is considered to be acceptable.
- 14.11 In assessing both local and national planning policies, and in balancing out the issues, it is clear that local plan policies seek to resist the loss of employment uses, however, it is not felt the loss of this small amount of floor space would have a materially harmful impact on the economic and commercial vitality of the town centre and accordingly there is no

reasonable case to resist the principle of a residential conversion. Indeed the provision of an additional residential property within this sustainable location would outweigh any limited harm that would be caused through the loss of the employment use.

- 14.12 In the light of recent changes to national planning policy, it is considered inappropriate to secure a contribution towards affordable housing in respect of schemes of 10 residential units or fewer. In essence, national planning guidance would now outweigh the Council's own policies on this particular issue.
- 14.13 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.
- 14.14 In conclusion, in assessing both local and national planning policies, it is clear that local policies seek to retain employment uses. However, given the need for additional residential uses, there is support from the Conservation Officer and that a residential use is not likely to have any significant effect on the wider character of the area as no significant external changes are required, an exception to local plan policy should be made in this case.
- 14.15 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
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Dwelling houses	64.4	72.2	-7.8	-7.8	£80/sqm	-£650.40 *
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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) x CIL Rate (R) x 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: ASP.17.022.011, ASP/17/022.100, ASP.17.022.004, ASP.17.022.033, ASP.17.022.200 Rev A, ASP.17.022.300.

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.

**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.

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  
September 2017

Item No: 3b  
Yacht House  
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1710540  
SZ3295

Scale 1:1250

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

