

Application Number: 17/10943 Full Planning Permission

Site: ST JOHNS CAR PARK, ST JOHNS STREET, HYTHE SO45 6DA

Development: Lidl Foodstore (Use Class A1); parking; associated landscaping;
access works; demolition of existing

Applicant: Lidl UK GmbH

Target Date: 11/10/2017

RECOMMENDATION: Service Manager Planning & Building Control authorised to Grant
--

Case Officer: Ian Rayner

1 REASON FOR COMMITTEE CONSIDERATION

Previous Committee Interest

2 DEVELOPMENT PLAN AND OTHER CONSTRAINTS

Built-up area
Site bounded by Hythe Conservation Area

3 DEVELOPMENT PLAN, OBJECTIVES AND POLICIES

Core Strategy

Objectives

1. Special qualities, local distinctiveness and a high quality living environment
2. Climate change and environmental sustainability
4. Economy
6. Towns, villages and built environment quality

Policies

CS1: Sustainable development principles
CS2: Design quality
CS3: Protecting and enhancing our special environment (Heritage and Nature Conservation)
CS4: Energy and resource use
CS6: Flood risk
CS10: The spatial strategy
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
DM16: Within town centres, outside Primary Shopping Areas and Secondary Shopping Frontages
HYD4: Hythe town centre opportunity sites
HYD5: Car park extensions

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 - Hythe - A Conservation Area Appraisal
SPD - Parking Standards

6 RELEVANT PLANNING HISTORY

Lidl Foodstore (Use Class A1); parking; associated landscaping; access works;
demolition of existing (16/11638) - refused 11/5/17

7 PARISH / TOWN COUNCIL COMMENTS

Hythe & Dibden Parish Council: recommend permission subject to the following conditions:

Space should be made available for additional parking at the top of the New Road car park; there should be 2 hour free parking for shoppers; additional disabled spaces should be provided free of charge for people wishing to access services at The Grove; glazing units facing the church should not be used as advertising space; concerns over noise levels which will impact on adjacent residents and are also concerned that the building will be oppressive to residents of Court House Close, and would therefore wish to see a barrier to reduce noise and prevent overlooking; car park lighting should be minimised; car park should be gated to ensure it is secure and to alleviate antisocial behaviour; concerns about impact on users of church and would therefore like to see a redesigned pedestrian crossing point near the church to make access to New Road safer.

8 COUNCILLOR COMMENTS

Cllr McEvoy: supports

The design is considerably improved and is more in keeping with the surrounding buildings; believes the previous reason for refusal has now been addressed.

9 CONSULTEE COMMENTS

9.1 Hampshire County Council Highway Engineer: no objection subject to conditions and prior completion of Section 106 Legal Agreement to secure transportation contribution/ Green Travel Plan

9.2 Environment Agency: views awaited

9.3 Hampshire County Council (Surface Water Drainage): require further clarification to be able to provide a detailed response.

9.4 Southern Gas Networks: advise of site's proximity to gas main

9.5 Southern Water: no objection subject to condition on foul and surface water sewerage disposal; requests informative relating to connection to public sewerage system.

- 9.6 Ecologist: no objection subject to condition in respect of biodiversity mitigation and enhancement including provision for nesting swifts.
- 9.7 Tree Officer: objects due to the loss of important amenity trees in particular the Pine and Horse Chestnut at the New Road entrance to the car park.
- 9.8 Urban Design Officer: the site is important to the fabric of Hythe; the building is no great landmark and does not take the opportunity to truly enhance the character of the area, but the materials and articulation are to be welcomed; the landscape plans do not yet contribute well enough to local character, but this could be satisfactorily addressed through conditions.
- 9.9 Conservation Officer: does not support due to the application's negative and harmful impact upon associated heritage assets; feels the proposal will erode the setting of the church, listed buildings to the north-east and the Conservation Area; feels the proposal will not respond positively to local distinctiveness; notwithstanding the changes to the design, feels that the design is inelegant and uninspiring.
- 9.10 Environmental Health (pollution): no objection subject to conditions
- 9.11 Environmental Health (air quality): no objection subject to condition
- 9.12 Environmental Health (contaminated land): no objection subject to conditions

10 REPRESENTATIONS RECEIVED

- 10.1 302 letters of support from local residents:- proposal will improve retail choice and will be beneficial to the vitality of Hythe Town Centre; the store is much needed (providing affordable produce) and will be a significant asset to Hythe; proposal will create much needed jobs for local people and will have a positive impact on other local businesses; building is well designed and in keeping with the surrounding area.
- 10.2 43 letters of objection from local residents / business owners:- additional traffic congestion on local roads; adverse impact on parking provision within the centre of Hythe; unsuitable access; noise disturbance from additional vehicle movements; lack of need; adverse impact on other shops and local businesses; lack of parking provision for the Waterside Cancer Centre; poor design that would be out of keeping with adjacent properties and detrimental to the setting of the church; adverse impact on Conservation Area; proposal is not a sustainable development; adverse impact on church functions; plant will create noise that will cause disturbance to adjacent residential properties; adverse impact on amenities and privacy of neighbouring property in Court House Close due to the building's proximity to that property; local infrastructure cannot cope with a development of the scale proposed; litter nuisance; lack of need.
- 10.3 1 letter of concern from Waterside Cancer Support Centre:- concerned that they will lose their car parking facility which is so important to many of their clients.
- 10.4 6 other letters neither supporting nor objecting to the application, but raising points of concern.

11 CRIME & DISORDER IMPLICATIONS

See assessment below

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, there have been lengthy pre-application discussions with the applicant. The submitted application has responded positively to the refusal of the applicant's previous proposals affecting the site, and while the application still raises a number of concerns it is felt, on balance, that the scheme is acceptable.

14 ASSESSMENT

Introduction

- 14.1 This application relates to the St John's Street public car park in the centre of Hythe. The application site also encompasses an enclosed storage yard, forming part of the PC Builders site, on which there is an existing pitched roofed storage building. The existing public car park has

a frontage onto both St John's Street to the east and New Street to the west. The car park lies immediately to the south of the St John the Baptist's Church, which is a Grade II Listed Building. To the south-west of the application site are a number of residential dwellings at Court House Close, while to the south-east the site is bounded by other land occupied by PC Builders. The site is outside of the Hythe Conservation Area, but is bounded by the Hythe Conservation Area on its northern, eastern and south-western sides. 13-17 St John's Street, which are set close to the northern corner of the site, are also Grade II Listed. On the site itself, there are a number of mature trees, particularly adjacent to the site's northern boundary and adjacent to New Street. There are also a number of younger, recently planted trees along the site's frontage with St John's Street.

- 14.2 Members will recall considering an application to redevelop the site with a new Lidl retail foodstore at their meeting in May. The application was refused solely on design grounds. Members felt the proposed design was contextually inappropriate, being harmful to the setting of nearby Listed Buildings and the character and appearance of the Hythe Conservation Area. There were specific concerns relating to the building's rather industrial boxlike form, its poorly articulated and inelegant roof form, the blandness of the significant north-east facade facing St John's Street, the assertive, monotonous character of the heavily glazed north-west elevation, the use of non-traditional materials, the loss of 2 mature trees to accommodate the widened access, and the development's rather austere car park setting.
- 14.3 The application that has now been submitted seeks to address the design concerns that led to the previous application being refused. The application is specifically proposing a retail store of 2194 square metres and a net sales area of 1363 square metres, (which is similar to before). As with the previous application, it is proposed to widen the existing access onto New Road and provide 104 car parking spaces in association with the proposed development. The key difference between this latest application and the recently refused application is in the proposed building's elevational design. What was a standard Lidl's design format has been replaced with a more bespoke design incorporating more significant brick facades, a more articulated roofform with pitched roofs and gables, and a greater level of fenestration on the long north-east elevation.

Design & Heritage Considerations

- 14.4 Given the decision members reached on the previous application, the key consideration must be whether the design changes that have been made have adequately addressed the previous reason for refusal. It is felt that what is now proposed is a much better designed building than the previously refused, being much more appropriate to its traditional town centre context. The significant use of red brickwork, broken up with vertical elements of red clay tile hanging, and timber weatherboarding and the use of slate roof tiles on prominent elevations would be much more appropriate to Hythe town centre than the rather industrial appearance of the previously refused building. Subject to agreeing the precise materials through conditions, the materials proposed would be sympathetic to the site's context. Furthermore, the massing of the building would be much better broken up than before. The bland monopitched roof of the previous proposal has been replaced with a

more varied roofform, incorporating more traditional detailing, while there also is a much stronger vertical rhythm to the main building facades, which is achieved through the use of gables, small vertical brick projections, changes in materials, and a greater level of fenestration on the long north-east elevation. The north-west elevation facing St John's Church is still heavily glazed, but the design changes mean that the glazing would have a less dominant appearance than before, there being a more appropriate vertical emphasis and a better overall composition to this facade. Overall, therefore, it is considered that the applicants have made meaningful changes to the external appearance of the building, which would enable it to integrate much more successfully into its specific context than the previously refused development. It is also considered that with some modest amendments (that could be reasonably secured through condition), the building would have a reasonable landscape setting, noting that it is the applicant's intention to plant a number of new trees within the car park, and to incorporate elements of block paving to break up the large car park.

- 14.5 Notwithstanding the changes that have been made, the application is not without design concern. The Conservation Officer is concerned with how the proposed development would relate to adjacent heritage assets. Inevitably, whatever its design, a large retail store in this location will be somewhat at odds with the typical urban grain of Hythe town centre. The Council's Conservation Officer recognises that some improvements have been made, but feels the changes do not go far enough in mitigating the proposed building's adverse impact on adjacent heritage assets. He feels the changes that have been made are akin to applying a 'pastiche wallpaper', and have not resulted in a level of articulation or architectural quality that would mitigate the building's non-conforming form and size. As such, his conclusion is that the proposed building would still cause harm to the setting of the Grade II Listed St John's church, and to a more limited extent the Listed Buildings at 15-17 St John's Street. His conclusion is that there would also be harm to the character and appearance of the Hythe Conservation Area. These conclusions are not disputed, noting that even the applicant's own heritage statement accepts that there will be some harm to the setting of adjacent heritage assets.
- 14.6 Therefore, to summarise the design changes, the applicants have put forward a design which is more sympathetic and of a much better quality than the previously refused design, but the design is one which still has some adverse impact on adjacent heritage assets arising from the building's large size, non-traditional form, and detailed appearance. Based on the advice of the National Planning Policy Framework, it is felt that the harm to heritage assets would be less than substantial rather than substantial. Having reached this conclusion, planning permission should only be granted for this proposal if the public benefits of the proposal would outweigh the harm.

Site Specific and Town Centre Policy considerations

- 14.7 The site is, in part, affected by Policy HYD4.1 of the Local Plan Part 2, which identifies land in the vicinity of St John's Street Car Park as a Town Centre Opportunity site where development should be primarily for retail purposes. The retail development that is proposed is therefore supported by this policy.

- 14.8 Part of the application site (the land occupied by PC Builders) is also subject to Policy HYD5 of the Local Plan Part 2. This policy, which also extends to adjacent land to the south, identifies this land for a possible public car park extension. The submitted application would not meet this policy aspiration. However, the policy is expressed only as an aspiration (that is not now likely to be pursued) rather than as a firm allocation, and in these circumstances, it is not felt the proposed development would conflict unacceptably with this policy.
- 14.9 As the whole of the application site is inside the Hythe Town Centre boundary, Policy DM16 of the Local Plan is also relevant to this proposal. This policy allows for retail development in town centre locations. The proposal is therefore in accordance with this policy.

Retail Impact & Economic Considerations

- 14.10 In considering any new retail store, it is necessary to have regard to the advice of the National Planning Policy Framework (NPPF) and National Planning Policy Guidance. The NPPF expects Local Planning Authorities to apply a sequential test to planning applications for main town centre uses that are not in an existing centre and not in accordance with an up-to-date Local Plan. Thus, Local Planning Authorities should require applications for main town centre uses to be located in town centres, then in edge of centre locations and only if suitable sites are not available should out of centre sites be considered.
- 14.11 In this case, the application site is a Town Centre site as defined by the Council's own Local Plan, although it is not within a Primary Shopping Area or a defined Shopping Frontage. The applicants have submitted a detailed retail assessment which suggests the site should be viewed as an edge of centre site, and where any consideration of Sequentially Preferable alternative sites should be focused on the Primary Shopping Area. They have been unable to locate any areas within the Primary Shopping Area that would be suitable to accommodate the scale of development proposed, and looking at other sites within Hythe Town Centre, they have concluded that there are no alternative suitable and available sequentially preferable sites to accommodate the proposed development. The applicant's conclusions on this matter are accepted, and, as such, it is considered that sequential test requirements are satisfied.
- 14.12 The National Planning Policy Framework also requires the submission of a retail impact assessment for retail development outside of town centres where the development is over thresholds specified in Local Plans. The Council's Local Plan seeks the submission of a retail impact assessment for retail developments of over 1000 square metres that are outside of town centre boundaries. As previously indicated, the site is inside a town centre boundary, so based on the Council's own definition of a town centre, a retail impact assessment is not required. However, the applicants have applied a tighter definition of a town centre as defined in the NPPF and have carried out a retail impact assessment. This report concludes that levels of trade diversion will be modest and all resulting impacts will be minor. There is considered no reason to disagree with the conclusions of the applicant's retail impact assessment. In essence, it is not felt that the proposal would be likely to have a significant adverse impact on town centre vitality and viability and therefore the retail impact of this proposed development is considered to be in accordance with both national and local policy.

- 14.13 Core Strategy Policy CS20 identifies a need for 350 square metres of additional convenience retail floorspace in Hythe between 2012 and 2018. However, the more recent New Forest Retail Study Update from 2010 concluded that "Within Totton, New Milton and Hythe, there could be reasonable scope for reasonable sized foodstores (over 1000 square metres net)". Indeed, the study identifies £10.45 million of convenience goods expenditure capacity in Hythe at 2018 based on the area's existing market share, which is significantly higher than the expected turnover of the proposed Lidl. Furthermore, an assessment commissioned by the Council in 2015 has concluded that a new discount foodstore in the village "will have a positive rather than negative impact on Hythe" and that "an increase in convenience goods turnover should benefit the majority of retail and service businesses within the town centre". The report concludes that "a discount foodstore will strengthen rather than harm the vitality and viability of Hythe Town Centre as a whole". Having regard to these various assessments, it is clear that the development that this application proposes will meet a clear and justified need for additional convenience retail floorspace in the centre of Hythe that will result in significant benefits to the vitality of Hythe town centre, as well as bringing significant economic benefits through the provision of significant new employment opportunities.

Highway & Transportation Considerations

- 14.14 The Highway Authority's views on this application are no different to their views on the previously refused application. They have confirmed that the widened access onto New Road would be acceptable from a highway safety perspective. The widened access would include tactile crossings, and there would be formal pedestrian crossings within the site. As such, the Highway Authority are satisfied that the New Road access arrangements would not be to the detriment of pedestrians. The St John's Street access would be an entrance only, with no access permissible onto this street. The Highway Authority have therefore confirmed that this access would also be appropriate.
- 14.15 The applicants have submitted a detailed Traffic Impact Assessment. This data indicates that there is typically spare capacity at both the St John's Street car park and the nearby New Road car park. A parking accumulation exercise has demonstrated that the typical number of vehicles currently parking at St John's Street could be satisfactorily accommodated within the nearby New Road car park. As such, the Highway Authority have confirmed that the loss of the St John's Street car park as a public car park would not be detrimental to highway safety. Furthermore, the Highway Authority have confirmed that the redistribution of car parking within Hythe is unlikely to significantly impact on the capacity, safety, or operation of the local highway network.
- 14.16 The Council's Parking Standards Supplementary Planning Document recommends that 98 car parking spaces should be provided on the site on the basis of the total sales area. The 104 car parking spaces that this development proposes would therefore be marginally in excess of the Council's recommended guidelines which is considered to be acceptable. The Highway Authority have confirmed that the development makes adequate disabled parking provision, as well as providing adequate parking areas for cyclists.

- 14.17 The Highway Authority have confirmed that the applicants have provided adequate information by way of swept path analyses to show that large articulated vehicles making deliveries to the site can enter and leave the site in a safe manner.
- 14.18 The applicants have submitted a Travel Plan. The Highway Authority have confirmed that this is of an acceptable standard. It is felt that the Travel Plan requirement could reasonably be secured through a condition. Securing the Green Travel Plan in this way, rather than through a Section 106 Legal Agreement, is felt appropriate in the circumstances that apply, noting that the Green Travel Plan requirement has been met through a condition on a similar recent application for retail development submitted by the applicant at a site in Ringwood.
- 14.19 The Highway Authority have advised that the applicant needs to provide a financial contribution towards highway improvements in Hythe in order to mitigate the impacts of the development. Based on the fact that the development would be expected to generate in excess of 330 additional daily pedestrian and cycle movements together with 1299 additional daily vehicle movements, the Highway Authority have advised that the contribution should be £100,000, and they have duly identified schemes to which this contribution would be put. This requirement is considered to be reasonable and one that should be secured through a Section 106 legal agreement.
- 14.20 Overall, having regard to the Highway Authority's assessment of the applicant's proposals which is not expected to change at all, it can be reasonably concluded that the proposed development would not have an adverse impact on highway safety. It is to be noted that members raised no objection to the previous proposal on highway grounds, and this latest application's transportation impact would be effectively the same as that previous proposal.

Neighbour Amenity Considerations

- 14.21 Members did not refuse the previous application on neighbour amenity grounds. Therefore, there was an acceptance that the previous development had an acceptable relationship to neighbouring dwellings. The application that has now been submitted proposes a building with a south-west elevation (adjacent to properties in Court House Close) that would for part of its length be higher than the previously refused building. The north-western corner of the proposed building would have an eaves height that would be 0.72m higher than the previously refused building and would include a more significant pitched roof over this higher section of building. However, the greater length of the long south-west elevation would have an eaves height that would actually be 0.3 metres lower than the previously refused building. Therefore, it is only the north-west corner feature that would have a greater impact on the outlook of neighbouring properties in Court House Close than the previous scheme that was deemed to have an acceptable relationship to neighbouring dwellings. The north-west corner feature would to a large extent be set adjacent to the side elevation of 1 Court House Close, which has only minor secondary windows on its side elevation. However, the north-west corner feature would project a little to the rear of the south-east rear elevation of 1 Court House Close, and therefore there would be some loss of outlook to this neighbouring dwelling. The building as a whole would also appear rather dominant from 1 Court

House Close, being higher and with a more unbroken form than the existing buildings to be demolished. It is felt that the outlook and amenities of the occupants of 1 Court House Close would be adversely affected because of the building's proximity. However, taking into account the differences between the proposed scheme and the previous scheme the difference in impact would only be marginal, and when the overall public benefits of the scheme are taken into account, it is considered that it would be an impact that would, on balance, be justified. It should be noted that from a privacy perspective the development would not be harmful as there are no main windows or openings on the side elevation facing Court House Close.

- 14.22 The application is accompanied by a Noise Impact Assessment. This confirms that noise from deliveries will have a potentially significant adverse impact on the proposed dwellings to the south-east (that were approved under planning application 16/11639). However, the report suggests that this significant adverse impact will only be an occasional impact usually limited to 2 deliveries a day between 7am and 10 pm. The Noise Impact Assessment also suggests that the impact could be mitigated if a good (acoustic) window design is installed on the adjacent proposed residential dwellings (which was a condition of that planning permission), and also if a 3.3 metre high acoustic barrier is positioned alongside the service access ramp. The Council's environmental health officer has considered the applicant's noise assessment and notes that the mitigation measures would mitigate noise levels to a level that would fall within the recommended continuous noise levels for outside living areas outlined in the World Health Organisation publication 'Guidelines for Community Noise' published in 1999. Therefore subject to conditions, it is felt that deliveries to the store would not cause unacceptable nuisance to adjacent existing and proposed dwellings. Moreover, it is also considered that noise from plant and equipment can also be adequately mitigated through condition.
- 14.23 The top of the proposed 3.3 metre acoustic barrier would be appreciated from the approved flats to the south, but would not be so high a feature as to cause material harm to the outlook of the adjacent flats. Furthermore, because it would not be an especially prominent feature, it could be provided without causing material harm to the visual amenities of the area.

Arboricultural Considerations

- 14.24 As with the previous application, a number of trees would be removed to accommodate the proposed development. The most significant of these are a mature Austrian Pine and a mature Horse Chestnut tree adjacent to the site's New Road entrance. The Council's tree officer has objected to the loss of these 2 trees. It is accepted that these 2 trees make a positive contribution to the area and their loss would be harmful to the visual amenities of the area. However, the proposed landscape scheme, which includes the planting of 2 new semi-mature pine trees on either side of the widened New Road entrance, would provide some mitigation for the loss of these 2 trees. In the longer term, the landscaping should ensure that the loss of existing trees is adequately mitigated.

Ecological Considerations

- 14.25 The submitted application is accompanied by an ecological assessment, which adequately assesses the site's ecological interest and the likely presence / absence of bat species. The Council's ecologist considers the development can take place without detriment to ecological interests and protected species subject to appropriate mitigation measures being incorporated into the development, which should include providing opportunities for nesting swifts.

Flood Risk & Drainage Considerations

- 14.26 A small part of the application site is within Flood Zone 2, and a tiny slither of the site adjacent to St John's Street is within Flood Zone 3. Importantly, the whole of the proposed building is outside of these Flood Zones. Therefore, the proposed building is not one that is likely to flood, and nor should it increase flood risk elsewhere. A small part of the car park may flood in a flood risk event, but this is no different to at present. The applicants have submitted a Flood Risk Assessment which concludes that the development would be acceptable from a Flood Risk perspective and there is considered no reason to disagree with this conclusion.
- 14.27 The applicant's Flood Risk Assessment also considers surface water drainage. Because the application would result in an increase in impermeable area, Sustainable Drainage Measures (SUDs) are proposed to ensure that surface water is managed effectively and thereby ensure that there is no additional impact on the existing drainage regime. The principles that are suggested within the applicant's Surface Water Strategy appear to be acceptable. However, the Hampshire County Council surface water drainage team have requested further information in order to be able to make a detailed response. While ideally this information should be provided before a decision has been made (the applicant has been asked to provide this information), it is felt that if all else is acceptable it would be appropriate to agree details through a condition of planning permission.

Sustainability Considerations

- 14.28 To accord with Policy CS4 of the Council's Core Strategy, the development (as a commercial building of over 1000 square metres) is one that is required to meet a BREEAM 'excellent' standard. The applicant's Design and Access Statement indicates that various sustainable measures will be incorporated into the development but is silent on BREEAM. However, there does not seem to be any reason why a BREEAM 'excellent' rating would be unachievable, and it is felt this requirement can reasonably be secured through a condition of any planning permission.

Equality Act and Other Considerations

- 14.29 A concern has been raised by the Waterside Cancer Support Centre and the Parish Council that the proposal would result in the loss of a car parking facility for visitors to the Centre. This is a well used facility (over 1000 Visits in the first 7 months of this year), with visitors currently being able to use 6 free disabled car parking spaces within the existing car park which are sited close to the Centre entrance. There is a concern

that access for frail and elderly people using the Centre will be made more difficult as a result of this application and concerns have additionally been raised in relation to the Equality Act 2010, noting that Local Planning Authorities have a Public Sector Equality Duty (PSED).

- 14.30 The applicants proposal would entail the provision of 6 disabled car parking spaces for shoppers within their car park adjacent to the new building. However, these spaces and the other car parking spaces on the development site would not be available for long-stay use by people visiting the Waterside Cancer Support Centre. Therefore, the proposal would be unfortunate to those with protected characteristics under the Equality Act, in that it would force longer stay visitors to the centre to park further away and thereby increase their walking distance/ time to the centre. (The new car park is not specifically intended to allow short-stay use for non-shoppers either, but in practice it is likely the car park could still be used for short term visits to the Cancer Centre.)
- 14.31 In this case, there are alternative parking facilities within the locality, both at other nearby public car parks and on some nearby local roads. These alternative parking facilities would potentially be up to 5 - 10 minutes additional walking distance away from the support centre, but routes between these alternative parking areas and the centre would be accessible to the affected group. While the proposed would undoubtedly be likely to result in some inconvenience to some users of the Cancer Support Centre (mainly those who are visiting the centre for over 2 hours), it is not felt the proposal would unduly compromise people's ability to continue to use the Centre. It is felt that alternative parking facilities within the locality, while not as convenient as the existing car park, would be adequate in minimising the impact on people using the Cancer Support Centre. Furthermore, it is of note that the ability to drop off people directly outside of the Centre would remain. In considering the scheme's impact on people using the Waterside Cancer Centre, there is also a need to balance this impact against the significant benefits the development would bring to the wider community. It is felt these significant benefits would outweigh the inconvenience arising from the loss of a long term parking facility quite so close to the Waterside Cancer Centre, having regard to the alternative facilities and arrangements that would be available.
- 14.32 The applicants have indicated that they would operate the car park on an ANPR (Automatic Number Plate Recognition) system. This would give customers 2 hours of free parking, thus enabling shoppers to make linked trips to the rest of Hythe. The applicants hope that they would be able to offer this 2 hour free parking in perpetuity, but would like the right to review this time limit and potentially reduce it to 90 minutes if the car park is being used in a manner where Lidl customers are unable to park their car. To a large extent this is a management issue rather than a highway safety issue. However, the applicants have offered to submit a car park management plan as a condition of planning permission to ensure the car park capacity and availability is maximised, whilst minimising any inconvenience to users of the site. This seems a reasonable approach to this matter.
- 14.33 The Parish Council's request that there be additional parking made available at the top of the New Road car park is not a reasonable or justified condition. Nor is there considered any justification to require the car park to be gated so as to minimise antisocial behaviour.

Balancing the different considerations & Conclusions

- 14.34 It is clear from the above that there are significant points in the development's favour, particularly in terms of the improved retail provision that this development will bring to Hythe, together with the associated economic benefits which will be good for town centre vitality. However, weighed up against these positives, there are also some negatives. The development would be of a scale and design that would cause a degree of harm to the character and appearance of the adjacent Hythe Conservation Area, and the setting of the Grade II Listed Buildings to the north and north-east of the site. The development would also cause some harm to the amenities of the immediately adjacent dwelling at 1 Court House Close (and to a lesser extent other adjacent dwellings). At the same time, it needs to be recognised that the design now put forward is a materially better design than the previously refused scheme, and one that responds more successfully to the distinctive character of Hythe.
- 14.35 Given the scheme's contrasting positive and negative impacts, this is, ultimately, still a finely balanced decision. However, on balance, with the design improvements that have been made, it is considered that the public (economic and social) benefits of the proposed development outweigh the environmental harm. For this reason, it is considered that the less than substantial harm to adjacent heritage assets that has been identified is a justifiable harm in the context of Paragraph 134 of the National Planning Policy Framework.
- 14.36 On balance, therefore, this application is recommended for permission subject to first securing transportation contributions and green travel plan requirements through a completed Section 106 legal agreement. This recommendation for permission is made on the basis that some of the more technical issues raised by consultees are capable of being satisfactorily mitigated by condition. There will be a need for a number of detailed conditions to ensure that the development is of a high a quality as it reasonably can be and to ensure adequate compliance with policy.
- 14.37 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

That the Service Manager Planning and Building Control be **AUTHORISED TO GRANT PERMISSION** subject to:

- i) the prior completion of a Section 106 legal agreement to secure a financial contribution of £100,000 towards identified transportation schemes;
- ii) the imposition of the conditions set out below:

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: 3341 13 A, 3341 18 S, 3341 10, 3341 05 AJ, 3341 03 M, 3341 07 M, 3341 06 P, 3341 11 B, 3341 21 B, 3341 09 D, 3341 15 C, 3341 12 R, 3341 22, PR-011 rev J, PR-012, PR-013, PR-014.

Reason: To ensure satisfactory provision of the development.
3. Written documentary evidence demonstrating that the development hereby approved has achieved as a minimum a rating of EXCELLENT against the BREEAM standard shall be submitted to the Local Planning Authority and verified in writing prior to the first occupation of this aspect of the development, unless an otherwise agreed time frame is agreed in writing by the Local Planning Authority. The evidence shall take the form of a post construction certificate as issued by a qualified BREEAM certification body.

Reason: In the interests of resource use and energy consumption in accordance with policy CS4 of the Core Strategy for the New Forest District outside the National Park.
4. Before development commences, and notwithstanding the details on the specified plans, samples and exact details of all external facing and roofing materials to be used shall be submitted to and approved in writing by the Local Planning Authority. The development shall only be implemented in accordance with the approved details.

Reason: To ensure an acceptable appearance of the development in accordance with policies CS2 and CS3 of the Core Strategy for the New Forest District outside the National Park, and Policy DM1 of the Local Plan Part 2: Sites and Development Management.
5. Notwithstanding the hard landscape details shown on the Surface Dressing Plan and the planting proposals contained in the Soft Landscape Plan, a scheme of landscaping of the site shall be submitted for approval in writing by the Local Planning Authority before development commences. This scheme shall include :

- (a) the existing trees and shrubs which have been agreed to be retained;
- (b) a specification for new planting (species, size, spacing and location);
- (c) areas for hard surfacing and the materials to be used;
- (d) the treatment of the boundaries of the site and other means of enclosure;
- (e) a specification for street furniture, light columns, bollards, trolley store, seats and bins;
- (f) 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 then only in accordance with those details.

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

6. 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 occupation of the buildings or the completion of the development, whichever is the sooner. Any trees or plants which within a period of 5 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 similar size or species, unless the Local Planning Authority gives written consent to any variation.

Reason: To ensure the appearance and setting of the development is satisfactory and to comply with Policy CS2 of the Local Plan for New Forest District outside the National Park (Core Strategy).

7. No development hereby permitted shall commence until a Construction Traffic Management Plan, to include details of provision to be made on site for contractor's parking, construction traffic access, the turning of delivery vehicles within the confines of the site, lorry routeing and a programme of works has been submitted to and approved in writing by the Local Planning Authority. The approved details shall be implemented before the development hereby permitted is commenced and retained throughout the duration of construction.

Reason: In the interests of highway safety and to comply with Policy CS24 of the Core Strategy for New Forest District outside of the National Park.

8. Full details of the vehicle cleaning measures proposed to prevent mud and spoil from vehicles leaving the site shall be submitted in writing to the Local Planning Authority for written approval prior to the commencement of the development. The approved measures shall be implemented before the development commences. Once the development has been commenced, these measures shall be used by all vehicles leaving the site and maintained in good working order for the duration of the development.

Reason: In the interests of highway safety and to comply with Policy CS24 of the Core Strategy for New Forest District outside of the National Park.

9. The development hereby permitted shall not be brought into use until all of the spaces shown on the approved plans for the parking and turning of motor vehicles and the parking of cycles have been provided. These spaces and areas shall thereafter be retained and kept available for their intended purpose at all times.

Reason: To ensure adequate parking provision is made for both cars and cycles, in the interest of highway safety, and to comply with Policies CS2 and CS24 of the Local Plan for the New Forest outside of the National Park (Core Strategy).

10. Unless otherwise agreed by the Local Planning Authority, development other than that required to be carried out as part of an approved scheme of remediation must not commence until conditions relating to contamination no 11 to 12 have been complied with.

If unexpected contamination is found after development has begun, development must be halted on that part of the site affected by the unexpected contamination to the extent specified by the Local Planning Authority in writing until condition 13 relating to the reporting of unexpected contamination has been complied with in relation to that contamination.

Reason: To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors in accordance with policy CS5 of the Local Plan for the New Forest District outside the National Park (Core Strategy) and Policy DM5 of the Local Plan For the New Forest District outside the National Park. (Part 2: Sites and Development Management).

11. A detailed remediation scheme to bring the site to a condition suitable for the intended use by removing unacceptable risks to human health, buildings and other property and the natural and historical environment must be prepared, and is subject to the approval in writing of the Local Planning Authority. The scheme must include all works to be undertaken, proposed remediation objectives and remediation criteria, timetable of works and site management procedures. The scheme must ensure that the site will not qualify as contaminated land under Part 2A of the Environmental Protection Act 1990 in relation to the intended use of the land after remediation.

Reason: To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors in accordance with Policy CS5 of the Local Plan for the New Forest District outside the National Park (Core Strategy) and Policy DM5 of the Local Plan for the New Forest District outside the National Park. (Part 2: Sites and Development Management).

12. The approved remediation scheme must be carried out in accordance with its terms prior to the commencement of development other than that required to carry out remediation, unless otherwise agreed in writing by the Local Planning Authority. The Local Planning Authority must be given two weeks written notification of commencement of the remediation scheme works. Following completion of measures identified in the approved remediation scheme, a verification report that demonstrates the effectiveness of the remediation carried out must be produced, and is subject to the approval in writing of the Local Planning Authority.

Reason: To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors in accordance with Policy CS5 of the Local Plan for the New Forest District outside the National Park (Core Strategy) and Policy DM5 of the Local Plan for the New Forest District outside the National Park. (Part 2: Sites and Development Management).

13. In the event that contamination is found at any time when carrying out the approved development that was not previously identified it must be reported in writing immediately to the Local Planning Authority. Where remediation is necessary a remediation scheme must be prepared in accordance with the requirements of condition 11, which is subject to the approval in writing of the Local Planning Authority. Following completion of measures identified in the approved remediation scheme a verification report must be prepared, which is subject to the approval in writing of the Local Planning Authority in accordance with condition 12.

Reason: To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors in accordance with Policy CS5 of the Local Plan for the New Forest District outside the National Park (Core Strategy) and Policy DM5 of the Local Plan for the New Forest District outside the National Park. (Part 2: Sites and Development Management).

14. The works hereby approved shall be undertaken in full accordance with the provisions set out within the RPS Arboricultural Impact Assessment and Method Statement reference JSL2663_780 dated 21st June 2017 or as may otherwise be agreed in writing with the Local Planning Authority.

Reason: To ensure the retention of existing trees and natural features and avoidance of damage during the construction phase in accordance with Policy CS2 of the Local Plan for the New Forest District outside of the National Park (Core Strategy).

15. The proposed slab and building levels of the development shall be strictly in accordance with the level details indicated on the approved drawings unless an alternative slab / building level detail has first been submitted to and approved in writing by the Local Planning Authority in which case the development shall only take place in accordance with those details which have been 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).

16. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015 or any subsequent re-enactment thereof, no additional floor space by way of the creation of a mezzanine floor shall be formed within the building hereby approved, other than that shown on the approved plans.

Reason: To safeguard the amenities of the area, in the interests of highway safety and to comply with policy CS2 of the Local Plan for the New Forest District outside the National Park (Core Strategy).

17. Before the commencement of development, a precise specification of the biodiversity mitigation and enhancement measures that are to be incorporated into the development, as outlined in the RPS Preliminary Ecological Appraisal dated November 2016 (Ref JSL2663_871c), but to also include provision for nesting swifts, shall be submitted to and approved in writing by the Local Planning Authority. Development shall only take place in accordance with the approved details.

Reason: To safeguard ecological interests in accordance with Policies CS3 of the Core Strategy for New Forest District outside of the National Park and Policy DM2 of the Local Plan Part 2: Sites and Development Management.

18. The combined noise rating level from all plant and equipment shall not exceed the Background noise level(LA90) at the boundary of any noise sensitive premises in accordance with BS4142:2014.

Reason: To protect the amenities of adjacent residential properties and to comply with Policy CS2 of the Core Strategy for New Forest District outside of the National Park.

19. The heat pump and VRF (air conditioning) plant shall not operate other than between the hours of 08:00hrs to 22:00hrs Monday to Saturday, and 10:00hrs to 17:00hrs on Sundays and public holidays.

Reason: To protect the amenities of adjacent residential properties and to comply with Policy CS2 of the Core Strategy for New Forest District outside of the National Park.

20. Deliveries to the site shall not take place other than between the hours of 07:00hrs to 22:00hrs Monday to Saturday, and 09:00hrs to 18:00hrs on Sundays and Public Holidays.
- Reason: To protect the amenities of adjacent residential properties and to comply with Policy CS2 of the Core Strategy for New Forest District outside of the National Park.
21. All delivery vehicles shall switch their refrigeration units and engines off at all times when parked within the delivery bay and/or when parked in any other areas at the hereby approved development.
- Reason: To protect the amenities of adjacent residential properties and to comply with Policy CS2 of the Core Strategy for New Forest District outside of the National Park.
22. Any lighting installed at the hereby approved development shall not exceed the obtrusive light limitation in accordance with Environmental zone E3 of table 2 (pg 5) of the Guidance Notes for the Reduction of Obtrusive Light (GN01:2011) at both the façade and external areas of any residential premises.
- Reason: To protect the amenities of adjacent residential properties and to comply with Policy CS2 of the Core Strategy for New Forest District outside of the National Park.
23. Any lighting installed at the hereby approved development shall be installed and fitted with shields such that the lamps (commonly known as the 'bulb') shall not be visible from any residential premises. The shielding shall thereafter be retained and maintained.
- Reason: To protect the amenities of adjacent residential properties and to comply with Policy CS2 of the Core Strategy for New Forest District outside of the National Park.
24. Before the commencement of development, precise details of the proposed acoustic barrier (shown on drawing 3341 12 R) to include detailed drawings and sections shall be submitted to and approved in writing by the Local Planning Authority. The approved acoustic barrier shall be installed before the first operational use of the development hereby approved, and shall thereafter be retained for the operational lifetime of the approved development.
- Reason: To protect the amenities of adjacent residential properties and to comply with Policy CS2 of the Core Strategy for New Forest District outside of the National Park.
25. Before development commences, details of the means of disposal of surface water from the site shall be submitted to and approved in writing by the Local Planning Authority. The submitted scheme shall be based on the surface water drainage principles set out in the Stuart Michael Associates Limited Flood Risk Assessment (Ref 5456/FRA Issue Status 04 dated June 2017), and shall include the following additional details:

- a) Existing and proposed run-off calculations (based on 1 year & 1:100 year plus climate change events).
- b) Existing and proposed volume calculations (based on a 100 year, 6 hour rainfall event).
- c) Details on who will undertake the general maintenance regimes.
- d) Evidence to show that exceedance flows are considered in the event of the pipe being non-operational, together with evidence that exceedance flows and runoff in excess of design criteria have been considered.
- e) Details to show that an allowance of 10% has been added to all impermeable areas to allow for urban creep.

Development shall only take place in accordance with the approved details.

Reason: In order to ensure that the drainage arrangements are appropriate and in accordance with Policy CS2 of the Local Plan for the New Forest District outside the National Park (Core Strategy) and the New Forest District Council and New Forest National Park Authority Strategic Flood Risk Assessment for Local Development Frameworks.

26. Before the development is first occupied details of the means of the future maintenance of the approved surface water drainage arrangements shall be submitted to and approved in writing by the Local Planning Authority. The drainage arrangements shall thereafter be maintained in accordance with the approved details.

Reason: In order to ensure that the drainage arrangements are appropriate and in accordance with Policy CS2 of the Local Plan for the New Forest District outside the National Park (Core Strategy) and the New Forest District Council and New Forest National Park Authority Strategic Flood Risk Assessment for Local Development Frameworks.

27. Prior to the commencement of development (including any demolition) a written Dust Management Plan (DMP) shall be submitted to and approved by the Local Planning Authority. The approved DMP shall consider all aspects of the works being undertaken on site, and include mitigation measures which follow good practice and are site specific. The approved DMP shall be adhered to at all times thereafter until the demolition and construction phases have been completed.

Reason: To safeguard the amenities of nearby residents and businesses and to comply with Policies CS2 and CS5 of the Core Strategy for New Forest District outside of the National Park.

28. Construction of the development shall not commence until details of the proposed means of foul and surface water sewerage disposal have been submitted to, and approved in writing by, the Local Planning Authority.

Reason: To ensure that the sewerage arrangements are appropriate and to comply with policies CS2 and CS6 of the Core Strategy for New Forest District outside of the National Park.

29. The development hereby approved shall not be occupied until a Car Park Management Plan has been submitted to and approved in writing by the Local Planning Authority. The Management Plan shall be adhered to at all times, unless otherwise agreed in writing with the Local Planning Authority.

Reason: To ensure appropriate parking provision, in the interests of Highway Safety and to comply with Policy CS24 of the Core Strategy for New Forest District outside of the National Park.

30. The development shall only be occupied in accordance with the approved Travel Plan version 2 dated June 2017, which shall be adhered to in full unless otherwise agreed by the Local Planning Authority.

Reason: To encourage means of travel other than single occupancy car journeys and to comply with Policy CS24 of the Core Strategy for New Forest District Outside 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, there have been lengthy pre-application discussions with the applicant. The submitted application has responded positively to the refusal of the applicant's previous proposals affecting the site, and whilst the application still raises a number of concerns it is felt, on balance, that the scheme is acceptable.

2. Please note that with respect to Condition 4, the Local Planning Authority would expect to see a natural slate on the slate roof areas, and not a concrete slate effect tile.

Further Information:

Ian Rayner

Telephone: 023 8028 5588



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
September 2017

Item No: 3h

St Johns Car Park
St Johns Street
Hythe
17110943

Scale 1:1250

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

