

Application Number: 17/11646 Full Planning Permission

Site: 2 SOUTH STREET, HYTHE SO45 6EB

Development: 1 block of 43 retirement apartments; communal facilities; access; parking and landscaping

Applicant: Churchill Retirement Living Limited

Target Date: 13/03/2018

RECOMMENDATION: Refuse

Case Officer: Ian Rayner

1 REASON FOR COMMITTEE CONSIDERATION

To agree a reduction in the affordable housing contribution and contrary to Parish Council view in part.

2 DEVELOPMENT PLAN AND OTHER CONSTRAINTS

Built-up area, Town Centre, Conservation Area (in part)

3 DEVELOPMENT PLAN, OBJECTIVES AND POLICIES

Core Strategy

Objectives

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

Policies

- CS2: Design quality
- CS3: Protecting and enhancing our special environment (Heritage and Nature Conservation)
- CS6: Flood risk
- CS10: The spatial strategy
- CS13: Housing types, sizes and tenure
- 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

- DM1: Heritage and Conservation
- DM3: Mitigation of impacts on European nature conservation sites
- DM10: Residential accommodation for older people
- 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 - Mitigation Strategy for European Sites
SPD - Parking Standards

6 RELEVANT PLANNING HISTORY

6.1 1 block of 36 sheltered apartments; communal facilities; access; parking and landscaping (16/11639) - granted 11/5/17

7 PARISH / TOWN COUNCIL COMMENTS

Hythe & Dibden Parish Council: Recommends refusal - insufficient on-site parking; adverse impact on privacy of neighbouring dwellings (across the street); the amount of 3-storey development is excessive and would be visually incongruous alongside the more historic buildings within the Conservation Area; the railings and perimeter wall will make the judgement of traffic more difficult and therefore more hazardous; wall would compromise safety of pedestrians and people on mobility scooters; poor quality main entrance; concerns that the car park shelter would be an anti-social attraction; consider some affordable housing would be viable.

8 COUNCILLOR COMMENTS

None

9 CONSULTEE COMMENTS

- 9.1 Hampshire County Council Highway Engineer: no objection subject to conditions.
- 9.2 Environment Agency: no objection - it is for the Local Planning Authority to consider Sequential Test issues.
- 9.3 Natural England: no objection subject to appropriate mitigation being secured
- 9.4 Waste Management: no objection. Refuse sacks will need to be put on the edge of the footpath on collection day.
- 9.5 Hampshire County Council (Surface Water Drainage): the general principles for surface water drainage are acceptable. Further information should be submitted as part of a more detailed design phase.

- 9.6 Southern Water:- no objection subject to condition; advise that cannot currently accommodate the needs of the application without the development providing additional local infrastructure. Alternatively, the development will need to discharge foul and surface water flows so as to be no greater than existing levels.
- 9.7 Ecologist: no objection subject to condition
- 9.8 Conservation Officer: recommends refusal; does not support. The proposal would cause harm to the setting of adjacent Listed Buildings and the character and appearance of the Hythe Conservation Area. A redesign and a reduction in height is needed if the development is to respond to the Conservation Area and its context.
- 9.9 District Valuer: advise that the full affordable housing contribution would not be viable; however, advise (provisionally) that the scheme would still be viable if an affordable housing contribution of £73,270 were to be secured.

10 REPRESENTATIONS RECEIVED

- 10.1 10 letters of concern / objection from local residents:- insufficient on-site parking, which would lead to additional parking and congestion on local roads to the detriment of highway safety; overdevelopment of the site; three-storey sections would be too high and out of character with the area; loss of an employment site; poor and unsympathetic design; concerns about safety of access; concerns about disruption during demolition; adverse impact on drainage and sewerage infrastructure; concerns at lack of affordable housing

11 CRIME & DISORDER IMPLICATIONS

See Assessment Report below

12 LOCAL FINANCE CONSIDERATIONS

If this development is granted permission, the Council will receive a New Homes Bonus amounting to £52,632 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 £233,939.11.

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

13 WORKING WITH THE APPLICANT/AGENT

In accordance with paragraphs 186 and 187 of the National Planning Policy Framework and Article 35 of the Town and Country Planning (Development Management Procedure) (England) Order 2015, New Forest District Council take a positive and proactive approach, seeking solutions to any problems arising in the handling of development proposals so as to achieve, whenever possible, a positive outcome.

This is achieved by

- Strongly encouraging those proposing development to use the very thorough pre application advice service the Council provides.
- Working together with applicants/agents to ensure planning applications are registered as expeditiously as possible.
- Advising agents/applicants early on in the processing of an application (through the release of a Parish Briefing Note) as to the key issues relevant to the application.
- Updating applicants/agents of issues that arise in the processing of their applications through the availability of comments received on the web or by direct contact when relevant.
- Working together with applicants/agents to closely manage the planning application process to allow an opportunity to negotiate and accept amendments on applications (particularly those that best support the Core Strategy Objectives) when this can be done without compromising government performance requirements.
- Advising applicants/agents as soon as possible as to concerns that cannot be dealt with during the processing of an application allowing for a timely withdrawal and re-submission or decision based on the scheme as originally submitted if this is what the applicant/agent requires.
- When necessary discussing with applicants/agents proposed conditions especially those that would restrict the use of commercial properties or land when this can be done without compromising government performance requirements.

In this case, the application proposals were not the subject of paid pre-application advice. The objections that have been identified are of a significant nature and would not be capable of being fully resolved as part of this current application. The applicant is aware of the recommendation.

14 ASSESSMENT

Introduction & background to application

- 14.1 This is a prominent corner site in the centre of Hythe that is currently occupied by the company PC Building Supplies, who are a local building, timber and plumbing merchants. The main building on site is an unattractive 2-storey building dating from the 1970s. Around this building is an area for parking, as well as an enclosed storage yard area. Overall, the site is visually unappealing and detrimental to the qualities of this part of the centre of Hythe. The site has vehicular access onto South Street, beyond which are some fairly traditional 2-storey dwellings at 8 and 10 South Street. The application site extends to the rear of these 2 dwellings onto an area of land which includes a low corrugated metal building.
- 14.2 The application site is bounded on its northern side by the St John's Street public car park, as well as a further yard area occupied by PC Building Supplies. These areas to the north of the site have been granted planning permission to be redeveloped with a Lidl retail store. The wider area surrounding the application site is mixed in character, but includes a significant residential element, with many traditional buildings in residential use fronting onto the adjacent roads at South Street, St John's Street, and Shore Road. The site bounds the Hythe Conservation Area on its north-eastern, south-eastern and south-western sides, with a small area of the site, including the access and an area of land immediately to the rear of 10 South Street, actually being within the Conservation Area. A group of buildings opposite the corner of the site (37-44 Sir Christopher Court and 1-3 Shore Road) are Grade II Listed.

- 14.3 Last year, the Local Planning Authority granted planning permission for the redevelopment of the application site with a block of 36 sheltered apartments, communal facilities, access, parking and landscaping. The applicants have reviewed this permission and have come to the view that implementation of this permission would be compromised by the Department for Communities and Local Government's review of leases and ground rents, which they claim will have a negative impact on specialist retirement developers' ability to deliver housing. Because of this review, the applicants consider they have no option but to put forward a larger development that they are sure can be commenced and delivered at a price acceptable to purchasers. Thus, the larger scheme that this new application proposes is a development for 43 sheltered apartments within a single block that would include communal facilities. The proposed development would have vehicular access onto South Street that would serve 15 on-site car parking spaces.

Design and Heritage Considerations

- 14.4 The principle of developing this application site for residential purposes has already been accepted. Therefore, the key issue is whether the larger building that is proposed and the associated design changes would result in a building that would still have an acceptable impact on its surroundings.
- 14.5 Although the larger building that is now proposed has some similarities to the scheme approved last year, there are also some fundamental differences. The proposed changes to the site's South Street frontage are particularly striking, because here the entirely 2-storey scale that was proposed previously is now proposed to be replaced with 2.5 to 3-storey elements of built-form, meaning that the development would now have a much more significant scale and mass to the site's South Street frontage. The scale of the proposed St John's Street elevation has not been altered to the same degree. However, significant changes are still proposed to the roof design and to the window and door details, meaning the elevation fronting St John's Street would be of a very different appearance to the approved scheme. Significant changes to the building's roof form and its detailed appearance are also proposed to the facade facing the St John's Street car park. Within the internal courtyard 2-storey elements of built form have been replaced by elevations that would be a full 3-storeys high, giving the internal aspects of the development a much greater scale. The main entrance elevation has also been significantly reworked, with increased elements of 3-storey built-form, and the undercutting of parts of the building so as to achieve additional car parking. Externally, additional areas of hardstanding are proposed to provide access to the undercroft parking, and to provide additional areas for storage.
- 14.6 In approving the scheme for 36 units at this site last year, it was recognised that the development was quite intensive, with a depth of built-form that would be somewhat at odds with the surrounding context. Because of this it was accepted that the development would cause less than substantial harm to adjacent heritage assets, albeit that the harm was felt to be at the low end of the harmful spectrum. When weighing the scheme's total benefits against the scheme's harm, it was felt the proposed development was an acceptable one with a justified impact.

- 14.7 As indicated above, the development now proposed would have a much greater scale and mass than the scheme approved last year. This greater scale and mass would be very uncomfortable and intrusive in this historic context. The centre of Hythe, as the Hythe Conservation Area Supplementary Planning Guidance notes, has a very strong 2-storey scale. With the previous scheme, it was felt that a limited amount of 3-storey built-form was justified as there are a small number of taller individual buildings within the Conservation Area. However, the substantial 3-storey elements that this latest application proposes would result in a building whose scale and mass would be highly discordant and wholly out of keeping with the more modest scale of development that typifies the Conservation Area. The building's South Street frontage would be particularly inappropriate as its scale and mass would harmfully dominate the more traditional and historic buildings to the south and across the street. The development, as a whole, would, quite simply, be too large and imposing, and without sufficient variation in height, and would therefore cause material harm to the character and appearance of the adjacent Conservation Area, as well as detracting from the setting of the adjacent group of Listed Buildings.
- 14.8 The design of the development would be poor not just in terms of its scale and mass, but also in terms of its detailed appearance. The proposed changes to the roof form of the building would result in some awkward roof arrangements. The changed roof design to the St John's Street elevation and the adjacent car park would be particularly unfortunate. The pyramidal roof to the northern corner of the development would be awkward and weak, and this, together with the associated elevational changes, would result in a weakly proportioned element of built-form in a highly visible location. Furthermore, the proposed changes to the window, door and porch detailing throughout the development have the effect of watering down the scheme's overall design quality. The more traditional detailing that was proposed previously has been replaced with standard detailing that would be weak and unsympathetic in this historic context. The changes to the main entrance elevation have also served to significantly weaken the building's design quality. This important elevation would have a disjointed and poorly proportioned appearance. The undercroft parking would result in a weak elevation, most particularly where an undercroft parking space has been sited immediately adjacent to the building's main front entrance, which would result in what would constitute, in both visual and functional terms, a very poorly designed main entrance. The suggested materials would also not have the necessary quality that one would expect immediately adjacent to the Conservation Area (although if this were the sole design concern, this could be resolved by condition).
- 14.9 Overall, the development that is now proposed, through its intrusive scale and mass and its unsympathetic appearance, would be a poor design that would be inappropriate to its historic context. Whilst the previously approved development would have caused some limited harm to the setting of adjacent Listed Buildings and the character and appearance of the Hythe Conservation Area (which was considered justified when balanced against other considerations), the development now proposed would result in a much greater level of harm. Having regard to the negative impact of the existing buildings that would be demolished, the harm is considered to be "less than substantial" when considered against the guidance in the National Planning Policy Framework (NPPF). However, the term "less than substantial harm"

means that there is still harm, and in this case, the level of harm is deemed to be at the higher end of the spectrum of "less than substantial harm" for the reasons set out above. The NPPF is very clear that any harm should "require clear and convincing justification" and where "less than substantial harm" is identified, the harm should be weighed against the public benefits of the proposal, including securing its optimum viable use. These matters are considered further in the concluding section below that weighs up the overall planning balance.

Neighbour Amenity Considerations

- 14.10 The development would result in a change to the outlook of a number of dwellings, and with respect to adjacent properties in South Street the impact would be greater than was the case with the previously approved scheme. However, the development would still be of a scale that would not cause material harm to the light and outlook of adjacent dwellings, having regard to the town centre context. Furthermore, any overlooking of neighbouring properties would be across streets and the public realm, and would therefore be acceptable, again taking into account the site's town centre location. Given the levels of activity associated with the existing commercial use, it is felt that the impact of the access and parking areas on the amenities of 8 and 10 South Street would also be acceptable. Overall, it is not considered the proposed development would cause material harm to the amenities of neighbouring properties.
- 14.11 A number of the proposed units would be set in fairly close proximity to the approved Lidl service yard. These units could be subject to a degree of noise disturbance, but with appropriate acoustic insulation it is felt that these units would still enjoy an appropriate level of residential amenity, having regard to the approved planning conditions that would control when and how the adjacent service yard could be used.

Highway & Transportation considerations

- 14.12 The submitted application is accompanied by a Transport Statement. This Statement advises that there will be a reduction in the number of vehicular movements to the site compared to the existing use, a conclusion which is accepted by the Highway Authority. The proposal does not therefore give rise to any concerns in terms of traffic generation. The Highway Authority have also confirmed that the proposed access arrangements are acceptable from a highway safety perspective, and they have also raised no concerns with the proposed pedestrian arrangements. Their confirmation on the need for a turning facility is still awaited.
- 14.13 The 15 car parking spaces that are proposed result in a parking provision of 0.35 spaces per unit. While this level of provision is somewhat less than the Council's recommended standards, it is comparable to the level of car parking proposed in association with scheme approved last year (where 0.33 spaces per unit were proposed). The applicants have provided evidence of parking demand at a number of other similar developments where the average parking demand is only 0.26 spaces per apartment. Having regard to this evidence and the site's sustainable town centre location, it is concluded that the proposed level of on-site parking would be acceptable and would not lead to undue parking on local roads to the detriment of highway safety.

Flood Risk & Drainage Considerations

- 14.14 The northernmost corner of the site is within an Area at Risk of Flooding. However, this affects only a very small strip of frontage land, and all of the proposed units appear to fall outside the defined Area at Risk of Flooding. In these circumstances, it is not felt any of the development would be at undue risk of flooding. Nor is it felt that there is a need to apply the Sequential Test. In any event, it should be noted that the application proposes to site the development at a level that would be slightly raised above the level of the street to ensure that the building is above potential predicted future flood levels.
- 14.15 The applicants have submitted a detailed Drainage Strategy Report. It is felt that this addresses drainage matters in an appropriate manner and in line with policy guidance, albeit that some further matters of detail would need to be agreed through a condition of planning permission, were the development otherwise acceptable.

Habitat Mitigation

- 14.16 In accordance with the Habitat Regulations 2010 an assessment has been carried out of the likely significant effects associated with the recreational impacts of the residential development provided for in the Local Plan on both the New Forest and the Solent European Nature Conservation Sites. It has been concluded that likely significant adverse effects cannot be ruled out without appropriate mitigation projects being secured. In the event that planning permission were to be granted for the proposed development, a condition would be required that would prevent the development from proceeding until the applicant has secured appropriate mitigation, either by agreeing to fund the Council's Mitigation Projects or otherwise providing mitigation to an equivalent standard. It should be noted that the full habitat mitigation contribution requirement in this case would be £103,150.

Affordable Housing Considerations

- 14.17 In accordance with Core Strategy Policy CS15, the development is one that should secure on-site affordable housing provision. Specifically, the development should secure 17.2 affordable units. The applicants have submitted a detailed viability assessment that argues that any affordable housing provision, either in the form of on-site provision or in the form of contributions towards affordable housing off the site, would make the scheme unviable. This assessment has been considered by the District Valuer. His report (which is currently only in draft form) concludes that it would not be viable for the developer to make an on-site contribution to affordable housing in this instance. However, the report concludes that it would be viable for the developer to secure an affordable housing contribution of £73,270. The applicants have disputed this conclusion and have submitted a further statement with additional information for the District Valuer's consideration. The further views of the District Valuer will need to be considered, but unless the District Valuer amends his view and confirms that no affordable housing contribution would be viable, it would then be necessary to secure the maximum viable contribution through a Section 106 legal agreement before planning permission could be granted, without which the proposed development would be contrary to Policy CS15.

The Planning Balance & Conclusions

- 14.18 The proposed development would provide a greater number of dwellings for the elderly, as compared to the previously approved scheme, meeting a clear need, and delivering both social and economic benefits. The proposed removal of the existing building would also be an environmental benefit to the same degree as the previous scheme. However, weighed against these benefits, the development would be of a design that would not be sympathetic to its context. The scale and massing of the building would jar significantly within this historic setting, and the detailed design and appearance of the building would be poor, having regard to the character and qualities of the surrounding area. The harm to adjacent heritage assets would be of a much greater magnitude than was the case with the previously approved scheme. Therefore, weighing up the scheme's greater public benefits against the much greater harm that would arise from this proposed development, it is not felt that the proposal would be justified. In essence, and in contrast to the previously approved scheme, the harm to the Hythe Conservation Area and the setting of adjacent Listed Buildings would materially outweigh the scheme's benefits. In reaching this conclusion, it is not considered that the applicant's viability arguments in support of a larger scheme would justify the development that is proposed.
- 14.19 It is recognised that the level of housing need in the District is sufficiently above the level of housing supply to know that a five year supply of housing land, if assessed on the basis of the objectively assessed need for housing, is currently unavailable. This situation will be addressed through the emerging Local Plan, but until the new Local Plan is adopted, paragraph 14 of the NPPF advises that planning permission for housing development should normally be granted unless any planning harm identified would "*significantly and demonstrably outweigh the benefits*" or unless other policies of the NPPF indicate that development should be restricted. In this case, there are specific policies in the NPPF that indicate development affecting designated heritage assets should be restricted if there are not public benefits of sufficient weight to outweigh the harm, which is exactly the case here. Furthermore, the adverse impacts of development set out above significantly and demonstrably outweigh the scheme's benefits. Therefore the tilted balance in favour of granting permission, as set out in Paragraph 14 of the NPPF, either would not apply or would in any event be outweighed by other considerations.
- 14.20 Having regard to all of the above considerations, the application is recommended for refusal.
- 14.21 In coming to this recommendation, consideration has been given to the rights set out in Article 8 (Right to respect for private and family life) and Article 1 of the First Protocol (Right to peaceful enjoyment of possessions) of the European Convention on Human Rights. Whilst it is recognised that this recommendation, if agreed, may interfere with the rights and freedoms of the applicant to develop the land in the way proposed, the objections to the planning application are serious ones and cannot be overcome by the imposition of conditions. The public interest and the rights and freedoms of neighbouring property owners can only be safeguarded by the refusal of permission.

Section 106 Contributions Summary Table

Proposal:			
Type of Contribution	NFDC Policy Requirement	Developer Proposed Provision	Difference
Affordable Housing			
No. of Affordable dwellings	17.2	0	
Financial Contribution			
Habitats Mitigation			
Financial Contribution	£103,150		

CIL Summary Table

Type	Proposed Floorspace (sq/m)	Existing Floorspace (sq/m)	Net Floorspace (sq/m)	Chargeable Floorspace (sq/m)	Rate	Total
Dwelling houses	3432.81	1003.73	2429.08	2429.08	£80/sqm	£233,939.11 *

Subtotal:	£233,939.11
Relief:	£0.00
Total Payable:	£233,939.11

* 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 2018 this value is 1.2

15. RECOMMENDATION

Refuse

Reason(s) for Refusal:

1. The proposed redevelopment of this site would be a contextually inappropriate and poor design that would be detrimental to local distinctiveness, and harmful to both the character and appearance of the Hythe Conservation Area and to the setting of adjacent Listed Buildings at 37-44 Sir Christopher Court and 1 and 3 Shore Road because:-
 - a) The predominantly 3-storey scale of the proposed building and its significant and poorly articulated mass would result in a development that would be intrusive and discordant in its setting, and one that would be unduly dominant and high relative to the smaller, predominantly 2-storey scale buildings that are characteristic of the adjacent streets within the Conservation Area.
 - b) The proposed development would be of a poorly proportioned and unsympathetic appearance, with awkward and bulky roof forms, weak and non-traditional window, door and porch details, inappropriate materials, and discordant and weak elevational compositions that would include the unsympathetic undercutting of the main entrance elevation for vehicular parking.

It is not considered the harm identified (which would be "less than substantial" when considered against the relevant policies of the National Planning Policy Framework) would be outweighed by the scheme's public benefits. As such, the proposed development would be contrary to the policy advice of the National Planning Policy Framework, as well as being contrary to Policies CS2 and CS3 of the Council's Core Strategy for New Forest District outside of the National Park, Policy DM1 of its Local Plan Part 2: Sites and Development Management, and the guidance contained within the adopted Supplementary Planning Guidance - "Hythe - A Conservation Area Appraisal".

2. The proposed development would fail to make any contribution toward addressing the substantial need for affordable housing in the District. The proposal would therefore conflict with an objective of the Core Strategy for the New Forest District outside the National Park 2009 and with the terms of Policies CS15 and CS25 of the 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, the application proposals were not the subject of paid pre-application advice. The objections that have been identified are of a significant nature and would not be capable of being fully resolved as part of this current application.

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**
March 2018

Item No: 3b
2
South Street
Hythe
17/11646
SU4207

Scale 1:1250

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

