

Application Number: 18/10101 Variation / Removal of Condition

Site: SITE OF SOLENT WORKS, NORTH CLOSE, LYMINGTON SO41 9BU (NB: PROPOSED LEGAL AGREEMENT)

Development: Variation of condition 3 of Planning Permission 16/10886 to allow amended plans RF08 Rev D & RF10 Rev D, RF09 Rev C, RF07 Rev C to allow retention of external material changes to front and side elevations (AMENDED PLANS)

Applicant: Churchill Retirement Living

Target Date: 03/05/2018

Extension Date: 15/06/2018

RECOMMENDATION: Service Man Planning Development Control Grant

Case Officer: Steve Clothier

18/10101

1 REASON FOR COMMITTEE CONSIDERATION

Contrary to Town Council view

2 DEVELOPMENT PLAN AND OTHER CONSTRAINTS

Built up area

3 DEVELOPMENT PLAN, OBJECTIVES AND POLICIES

Core Strategy

Objectives

1. Special qualities, local distinctiveness and a high quality living environment
3. Housing
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)
- CS5: Safe and healthy communities
- CS7: Open spaces, sport and recreation
- CS14: Affordable housing provision

CS15: Affordable housing contribution requirements from developments
CS17: Employment and economic development
CS24: Transport considerations
CS25: Developers contributions

Local Plan Part 2 Sites and Development Management Development Plan Document

NPPF1: National Planning Policy Framework – Presumption in favour of sustainable development
DM3: Mitigation of impacts on European nature conservation sites
DM5: Contaminated land
DM10: Residential accommodation for older people

4 RELEVANT LEGISLATION AND GOVERNMENT ADVICE

Section 38 Development Plan
Planning and Compulsory Purchase Act 2004
National Planning Policy Framework

5 RELEVANT SUPPLEMENTARY PLANNING GUIDANCE AND DOCUMENTS

SPD - Housing Design, Density and Character
SPD - Parking Standards
SPD - Lymington Local Distinctiveness
SPD - Mitigation Strategy for European Sites

6 RELEVANT PLANNING HISTORY

6.1 One two/three/four storey block of 41 retirement flats including communal facilities, access, parking, landscaping, demolition of existing ref: 16/10886 granted 21-01-17

7 PARISH / TOWN COUNCIL COMMENTS

Lymington & Pennington Town Council : recommends refusal in support of neighbours concerns.

8 COUNCILLOR COMMENTS

None received

9 CONSULTEE COMMENTS

9.1 Southern Water - have no comment to make.
9.2 Environmental Health Contaminated Land: have no concerns with this application.
9.3 Southern Gas Networks: advise of the proximity of a gas pipeline.

10 REPRESENTATIONS RECEIVED

Four letters of objection have been received raising the following concerns: red bricks in place of the yellow bricks on the right-hand side of the second gable of the south elevation is incongruous; there is concern that the maintenance window with balcony would be used as a smoking area; increased bulk and height and overlooking.

11 CRIME & DISORDER IMPLICATIONS

None

12 LOCAL FINANCE CONSIDERATIONS

If this development is granted permission, the Council will receive New Homes Bonus (net increase in dwellings $41 \times £1224 = £50,184$) 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 £134,410.80

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

13 WORKING WITH THE APPLICANT/AGENT

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

This is achieved by

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

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

14 ASSESSMENT

14.1 This site lies on the north-east side of North Close and is currently in the advanced stages of being developed pursuant to the planning permission for the redevelopment of the site with a two/three/four storey block of 41 retirement flats including communal facilities, access, parking, landscaping and demolition of the original buildings on the site (ref: 16/10886). This application has been submitted in order to make a number of changes to the approved plans which have been implemented on the site and the application is therefore retrospective.

14.2 The site is located in an essentially residential area with older properties to the north-east, south-west and opposite the site in North Close with a more recent residential development at Keel Gardens to the north. The existing residential development varies in design and size ranging from bungalows to two/three storey properties (with the second floors accommodated within roof spaces). The Lymington Conservation Area lies to the south of the site (but does not immediately adjoin it). There is a large Plane tree opposite the site in North Close.

14.3 The proposed changes to the development are relatively minor in nature and comprise the following:

1. North Close (west) elevation - grey cladding panels changed to render on the four link sections of the building. These elements of the building are set back from the main frontage building and are designed to be recessive, the change in material here does not have a significant impact on the appearance of the finished building and is acceptable.

2. North (side) Elevation -

- i) Stairwell Smoke vent at roof level, this has minimal impact.
- ii) 1 window inserted at first floor level which faces across the site with limited views of neighbours gardens similar to other approved windows, the impact is acceptable.
- iii) 2 doors changed to windows these are at ground floor level and do not lead to increased overlooking.
- iv) Painted Brick Changed to Red Brick this is on a small area on the lower part of the building, this change is not particularly perceptible.
- v) Painted Brick Changed to Yellow Brick this is appropriate and not particularly prominent given the modest area involved and the location behind the main frontage element of the development.
- vi) 1 window relocated from Elevation 3 due to Fire Escape at ground floor level and has limited increased impact over that which has already been approved.
- vii) Cladding Panels changed to Red Brick on the chimney at high level which would be acceptable given its central location high on the building.
- viii) Cladding Panels changed to Yellow Brick at second floor level - this matches the main gable end of the frontage element of the building which is appropriate.
- ix) 1 tax window removed this merely removes brick detailing on a recessed element of the side elevation which is acceptable.

- x) 1 tax window relocated in place of that removed in ix above which is in a more prominent position on the main side gable and gives improved detailing to this part of the building.

3. East (rear) Elevation

- i) 1 window relocated due to fire escape related to vi above, the removal of the window from this elevation is acceptable.
- ii) Painted Brick changed to Yellow Brick on a two storey element of the building behind the main frontage building which is an acceptable change to the approved painting.
- iii) Yellow Brick changed to Red Brick on two floors of a section of the rear elevation, while this results in a darker finish, red brick is predominant in this location and this would be appropriate.
- iv) 2 Juliet Balconies added at first floor level, there are several other Juliet balconies on this elevation and these changes do not lead to increased levels of overlooking.
- v) Changed Cladding to Red Brick on Chimney as 2.vii above.
- vi) Cladding changed to Yellow Brick at second floor level as 2.viii above.
- vii) Painted Brick Changed to Yellow Brick and Smoke vent added as 2.v above. The smoke vent is located at second floor level and is of an acceptable appearance.
- viii) Window relocated to North Elevation due to Fire Escape as 2.vi above the loss of the window from this elevation is acceptable.
- ix) Window relocated from elevation 2. This is at ground floor level and does not have any significant implications for increased overlooking.
- x) Window changed to door at ground floor level which does not have any implications for overlooking, this elevation, as approved contains a number of windows and doors.
- xi) additional window in the side of the dormer window serving unit 35 at second floor level. This window has views to the south with a similar outlook to a number of other windows at this level and is acceptable.

4. South (side) Elevation

- i) Tax Window removed, the removal of this detail at first floor level is acceptable and of limited impact.
- ii) Cladding changed to Yellow Brick at second floor level behind the main frontage part of the building which is acceptable.
- iii) Maintenance Access Window added at second floor level which would serve access to a stairwell, this does not lead to adverse overlooking as it does not serve habitable accommodation.
- iv) Eaves raised by about 500mm on an element of the building to the rear of the site set about 9.5 metres from the side boundary, this increase in height does not give rise to an adverse impact on neighbours and is visually appropriate.
- v) Cladding changed to Red Brick on the chimney as 3.v above.
- vi) Window relocated from Elevation 3 due to Fire Escape at ground floor level which does not give rise to any greater overlooking than that already approved.

- vii) Painted Brick Changed to Yellow Brick on a small element of the building set off the side boundary, the quality of the brick is good and this change does not have any adverse implications.
- viii) Yellow Brick changed to Red Brick on a gable end set off the side boundary, while this is a darker material than approved, the quality of the brick is good and red brick is a predominant material in this area.

Other material considerations

- 14.4 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 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"*. This is known as the 'tilted balance' in favour of sustainable development. In this case, it is considered that the adverse impacts of development set out above do not significantly and demonstrably outweigh the benefits and therefore the tilted balance in favour of granting permission is a material consideration in assessing this application.
- 14.5 In accordance with the Habitat Regulations 2017 an assessment has been carried out of the likely significant effects associated with the recreational impacts of the residential development provided for in the Local Plan on both the New Forest and the Solent European Nature Conservation Sites. It has been concluded that likely significant adverse effects cannot be ruled out without appropriate mitigation projects being secured. In the event that planning permission is granted for the proposed development, a condition is recommended that would prevent the development from proceeding until the applicant has secured appropriate mitigation, either by agreeing to fund the Council's Mitigation Projects or otherwise providing mitigation to an equivalent standard.
- 14.6 Many of the pre commencement conditions imposed on the original planning permission have been resolved, as a result, they have been redrafted to require the agreed works to be implemented, other conditions need to be reimposed as set out in the recommendation.
- 14.7 An affordable housing contribution of £393,638.44 was secured by a Section 106 Agreement as part of the original planning permission for the building. A new Agreement is being drawn up in relation to this application to secure the same level of contribution.
- 14.8 In conclusion, the changes to the approved building are of a relatively minor nature with limited implications for occupants of neighbouring property or the finished quality of the development and permission is recommended.
- 14.9 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.

Section 106 Contributions Summary Table

Proposal:			
Type of Contribution	NFDC Policy Requirement	Developer Proposed Provision	Difference
Affordable Housing			
No. of Affordable dwellings			
Financial Contribution	£393,638.44	£393,638.44	
Habitats Mitigation			
Financial Contribution			

CIL Summary Table

Type	Proposed Floorspace (sq/m)	Existing Floorspace (sq/m)	Net Floorspace (sq/m)	Chargeable Floorspace (sq/m)	Rate	Total
Dwelling houses	3475	1902.5	1572.85	1572.85	£80/sqm	£134,401.80
Shops						
Subtotal:						
Relief:						
Total Payable:						

* 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:

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

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

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

- the completion of a planning obligation entered into by way of an Agreement pursuant to Section 106 of the Town and Country Planning Act 1990 to secure an affordable housing contribution of £393,638.44.
- no further substantive objections being received by 15th June 2018
- the imposition of the conditions set out below.

Proposed Conditions:

1. The development hereby approved shall be constructed in accordance with the materials specified in the application unless otherwise first agreed in writing by the Local Planning Authority.

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

2. The development permitted shall be carried out in accordance with the following approved plans: 10086 LY - PA00 Rev A; PA07 Rev C; PA08 Rev D; PA09 Rev C; PA10 Rev D; P240 Rev 1; P241 Rev 1; P220 Rev 1; P221 Rev 1; P222 Rev 1; P223 Rev 1; P230 Rev 1, P242 Rev 1 and PA11.

Reason: To ensure satisfactory provision of the development.

3. The scheme of landscaping of the site approved on the 26th July 2017 under reference 16/10886 shall be implemented in its entirety in accordance with the approved method and programme for its implementation and the means to provide for its future maintenance.

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

4. The trees on the site which are shown to be retained on the plans approved under reference 16/10886 shall be protected during all site clearance, demolition and building works in accordance with the measures set out in the submitted Arboricultural Assessment & Method Statement (ref 16041 - AA3 - MW) and Tree Protection Plan (ref 16041-BT4) and the recommendations as set out in BS5837:2012.

Reason: To safeguard trees and natural features which are important to the visual amenities of the area in accordance with Policy CS 2 of the Core Strategy for the New Forest District outside the National Park.

5. The works hereby approved shall be undertaken in strict accordance with the Ecological Survey methodology by ECOSA Ltd Ref: 2011.F1 dated 22nd June 2016 submitted with planning application reference 16/10886 unless otherwise first agreed in writing with the Local Planning Authority.

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

6. The development hereby permitted shall not be occupied until the spaces shown on plan 10086LY - PA Rev. 01 (approved under reference 16/10886 for the parking of motor vehicles and cycles have been provided. The spaces shown on plan 10086LY - PA Rev. 01 for the parking of motor vehicles and cycles shall be retained and kept available for the parking of motor vehicles and cycles for the dwellings hereby approved at all times.

Reason: To ensure adequate parking provision is made in the interest of highway safety and in accordance with Policy CS2 and CS24 of the Local Plan for the New Forest outside of the National Park (Core Strategy).

7. The development shall be completed in accordance with the drainage strategy detailing the proposed means of foul sewer disposal and a implementation timetable as approved on the 26th September 2017 under reference 16/10886.

Reason: In order to ensure that foul sewer disposal is dealt with in an appropriate manner in accordance with Policy CS 8 of the Core Strategy for the New Forest District outside the National Park.

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

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

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

9. The development shall be carried out in accordance with the details of the proposed means of foul and surface water disposal approved on the 18th September 2017 under reference 16/10866.

Reason: In order to ensure that foul sewer and surface water disposal is dealt with in an appropriate manner in accordance with Policy CS 8 of the Core Strategy for the New Forest District outside the National Park.

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 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 DM4 of the Local Plan For the New Forest District outside the National Park. (Part 2: Sites and Development Management).

11. Where a remediation scheme has been approved, 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 DM4 of the Local Plan for the New Forest District outside the National Park. (Part 2: Sites and Development Management).

12. 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. An investigation and risk assessment must be undertaken 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 and submitted for 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 DM4 of the Local Plan for the New Forest District outside the National Park. (Part 2: Sites and Development Management).

13. No persons under sixty years of age and/or partner under fifty five years of age shall occupy any of the units hereby permitted with the exception of guests and/or wardens.

Reason: The level of on-site parking being provided would only be acceptable on the basis that the occupation of the proposed development is age restricted. If the development were not to be age restricted, there would be an unmet parking requirement that would be detrimental to highway safety and contrary to 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 all the above apply and as the application was acceptable as submitted no specific further actions were required.

2. In discharging condition No. 10 above the Applicant is advised that appropriate mitigation is required before the development is commenced, either by agreeing to fund the Council's Mitigation Projects or otherwise providing mitigation to an equivalent standard. Further information about how this can be achieved can be found here <http://www.newforest.gov.uk/article/16478/>

Further Information:

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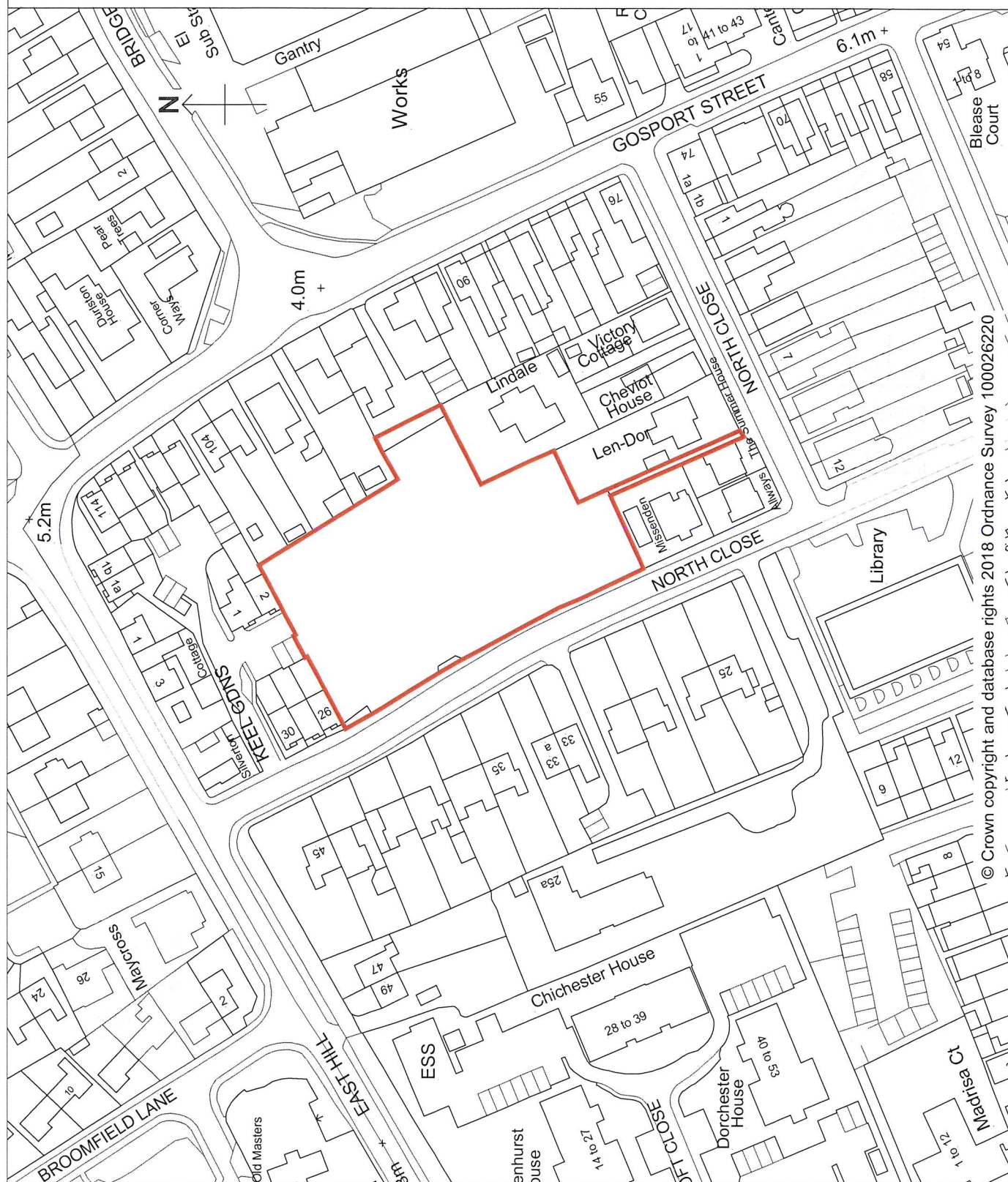
Planning Development
Control Committee
June 2018

Item No: 3d

Solent Works
North Close
Lymington
18/10101

Scale 1:1250

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



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