

**Application Number: 18/10433** Full Planning Permission

**Site:** SHIP INN, 68 HIGH STREET, FORDINGBRIDGE SP6 1AX

**Development:** Kitchen intake and extract ducting (Retrospective)

**Applicant:** Greene King plc

**Target Date:** 06/06/2018

**Extension Date:** 13/07/2018

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

Contrary to Town Council view

**2 DEVELOPMENT PLAN AND OTHER CONSTRAINTS**

Secondary Shopping Frontage

Primary Shopping Area

Town Centre Boundary

Built-up Area

Fordingbridge Conservation Area

**3 DEVELOPMENT PLAN, OBJECTIVES AND POLICIES**

**Core Strategy**

CS2: Design Criteria

CS3: Protecting and enhancing our special environment

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

DM1: Heritage and Conservation

**National Planning Policy Framework**

Section 12: Conserving and enhancing the historic environment

Conservation Area: Y Fordingbridge Conservation Area:

#### **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**

Fordingbridge Conservation Area Appraisal  
SPD - Fordingbridge Town Design Statement

#### **6 RELEVANT PLANNING HISTORY**

No relevant history

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

**Fordingbridge Town Council:** recommend refusal as the incorrect equipment appears to have been fitted and the effect on residents is unacceptable.

#### **8 COUNCILLOR COMMENTS**

None

#### **9 CONSULTEE COMMENTS**

- 9.1 Environmental Health (Pollution) - The application proposes to regularise the use of the extract and ventilation equipment that is already in use at the application address. The location in a mixed use commercial / residential area in the centre of the town is likely to experience noise impacts from a variety of sources. However, as the residential property is located to the rear of the buildings behind the high street, noise impacts are lower and therefore, noise from the kitchen extract unit is likely to be the predominant feature. In order to ensure that there are no significant adverse impacts on local residents, noise and odour should be considered and mitigation applied where appropriate. This department received complaints regarding noise emissions from the operation of the Ship Inn's kitchen ventilation system and this has recently been assessed by ENL Acoustic Consultants Ltd, and the applicable noise assessment has been submitted with this application. Appropriate works were carried out in January 2018 on the recommendations of the noise assessment, and the works, which included the replacement of anti-vibration mounts on the extract unit fitted to the rear wall of the application premises have reduced the residual background noise to a level proportionate to the typical use required by this equipment. Provided the noise levels emitted from the use of this equipment remain at this level, the continuing use of this equipment is considered to be acceptable, subject to conditions to ensure the equipment is maintained appropriately and regularly and only operated between defined hours. An informative is also suggested stating that the granting of this planning permission does not in any way indemnify against statutory nuisance action being taken should substantiated complaints within the remit of part III of the Environmental Protection Act 1990 be received.

- 9.2 Environmental Design Team (Conservation) - The site is in the Fordingbridge Conservation Area. While unlisted, the building contributes to the Conservation Area with its age and architectural interest. This contribution should be preserved and enhanced where possible. The intake and extraction ducts installed to the rear are large and obtrusive. Despite being to the rear, they detract from the appearance of the building and consequently harm the appearance of the area due to their sheer size and protrusion. Good quality design is a key consideration of the NPPF (Ch.7) and these ducts do not uphold this. While the impact of these ducts on the Conservation Area does have an adverse impact, their need is understood and a fence with trellis would be an acceptable way of screening their visual impact.

## **10 REPRESENTATIONS RECEIVED**

- 10.1 Two pieces of correspondence have been received on behalf of the owner and the tenants of Park Mews, which adjoins The Ship Inn. The basis of the objection is that, as things stand, the noise issue is unresolved as the replacement extraction equipment is considered to be significantly noisier than the original equipment. It is considered that the equipment has degraded in terms of its noise emissions in a short space of time, and the concern is that it will continue to do so in the future. Concern is also raised that the permitted hours of operating this equipment appear to be excessive, ie from 7am until 11pm daily. The enforceability of conditions suggested by the EHO is brought into question. It is requested that further mitigation be investigated and implemented before the current application is determined, and that the equipment is then re-tested to ascertain what if any reduction in noise and vibration has been achieved as a result of those measures; that the noise levels emitted by the equipment are set at a tolerable, quantifiable and enforceable level in terms of the relationship to Park Mews; and that the permitted hours for operating this equipment are further restricted in light of the intimate relationship between Park Mews and The Ship Inn. If successful, planning permission can be granted subject to suitable, enforceable conditions. However if unsuccessful, then clearly more thought will need to be given to alternative ways of reducing noise to acceptable levels.

## **11 CRIME & DISORDER IMPLICATIONS**

None

## **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 following agreement from the applicant to enhance boundary treatment around the extraction facilities and the alteration of the proposed hours of operation, the proposal was considered to be acceptable.

## **14 ASSESSMENT**

- 14.1 The site lies within the built up area of Fordingbridge, its town centre boundary and is within the Fordingbridge Conservation Area. The Ship Inn is a long established public house on High Street. The site has a close relationship to residential land uses to the east.
- 14.2 The application is made retrospectively for retention of 1 no. intake and 1 no. extraction flue on the rear elevation of the public house and sited at ground floor level. The flues were installed in 2016, replacing an older system that had been in situ for over 25 years. The applicant has explained that the equipment was installed in the same position as the old apparatus, albeit protruding from the rear wall of the kitchen, in order to comply with health and safety regulations which require extraction systems to be directly linked to the operation of the gas supply. Without the equipment now in situ, the public house could not operate its gas fired ovens and hobs, to prepare meals, which is a fundamental aspect of its day to day operations.
- 14.3 The main issues to consider are the visual impact of the flues on the character and appearance of the Conservation Area and its effect on the living conditions of the occupiers of surrounding residential properties.
- 14.4 The equipment was installed in the same position as the old apparatus, albeit protruding from the rear wall of the kitchen and in this respect is more visually intrusive than the former extractors. The extraction equipment in this form is necessary in order to comply with current health and safety requirements in relation to the use of commercial gas appliances at the premises. The Conservation Officer notes that while

unlisted, the building contributes to the Conservation Area, which should be preserved and enhanced where possible. The intake and extraction ducts installed detract from the appearance of the building and consequently harm the appearance of the area. However, the Conservation Team acknowledge the need for intake and extraction ducts and that a fence with trellis could be an acceptable way of screening their visual impact. In this respect the applicant has agreed to enhance the boundary treatment to the rear of the pub to incorporate better quality fencing, trellis and planter to assist with mitigating the visual harm of the extraction equipment, full details of which can be secured by condition. With good quality boundary treatment the form of the proposal would assist with preserving the character and appearance of the conservation area, in accordance with Policies CS2 and CS3 of the Core Strategy, Policy DM1 of the Local Plan and Section 12 of the NPPF.

- 14.5 The proposal has a very close relationship to the adjoining dwelling at Park Mews and an objection has been received on behalf of the occupiers that the existing extraction equipment is causing harm to adjoining amenity, by virtue of the noise nuisance. The Environmental Health Section have assessed the submitted noise report and the proposed noise and odour mitigation measures, concluding that the proposal would have no significant harmful impact upon adjoining residential amenity, subject to conditions.
- 14.6 In response to objections received to the proposal, the Environmental Health Section comments that following complaints relating to noise from the extract units at this premises, they were investigated, but did not find a statutory nuisance to be present. However, the owners of the public house, Greene King, agreed to review the extraction units and employed the services of an acoustic consultant. The result of the acoustic report concluded that some changes could be made to lower some of the noise levels emitted by the units, and subsequent works were carried out. These works related to the servicing of the units and renewal of the anti-vibration mounts at the points where the extract unit is attached to the wall. The result of this work means that the fans have been adjusted to ensure the correct speed and rotation to avoid sound impulses, and less vibration being carried through the party wall. Further sound tests confirmed the noise level had decreased as expected and recommendations were given to Greene King by the Environmental Health Section in order to maintain these standards. The recommendations relate directly to the noise mitigation conditions requested by the Environmental Health Section. The condition relating to servicing and maintenance is to ensure the equipment remains at, or improves on, the current level of noise as assessed by the acoustic testing. This condition is considered to be enforceable as the pub will be required to maintain records of compliance for inspection by the Council on request. The business operates as accommodation with breakfast, as well as the normal pub trading hours and requires quite extensive hours of operation for the extraction equipment, albeit not for the entire duration of the day. However, in light of the comments of objectors regarding the operating hours of the extraction equipment, the applicant has been requested to re-visit the requirement to operate between 07:00 - 23:00 and has confirmed that a reduction in hours of use between 07:30 and 22:00 each day would be acceptable.

14.7 Noise levels experienced at the objecting property do not meet any of the tests for statutory nuisance but this can be reviewed by Environmental Health at any time in the future should the occupiers of the property feel that the noise levels have become substantially worse than current levels. Officer's are, therefore of the opinion that the level of noise currently generated by the extraction system is at an acceptable level in this town centre location and associated with historic use of the premises as a public house. Its impact upon adjoining properties can be mitigated through imposition of the reasonable and enforceable conditions outlined below. Consequently the proposal is considered to comply with the amenity related provisions of Policy CS2.

14.8 In light of the fact that the visual impact and amenity impact of the proposal have been satisfactorily mitigated, the application is recommended for approval, subject to conditions.

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.

## **15. RECOMMENDATION**

### **Grant Subject to Conditions**

#### **Proposed Conditions:**

1. The development permitted shall be carried out in accordance with the following approved plans: 1:1250 Location Plan, DPP/VENT/Q264267 Rev A, Environmental Noise Assessment Report by ENL Acoustic Consultants Ltd (March 2018) and Planning Statement by Walsingham Planning (March 2018)  
  
Reason: To ensure satisfactory provision of the development.
2. Within three months of the date of this decision a written scheme shall be submitted to and approved in writing by the local planning authority to provide that: A permanent six monthly maintenance and servicing scheme, to ensure that the equipment remains at, or improves upon the current noise levels as stated in the ENL Acoustic Consultants Ltd report, post mitigation work, dated March 2018. The servicing and maintenance of the anti-vibration mounts shall form part of this scheme and the applicant shall maintain adequate records of compliance for inspection by the Council at any time.

Reason: To protect the amenities of the surrounding residential properties in accordance with Policy CS2 of the Local Plan for the New Forest District outside the National Park (Core Strategy).

3. The associated plant hereby approved shall not be operated before 07:30 hours nor after 22:00 hours daily.

Reason: To protect the amenities of the surrounding residential properties in accordance with Policy CS2 of the Local Plan for the New Forest District outside the National Park (Core Strategy).

4. Within three months of the date of this decision a scheme of landscaping of the site shall be submitted for approval in writing by the Local Planning Authority. This scheme shall include :

- (a) full details of the revised means of enclosure, to include new fencing, trellis and planter
- (b) a specification for new planting (species and location);

The works hereby approved shall be implemented in their entirety within 3 months of their approval and then only in accordance with those details.

Reason: To ensure that the development mitigates its impact visual upon the character and appearance of Fordingbridge Conservation Area to comply with Policies CS2 and CS3 of the Local Plan for the New Forest District outside the National Park (Core Strategy) and Policy DM1 of the Local Plan Part 2.

5. All external works (hard and soft landscape) shall be carried out in accordance with the approved plans and details within six months of the date of this decision and maintained thereafter as built and subject to changes or additions only if and as agreed in writing with the Local Planning Authority.

Reason: To ensure the achievement and long term retention of an appropriate quality of development and to comply with Policy CS2 of the Local Plan for the New Forest District outside the National Park (Core Strategy).

#### **Notes for inclusion on certificate:**

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

In this case following agreement from the applicant to enhance boundary treatment around the extraction facilities and the alteration of the proposed hours of operation, the proposal was considered to be acceptable.

2. The granting of this planning permission does not in any way indemnify against statutory nuisance action being taken should substantiated complaints within the remit of part III of the Environmental Protection Act 1990 be received.

**Further Information:**

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# New Forest DISTRICT COUNCIL

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## Planning Development Control Committee

July 2018

Item No: 3h

Ship Inn  
68 High Street  
Fordingbridge  
18/10433

Scale 1:1250

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

