

Application Number: 18/11004 Variation / Removal of Condition

Site: 16-18 SOUTHAMPTON ROAD, RINGWOOD BH24 1HY

Development: Removal of condition 3 on planning permission 18/10726 facilitate use of the first-floor flats as independent dwellings

Applicant: Mrs Terry

Target Date: 18/09/2018

RECOMMENDATION: Grant Subject to Conditions
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Case Officer: Jim Bennett

1 REASON FOR COMMITTEE CONSIDERATION

Contrary to Policy

2 DEVELOPMENT PLAN AND OTHER CONSTRAINTS

Local Shopping Frontage
Primary Shopping Area
Conservation Area
Built-up Area
Plan Area
Town Centre Boundary

3 DEVELOPMENT PLAN, OBJECTIVES AND POLICIES

Core Strategy

Policy CS2 Design quality
Policy CS3 Protecting and enhancing our special environment (Heritage and Nature Conservation)
Policy CS10 The spatial strategy
Policy CS17 Employment and economic development
Policy CS20 Town, district, village and local centres

Local Plan Part 2 (Sites and Development Management DPD) 2014

Policy NPPF 1 Presumption in favour of sustainable development
Policy DM1 Heritage and Conservation
Policy DM3: Mitigation of impacts on European nature conservation sites
Policy DM14 Primary shopping frontage

National Planning Policy Framework

Section 5 Delivering a sufficient supply of homes
Section 16 Conserving and enhancing the historic environment

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 - Ringwood Conservation Area Appraisal
SPD - Ringwood Local Distinctiveness Document
SPD - Mitigation Strategy for European Sites

6 RELEVANT PLANNING HISTORY

- 6.1 18/10726 - Use of first floor as two flats in association with existing multi-purpose health clinic (Suis Generis) - Granted July 2018
- 6.2 13/10915 - Continued use as multi purpose clinic - Granted September 2013
- 6.3 09/95025 - Create 2 flats; new shopfront - Granted January 2011

7 PARISH / TOWN COUNCIL COMMENTS

Ringwood Town Council - comments not yet received.

8 COUNCILLOR COMMENTS

None

9 CONSULTEE COMMENTS

Natural England - no objection

10 REPRESENTATIONS RECEIVED

None

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 (2 x £1224 = £2448) 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, but likely to be granted relief under the vacancy test.

13 WORKING WITH THE APPLICANT/AGENT

In accordance with paragraph 38 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 The proposal relates to nos. 16-18 Southampton Road, which is currently in use as a clinic offering a wide range of services ranging from hypnotherapy to recognised complementary therapies such as Chiropractic, Physiotherapy and Osteopathy. The premises is within the Ringwood Conservation Area and is identified on the Local Plan proposals maps as being within the Town Centre, in a primary shopping area and a primary shopping frontage.
- 14.2 The proposal seeks to convert the first floor of the premises into 2 no. one bedroom apartments. The first floor is currently in use as consulting rooms and offices in connection with the use of the ground floor. The proposal differs from the scheme approved under 18/10726, as the applicant seeks removal of condition no.3 which ties use of the first floor flats to visiting clients of the business activity on the ground floor, by providing on-site accommodation for detox and wellness packages offered by the clinic. The proposal effectively seeks use of the flats as independent dwellings, should their use by clients prove unviable for the

business. The main physical works to achieve the conversion would involve minor internal works to the building to create two self-contained apartments. Access to the apartments would be shared with the main front door of the building. The proposal would not have any dedicated off-street parking.

- 14.3 Starting with the Policy position, the site lies within the town centre and within a Primary Shopping Frontage and Area. Core Strategy Policy CS10 is applicable and supports new residential development primarily within town centres. Policy CS20 places emphasis on retaining a good range of town centre uses, where it can be demonstrated that an alternative use would be complementary to the retailing function and would enhance the overall vitality of the centre. Policy DM14 supports the change of use of premises to appropriate non-retail uses within primary shopping frontages, where the use will add to the vitality and attractiveness of the area and where it can be demonstrated that the proposal will generate footfall similar to a typical retail unit. This could include residential uses where this can be achieved without the loss of gross floorspace in retail or appropriate non-retail uses within existing premises. The proposal does not fully comply with Policy CS20 and Policy DM14 in that it would result in the loss of first floor commercial floorspace in a town centre location. As such, the proposal is contrary to local plan policy, unless there are material considerations to justify a departure from policy.
- 14.4 In justifying the proposal the applicant points out that the first floor consulting rooms and commercial space are currently in low intensity use by the clinic and are surplus to requirements. The applicant explains that use of the first floor is not economically viable or sustainable and that in late December 2017 the upstairs was advertised on Right Move and from early January with local agents Carr & Neave as available to let in its entirety as office space. No interest was expressed and the advertising was withdrawn in late April /early May 2018. In favour of the proposal, the ground floor commercial unit will be retained and the planning history of the premises shows that permission was granted in 2011 (contrary to policy) to use the first floor as independent flats. In addition, the Local Planning Authority is not currently able to demonstrate a 5 year supply of housing land when assessed against its most recent calculation of Objectively Assessed Need. In accordance with the advice of the NPPF, permission should therefore be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits or specific policies in the NPPF indicate that development should be restricted. Furthermore the need for new housing is emphasised by central government guidance changes to the Town and County Planning (General Permitted Development) Order (GPDO), which permits the change of use of town centre premises to residential without requiring planning permission. While the current proposal cannot benefit from the changes to the GPDO it is clear that there is a general steer and emphasis towards creating new residential development in sustainable locations. In balancing out the issues, whilst the proposal would result in the loss of an appropriate town centre use, it is not felt the loss of this first floor commercial floor space would have a significant harmful impact on the economic and commercial vitality of the town centre. Provision of additional dwellings in this sustainable location would outweigh any limited harm that will be caused through the loss of the commercial use. In fact use of the first floor units as flats would have benefits for the town

centre in terms of increased footfall, vitality and viability. Consequently there is no reasonable case to resist the principle of a residential conversion and the proposal is recommended for approval, contrary to Policies CS20 and DM14.

- 14.5 Being within the town's conservation area, Policies CS2, CS3 and DM1 and the Conservation Area Appraisal are applicable to this proposal. However, the alterations are limited only to the interior of the building and no adverse impacts on the character or appearance of the Conservation Area would result.
- 14.6 Policy CS2 of the Core Strategy states that new development shall not have unacceptable impacts upon residential amenity or the amenity of future occupiers. In terms of its potential amenity impacts, the siting of the development proposed does not appear to have any significant impact upon the amenity of the neighbouring residential properties. The type of accommodation proposed, in a town centre location, may be acceptable with reduced outdoor amenity space.
- 14.7 With respect to car and cycle parking requirements, the recommended provision would be similar for both the existing and the proposed use of the first floor, and therefore the Council would not require provision to be made. The flats would be located in a town centre location, with good access to transport links and services, where a reduced car parking standard could be accepted.
- 14.8 The Council has recently been advised by Natural England and the Environment Agency that existing measures to off-set the amount of phosphorous entering the River Avon as set out in the Hampshire Avon Nutrient Management Plan will not be sufficient to ensure that adverse effects on the integrity of the River Avon Special Area of Conservation do not occur. Accordingly, new residential development within the catchment of the Hampshire Avon needs to be "phosphate neutral". In order to address this matter the Council in conjunction with Natural England, the Environment Agency and adjoining local authorities proposes to develop appropriate phosphorous controls and mitigation measures to achieve phosphorous neutrality. A Memorandum of Understanding to that effect has been signed by the aforementioned parties Hereafter, all new residential development will be subject to a condition which will prevent occupation of the development until either mitigation in accordance with the Council's Phosphorous Mitigation Strategy is secured or, in advance of the publication of the Strategy, on-site foul drainage infrastructure capable of achieving an equivalent reduction in phosphorous has been installed in accordance with details approved by the Council.
- 14.9 In accordance with the Conservation of Habitats and Species 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. An Appropriate Assessment has been carried out as to whether granting planning permission would adversely affect the integrity of the New Forest and Solent Coast European sites, in view of that site's conservation objectives. The Assessment concludes that the proposed development would, in combination with other developments, have an adverse effect due to the recreational impacts on the European sites, but

that the adverse impacts would be avoided if the planning permission were to be conditional upon the approval of proposals for the mitigation of that impact in accordance with the Council's Mitigation Strategy or mitigation to at least an equivalent effect. 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.

- 14.10 In light of the above the proposal it is recommended that condition no. 3 previously applied to 18/10726 is removed to facilitate use of the first floor of the premises as 2 no. independent flats.
- 14.11 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 the VARIATION of CONDITION

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: 1:1250 Location Plan, 1:200 Site Plan, Proposed Floor plans and Existing Floor Plans.

Reason: To ensure satisfactory provision of the development.
3. No development shall be carried out until proposals for the mitigation of the impact of the development on the New Forest and Solent Coast European Nature Conservation Sites have been submitted to and approved in writing by the local planning authority, and the local planning authority has confirmed in writing that the provision of the proposed mitigation has been secured. Such proposals must:
 - (a) Provide for mitigation in accordance with the New Forest District Council Mitigation Strategy for European Sites SPD, adopted in June 2014 (or any amendment to or replacement for this document in force at the time), or for mitigation to at least an equivalent effect;

- (b) Provide details of the manner in which the proposed mitigation is to be secured. Details to be submitted shall include arrangements for the ongoing maintenance and monitoring of any Suitable Alternative Natural Green Spaces which form part of the proposed mitigation measures together with arrangements for permanent public access thereto.
- (c) The development shall be carried out in accordance with and subject to the approved proposals.

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

4. The development shall not be occupied until proposals for the mitigation or offsetting of the impact of phosphorus arising from the development on the River Avon Special Area of Conservation (SAC), including mechanisms to secure the timely implementation of the proposed approach, have been submitted to and approved in writing by the local planning authority. Such proposals must:

- (a) Provide for mitigation in accordance with the Council's Phosphorus Mitigation Strategy (or any amendment to or replacement for this document in force at the time), or for other mitigation which achieves a phosphorous neutral impact from the development.;
- (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 monitoring of any such proposals which form part of the proposed mitigation measures.

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 River Avon Special Area of Conservation (SAC) (adding, when it is in place and as applicable), in accordance with the Council's Phosphorus Mitigation Strategy / the Avon Nutrient Management Plan.

5. The installation of fittings and fixed appliances in the dwelling(s) hereby approved shall be designed to limit the consumption of wholesome water to 110 litres per person per day in accordance with Regulation 36(2)b of Part G of the Building Regulations 2010 as amended.

Reason: The higher optional standard for water efficiency under Part G of the Building Regulations is required in order to reduce waste water discharge that may adversely affect the River Avon Special Area of Conservation by increasing phosphorous levels or concentrations and thereby contribute to the mitigation of any likely adverse impacts on a nationally recognised nature conservation interest.

Notes for inclusion on certificate:

1. In accordance with paragraph 38 of the National Planning Policy Framework and Article 35 of the Town and Country Planning (Development Management Procedure) (England) Order 2015, New Forest District Council takes a positive and proactive approach, seeking solutions to any problems arising in the handling of development proposals so as to achieve, whenever possible, a positive outcome by giving clear advice to applicants.

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

2. In discharging condition No. 3 above the Applicant is advised that appropriate mitigation is required before the development is commenced, either by agreeing to fund the Council's Mitigation Projects or otherwise providing mitigation to an equivalent standard. Further information about how this can be achieved can be found here <http://www.newforest.gov.uk/article/16478/>
3. New Forest District Council has adopted a Community Infrastructure Levy (CIL) charging schedule and any application now decided, including those granted at appeal, will be CIL Liable. CIL is applicable to all applications over 100sqm and those that create a new dwelling. Under Regulation 42A developments within the curtilage of the principal residence are likely to be exempt from CIL so CIL may not be payable provided the applicant submits the required exemption form prior to commencement of the development.
4. In advance of the publication of the Council's Phosphorous Mitigation Strategy, the development hereby permitted shall be deemed to provide mitigation to "at least an equivalent effect" if it provides for a reduction of the Total Phosphorous Load generated by the development permitted for each year (or part thereof) from the year of occupation to 2025 at a rate of 0.083 kg of phosphorous per dwelling per annum.

Further Information:

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Planning Development
Control Committee
September 2018

Item No: 30
16-18
Southampton Road
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18/11004

Scale 1:1250

N.B. If printing this plan from
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scale.

