

<b>Application Number:</b>	<b>24/10445</b> Full Planning Permission
<b>Site:</b>	83 COMMERCIAL ROAD, TOTTON SO40 3AF (NB: SUBJECT TO LEGAL AGREEMENT)
<b>Development:</b>	Conversion of the site use to residential and the construction of a building of nine flats with parking and amenity space.
<b>Applicant:</b>	Dentons SIPP R G Newman
<b>Agent:</b>	Crafted Architects
<b>Target Date:</b>	15/07/2024
<b>Case Officer:</b>	John Fanning
<b>Officer Recommendation:</b>	Grant Subject to Conditions
<b>Reason for Referral to Committee:</b>	The recommendation is contrary to Policies DM16 and TOT15 of the Local Plan.

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## **1 SUMMARY OF THE MAIN ISSUES**

The key issues are:

- 1) Principle of development
- 2) The scheme's design and its impact upon the character and appearance of the area
- 3) Amenity considerations
- 4) Flood risk
- 5) Ecology
- 6) Highway and transportation impacts
- 7) Habitat mitigation and nitrate neutrality

## **2 SITE DESCRIPTION**

The site is on the north side of Commercial Road, within the defined Totton town centre in the built-up area. It is currently screened by a combination of high timber and palisade fencing across the frontage and is hard surfaced, with the site currently being operated for valeting and associated car storage. The site has a centrally positioned access point off Commercial Road. A footpath runs to the eastern edge of the site, providing pedestrian access to Causeway Crescent to the north. There is a substation situated to the north-east corner of the application site which will be retained.

The surrounding area contains a mix of residential and commercial uses and is situated in close proximity to Totton railway station to the south-east.

### 3 PROPOSED DEVELOPMENT

The application proposes the redevelopment of the site to create a residential block of 9 dwellings (7x 2-bed, 2x 1-bed) with an undercroft access in the middle to a parking and amenity space to the rear. A separate cycle store is proposed on the site's rear boundary.

### 4 PLANNING HISTORY

Proposal	Decision Date	Decision Description
17/11315 24 bedroom hotel (Outline application with details only of access, appearance, layout & scale)	16/05/2018	Withdrawn by Applicant
14/10186 Use as hand car wash & valeting business; portable cabin; store; access alterations	29/04/2014	Withdrawn by Applicant
13/11087 Use as hand car wash & valeting business; portable cabin; store	25/10/2013	Withdrawn by Applicant
12/99017 Display 4 internally illuminated fascia signs; 1 internally illuminated pole sign (Application for Advertisement Consent)	15/10/2012	Granted in Part
12/99016 Use as vehicle hire; office building; wash-bay with canopy; fencing	12/10/2012	Refused
08/91814 2.4 metre high boundary fence	17/04/2008	Granted Subject to Conditions
07/91201 2.4 metre boundary fence	31/12/2007	Refused

07/90587 Demolition of timer hall (Demolition Prior Notification Application)	14/08/2007	Details not required to be approved
02/74489 Change of use to storage and car valeting (Retrospective)	13/06/2002	Granted

## 5 PLANNING POLICY AND GUIDANCE

### **Local Plan 2016-2036 Part 1: Planning Strategy**

Policy CCC1: Safe and healthy communities

Policy CCC2: Safe and sustainable travel

Policy ECON2: Retention of employment sites and consideration of alternative uses

Policy ECON5: Retail development and other main town centre uses

Policy ENV1: Mitigating the impacts of development on International Nature  
Conservation sites

Policy ENV3: Design quality and local distinctiveness

Policy ENV4: Landscape character and quality

Policy HOU1: Housing type, size, tenure and choice

Policy IMPL1: Developer Contributions

Policy IMPL2: Development standards

Policy STR1: Achieving Sustainable Development

Policy STR3: The strategy for locating new development

Policy STR4: The settlement hierarchy

Policy STR5: Meeting our housing needs

### **Local Plan Part 2: Sites and Development Management 2014**

DM2: Nature conservation, biodiversity and geodiversity

DM16: Within town centres, outside Primary Shopping Areas and Secondary  
Shopping Frontages

TOT15: Totton town centre opportunity sites

### **Supplementary Planning Guidance And Documents**

SPD - Air Quality in New Development. Adopted June 2022

SPD - Mitigation Strategy for European Sites

SPD - Parking Standards

SPD - Housing Design, Density and Character

### **National Planning Policy Framework**

### **National Planning Policy Guidance**

### **Plan Policy Designations**

Town Centre Boundary

Built-up Area

## 6 PARISH / TOWN COUNCIL COMMENTS

**Totton & Eling Town Council:** We recommend PERMISSION, for the reasons listed, but would accept the decision reached by the District Council's Officers under their delegated powers.

The development has been well designed; it would be in-keeping with the existing residential properties and would sit well within the plot. The addition of a communal garden would be well received.

Whilst the development is welcomed, there are concerns regarding vehicular access in and out of the site. Vehicles turning right out of the site would cross traffic in both directions, alongside navigating the nearby pedestrian crossing.

In terms of sustainability, the addition of solar panels on the building should be strongly considered. A further recommendation would be the inclusion of bat and swift boxes.

## **7 COUNCILLOR COMMENTS**

No comments received

## **8 CONSULTEE COMMENTS**

### **HCC Highways:**

No objection following submission of additional details in relation to access. A Condition is recommended to secure details of construction management to avoid impact on highways.

### **HCC Rights of Way:**

No objection

### **Ecologist**

No objection. Suitable mitigation should be secured, associated with the impacts of additional overnight accommodation on sensitive habitats within the Solent and New Forest area. Recommends that suitable ecological enhancement measures should be secured as part of the development.

## **9 REPRESENTATIONS RECEIVED**

2 letters of objection received from nearby residents::

- Existing surface water drainage issues would be exacerbated
- Potential disruption associated with refuse collection
- Concern about use of Causeway Crescent for overflow parking
- Impact on light and loss of privacy for nearby residential uses
- Disruption during construction works
- Visual appearance of development would be out of character with surrounding area
- Access will result in disruption of traffic flow on Commercial Road

## **10 PLANNING ASSESSMENT**

### Principle of development

The site lies within the Totton town centre boundary but not within the defined primary or secondary shopping frontages. In accordance with Policy DM16, retail and 'appropriate non-retail uses' (uses providing a direct service to the public and specifically excluding residential accommodation) will be permitted in such locations. The policy further indicates that residential development will only be permitted where it does not result in a loss of a retail, appropriate non-retail or other employment or

business use and also where it is not on the ground floor of a defined town centre opportunity site.

Policy DM16 is reinforced by Policy TOT15 which identifies this area as a town centre opportunity site being appropriate for 'retail/office/entertainment' uses. It is noted that Policy TOT15 covers a wider site area than the current application site (81-97 Commercial Road). Notwithstanding this, permission has been granted for a fully residential development on a nearby site at 93-95 Commercial Road under application 21/10106.

The existing use of the site is for the storage and valeting of vehicles. The proposed scheme is fully residential in nature, with no commercial element. As such, it would be contrary to the provisions of policies DM16 and TOT15 of the Local Plan. The remainder of the report will therefore consider whether there are any material considerations that would justify a decision contrary to these policies.

#### Justification for no employment

In this case, while the existing use of the land does constitute a business / employment use, it is considered that the use is not an ideal use within a town centre location, particularly with regard to the prominent visual location of the site and the use's negative townscape impact at this important gateway position at the eastern entrance to the town. This factor alone would not justify a fully residential redevelopment because townscape improvements could equally be achieved through a policy compliant commercial redevelopment.

It is noted that Policy DM16 and TOT15 were adopted as part of the Local Plan Part 2: Sites and Development Management document in 2014. The original permission for the current storage and valeting use of the site was granted in 2002. Since that date, no other permissions have been granted to change the use of the plot, with the most recent application being a proposal for a 24-bed hotel in 2017, which was withdrawn prior to determination.

It has not been demonstrated through the application that any of the other identified uses would be unviable. However, the age of the policy, adopted in 2014, has to be considered in the light of the subsequent changes to national planning guidance and the balance that now needs to be had for the delivery of sustainable development, including residential uses. This therefore weighs in favour of permitting an alternative scheme wholly of residential redevelopment.

Importantly, while the proposal would conflict with the policies identified above, it would still deliver significant benefits. With regard to Policy HOU1 (and with particular reference to section 6.6-7), there is a defined need within the district for more smaller homes to meet the variety of housing needs within the district, providing opportunity for affordable new homes and to free up larger dwellings by allowing existing residents to downsize. Policies STR3 and STR4 encourage the siting of development within accessible town centre locations and highlight Totton as being one of the most sustainable locations within the district. Furthermore, the increase in population will also help sustain the vitality and viability of other town centre uses.

In addition, the proposal would have minor economic benefits during construction and benefits for existing commercial premises and businesses in Totton from increased footfall and potentially the employment of local contractors.

### *5 year land supply*

In determining planning applications, there is a presumption in favour of the policies of the extant Development Plan unless material considerations indicate otherwise (Section 38(6) of the Act). Material considerations include the National Planning Policy Framework (NPPF).

Paragraph 11 of the NPPF clarifies what it meant by the presumption in favour of sustainable development. It states that for decision making it means:

*c) approving development proposals that accord with an up-to-date development plan without delay; or*

*d) where there are no relevant development plan policies, or the policies which are most important for determining the application are out-of-date<sup>8</sup>, granting permission unless:*

- i. The application of policies in this Framework that protect areas or assets of particular importance<sup>7</sup> provides a strong reason for refusing the development proposed; or*
- ii. Any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole, having particular regard to key policies for directing development to sustainable locations, making effective use of land, securing well-designed places and providing affordable homes, individually or in combination.*

Footnote 8 of the NPPF clarifies that:

*This includes, for applications involving the provision of housing, situations where: the local planning authority cannot demonstrate a five year supply of deliverable housing supply of deliverable housing sites (with the appropriate buffer as set out in paragraph 78); or where the Housing Delivery Test indicates that the delivery of housing was substantially below (less than 75% of) the housing requirement over the previous three years.*

The Council cannot currently demonstrate a five-year supply of deliverable housing land supply, with the most up to date housing land supply position identifying 2.39 years of deliverable housing land supply. On this basis, key local plan policies would be considered to be out-of-date, and the provisions of paragraph 11(d) are engaged.

Taking the first limb of paragraph 11(d), as this report sets out, there are specific policies in the NPPF which protect areas or assets of particular importance referred to within footnote 7 of the NPPF. This includes habitats sites and designated Sites of Special Scientific Interest. Therefore, a judgement needs to be reached as to whether policies in the Framework provide a strong reason for refusing the development.

The second limb of paragraph 11(d), identifies that development should be granted unless the adverse impacts of doing so would significantly and demonstrably outweigh the benefits with regard to policies outlined within the NPPF (with particular reference to paragraphs 66, 84, 91, 110, 115, 129, 135 and 139 of the NPPF). The report below assesses the merits of the application in this context, and an assessment of the scheme against the requirements outlined in paragraph 11(d) is included in the Conclusion/Planning Balance section of the report.

## Design and impact on the character and appearance of the area

Policy ENV3 emphasises the importance that high quality design plays in the planning process and requires all development to connect with surrounding uses and integrate within the surrounding context in a sympathetic and visually appealing fashion.

Paragraph 129 of the NPPF indicates that development should be supported which makes efficient use of land but noting that appropriate consideration should be given to the desirability of maintaining an area's prevailing character and setting, as well as to the importance of securing well-designed, attractive and healthy places. This is further supported by paragraphs 135 and 139 which emphasise the importance of design and character in the decision making process, making it clear that development which is not well designed should be refused.

With its austere and high front boundary to Commercial Road (screening cars being stored on the site), the application site does not currently contribute positively to the local townscape or the visual amenities of the surrounding area. Indeed, while the area has a mixed commercial and residential character, the existing frontage and use provide a poor quality of visual amenity within a prominent town centre location. As such, the redevelopment of the site is in principle welcome, in terms of its potential to improve the character and appearance of the area. Notwithstanding this, any redevelopment must integrate acceptably with neighbouring properties and the surrounding street scene.

The application proposes a new building across the width of the site. The building would have a mainly 2-storey eaves height but would include some accommodation within the roof form to provide three stories of accommodation. The site is bordered to the west by a single-storey garage building, with 2-storey semi-detached dwellings beyond. On its eastern side, there is currently a large gap between the site and the nearest 2-storey building. The surrounding area incorporates a variety of mainly two-storey development.

The proposed development is for a relatively large building in this context, being somewhat larger than the nearby dwellings to the west. However, given the site's town centre context, the plot is considered large enough to be able to accommodate a more significant flatted development without causing harm to the visual amenities of the area. Nevertheless, any proposed development must have an acceptable visual relationship to adjacent buildings.

The proposed development has a ridge height of 9.7m and an eaves height of 5.9m. The plot as a whole has a width of 37m, with the development covering 32m across the plot. This building therefore has a greater scale and massing than other nearby development. For example, the single-storey garage immediately to the west has a ridge height of around 5.5m, and the semi-detached hipped roofed properties beyond have a ridge height of around 9.15m and much smaller roofforms. Notwithstanding this contrast, it is considered that the proposed development's scale and mass would not appear harmfully discordant, noting that the single-storey structure to the west and the gap in development to the east would provide a visual break in the street scene and prevent the development creating a single continuous built form. There is also a recent precedent for a larger building - with the (unimplemented) development granted planning permission under application 21/10106 to the east having a continuous width of 27.5m.

The proposal incorporates a large central projecting element around the undercroft access and includes bay features which break up the visual massing of the

development within the context of the surrounding street scene. The bays partially replicate the design of the nearby semi-detached properties to the west (though with a differing style and roof form), thereby helping the development to visually connect to these smaller properties. To the rear, the development incorporates a number of projecting features, including dormers and a flat roofed section, which have the effect of emphasising the third storey of accommodation within the roof form when compared to the front elevation which retains more of a two-storey character. However, it is felt the scale and mass of the building's rear aspect is sufficiently articulated, with tile hanging being deployed to break up the appearance of the building.

The surrounding area contains a mix of built form, including both semi-detached and terraced residential units, as well as a mix of commercial buildings of varying sizes. There is no single consistent style within the surrounding area, which is notable for its mix of development types. As such, the site is able to absorb the development's built form without it appearing out of context.

The proposal seeks to roughly continue the building line of the nearby residential properties to the west, with a small set back proposed to be retained across the frontage of the site. It is considered that the building's setback from the street would be appropriate, providing necessary definition and containment to the street.

The proposed development strikes an appropriate balance between the scale of the larger commercial buildings within the surrounding street scene and the typically smaller residential properties within the Commercial Road frontage. The use of the bays, undercroft and central projecting feature help to satisfactorily break up the massing of the building and reduce the sense of a continuous built form.

The use of the undercroft to facilitate parking to the rear allows for an efficient use of this town centre site, whilst ensuring parked cars are set to the rear so as not to result in a car dominated frontage. The development would fill an unsightly gap within the street scene, with the retained gaps on either side being sufficient to ensure an acceptable visual relationship to neighbouring buildings.

To the rear, the 3-storey scale and nature of the development is more visually obvious, but as this is also a less prominent part of the site, it does not impact materially on how the building is perceived from Commercial Road. Whilst the rear aspect of the building would be visible from Causeway Crescent, it is considered that the set back and existing layout of development would mean it would not be harmfully intrusive.

The 'Totton Town Centre - Urban Design Framework' highlights the mixed character of the area and identifies the importance of improving the streetscape. Policies DM9, ENV3 and ENV4 highlight the importance of green infrastructure within settlements and the positive impact that green spaces can provide not just in terms of ecology but also with regard to creating attractive and appealing places within the built environment. A low level wall with railings and landscaping are proposed along the site frontage, which would help define and soften the frontage within the street scene and provide a more attractive frontage to the site than the existing arrangement, adding greenery and generally enhancing the space and entrance into the Totton town centre. A larger landscaped area is proposed to the rear of the site. Only indicative details have been proposed at this stage, and it is considered it would be necessary to secure a more detailed landscaping plan by condition. This area would be screened at ground floor level, but there would be views into part of the site from the rear. Some of the land to the rear is proposed to be retained to

serve as car parking for the development. However, the landscaping of the rest of the site would represent a substantial visual improvement when compared to the existing hard surfacing and car storage that takes place on site at present.

It is important to recognise that the site is in a town centre location where a higher density of development is justified. Overall, it is considered that the development would integrate acceptably into the mixed pattern of development within the surrounding area; and subject to suitable conditions to secure a high quality of material finish and landscaping on the site, it would represent an appropriate form of development within the context of the surrounding area. As such, the proposal is considered to address the requirements of paragraphs 129, 135 and 139 of the NPPF and policy ENV3 of the Local Plan.

### Amenity

Policy ENV3 of the Local Plan seeks to ensure that developments achieve a high quality of design through the provision of an attractive living environment for proposed occupiers, whilst avoiding unacceptable impacts on neighbouring properties through overlooking, overshadowing or the creation of an overbearing form of development.

Paragraph 135 of the NPPF identifies that development should achieve a high standard of amenity for existing and future users, while paragraph 139 identifies that development which is not well designed should be refused, with significant weight being given to integration with the layout of surrounding development.

The development has been laid out with a communal amenity space to the rear of the application site adjacent to the designated parking area. The landscaping incorporates around 150m<sup>2</sup> of open communal amenity space, along with other landscaped areas to the edges and internal areas of the site. In addition to the above communal area, some additional external spaces to the rear have been allocated for the use of the ground floor flats (23m<sup>2</sup> for Flat 1, 20m<sup>2</sup> for Flat 2 and 19m<sup>2</sup> for Flat 3). On balance, given the town centre context, it is considered that the proposal provides a reasonable quantum of useable external amenity space, sufficient to meet the needs of the proposed occupiers.

The development has been designed with each unit having a dual aspect with outlook to the front and rear, with bedrooms typically situated facing to the rear. Generally speaking, it is considered that the proposal provides a good quality of outlook for proposed occupiers. Flat 9, which is set within the building's roofspace, has a somewhat unusual internal layout, wrapping around the communal staircase and largely relying on rooflight windows for outlook. Notwithstanding this arrangement, it is considered that the flat has a reasonable amount of living space and while the rooflight windows would be set 1.8m from floor level, it is considered that the rooms would retain light and outlook suitable for a habitable living space. It is considered that the proposal provides a reasonable quality of internal living environment for the proposed occupiers.

In terms of neighbouring occupiers, the application proposes a substantial alteration to the site both in terms of built form and the change of use. With regard to the physical form of the proposed development, the site at present has a high level fence but otherwise no substantive above ground development. The application proposes three stories of accommodation, with the third storey being accommodated

within the roof form of the building.

To the west, the site is immediately adjacent to a larger single-storey commercial garage building. This existing building is set back within the frontage, with the immediate frontage of the site being hard surfaced and used for car parking associated with the use. The proposed building would be set further forward than the neighbouring commercial building. However, taking into account the commercial nature of the neighbouring use, it is not considered that the proposed building would have an overbearing or otherwise harmful impact on the neighbouring commercial property. The proposed development would be well separated from other residential development to the west, and so would not have a materially harmful impact on the amenities of those properties. It is noted that the layout of the development to the rear has placed the parking on the western side of the site adjacent to the commercial use, which would help to minimise the impact of this use on future residential occupants.

A footpath access runs to the east of the site. Beyond this there is a currently vacant plot, with the former building on the land (which operated as a premises for the Royal British Legion) having been demolished following the grant of consent for demolition under application 21/11545 and consent for a 2m fence to screen the site under application 21/11541. No planning permission has subsequently been sought for an alternative use of the land. The proposed development would be partially set off the immediate eastern boundary, and the layout would provide a generous gap to the east of the site which is considered sufficient to ensure no adverse impact on properties in Commercial Road to the east of the site.

To the rear, the development is set between 19m and 22m from the rear boundary of the site with the property at 1 Causeway Crescent, with the closer sections of the building looking towards the building rather than the garden area. It is considered that this degree of separation is sufficient to mitigate potential overlooking concerns. The properties at 71 and 72 Causeway Crescent are set closer to the rear and have their rear windows and gardens partly facing into the rear of the application site. However, these properties are set at an angle to the application site, and the proposed development has incorporated a number of features to address potential overlooking. The proposed rooflight windows would be set at a high level (with the bottom of the window being set at 1.8m above internal floor level), which will still provide light/outlook but limit the potential for direct overlooking into neighbouring sites. The closest first floor level window (serving the room identified as 'Bed 1' in Flat 7) has been angled away from these properties. The closest of the remaining windows would be set around 14m from the edge of the garden land for 72 Causeway Crescent and around 17.5m from the closest part of the building. Taking into account the increased set back from the edge of the site, these windows would have a more oblique relationship with the neighbouring property and so would not directly overlook the properties in Causeway Crescent. On balance, taking into account window positions / designs, it is considered that separation distances are sufficient to ensure that the neighbouring properties at 71 and 72 Causeway Crescent would not be harmfully overlooked.

Taking into account the scale of the proposed development, it is considered appropriate to secure a suitable condition in respect of construction management to limit and control the impacts of the development during construction. On this basis, and with regard to the matters outlined above, it is considered that the development would not have a harmful impact on the amenity of neighbouring properties or future occupants and, as such, is compliant with Policy ENV3 of the Local Plan and paragraph 135 of the NPPF.

## Highway and transportation impacts

Policy CCC2 identifies that development should ensure safe and convenient pedestrian access as well as suitable car and cycle parking. This is reinforced by Policy ENV3 which identifies that developments should secure appropriate car and cycle parking to meet the needs of the proposed residents. These local policies are supported by paragraph 115 of the NPPF which advises that sites should secure appropriate transport options, including safe and suitable access to the site.

The application proposes to utilise the existing vehicular access to provide access to the rear of the site through an undercroft. An additional pedestrian access is proposed to be formed to the east, with a lower level front boundary wall and planting along the rest of the frontage.

It is noted that the site has an existing vehicular access to the highway, with the lawful use of the site being for the storage and valeting of cars. The application has been supported by a transport statement which indicates that the proposed residential development would result in a net reduction in trip rates, though it is noted this is based on generic data rather than measurements of the existing use of the site. Regardless, it is considered that the proposal would result in a change in the existing pattern of use on the site.

The proposal includes amendments to the access and has been supported by vehicle tracking to demonstrate that the access can comfortably accommodate two-way traffic for vehicles entering and leaving the site at the same time, as well as appropriate on-site turning capacity. These details have been reviewed by the Highway Authority, who have raised no objection to the scheme. Given the busy nature of Commercial Road and the scale of proposed development, a condition is recommended to secure a construction management statement to detail how the site will be managed during construction works.

Third Party comments have identified concerns at the potential for off site parking in roads to the rear (north) of the site. Section 4 of the Parking Standards SPD identifies that a 2-bed dwelling has a recommended provision 2 on-plot parking spaces, or 1.5 in a shared/communal parking arrangement, while a 1-bed dwelling has a recommended provision of 2 on-plot spaces or 1.4 for a shared/communal parking arrangement. The proposed development has been designed with a communal parking area to the rear, which would result in a recommended provision of 13.3 spaces. The proposed development has been designed with 10 identified parking spaces (with an additional area identified to be kept free for vehicle turning). As such, there is a shortfall of 3.3 spaces below the recommended standards. Section 4.4-5 and 15 of the Parking Standards SPD outline that there are situations in which relaxation of the parking standards can be considered to be acceptable, particularly noting that in areas with good access to facilities and alternative transport options such as town centre locations, it can be appropriate to offer a reduced car parking provision. The application site is situated within the defined Totton local centre and is situated around 200m from the nearby Totton Shopping Centre to the west and Totton Train Station to the south-east, with a number of bus stops also within that radius. Overall, taking into account the proximity of the site to nearby facilities and access to sustainable transport options, it is considered that the level of parking provision proposed is adequate and would not be materially harmful to highway safety.

With regards to cycle parking, Section 10 of the Parking Standards SPD identifies that a 2-bed dwelling should provide 2 secure long stay cycle spaces per unit and a 1-bed dwelling should provide 1 secure long stay cycle space per unit. This would result in a total provision of 16 spaces for the proposed development. The application has proposed a communal cycle store within the rear amenity area to provide 16 space in accordance with the identified standard.

With regard to the criteria outlined above, it is considered that the proposed alterations to the access and use of the site would have an acceptable impact in terms of the surrounding highway network. Suitable parking facilities would also be provided for future occupants. As such, it is considered that the proposal complies with the requirements of policies CCC2 and ENV3 of the Local Plan and the provisions of paragraph 115 of the NPPF.

### Ecology

There is a mandatory requirement to achieve biodiversity net gain laid out in section 90A of Part III and Schedule 7A of the Town and Country Planning Act 1990 (as amended). In this case, it is noted that the site is currently fully hard surfaced. With regard to Regulation 4 of The Biodiversity Gain Requirements (Exemptions) Regulations 2024, where a development does not impact an onsite priority habitat and impacts less than 25m<sup>2</sup> of onsite habitat with a biodiversity value greater than zero (and less than 5m in length of onsite linear habitat), then the development will be considered to be exempt from the requirement to achieve a mandatory biodiversity net gain. At present, the site is hard surfaced. In the context of the existing on-site habitat, it is considered that the proposal would be exempt from this requirement.

Notwithstanding the above, Policy DM2 identifies that development proposals will be expected to secure biodiversity enhancement as a principle of securing a wider distribution and improvement of ecological networks within the district.

Introduction of bat boxes is proposed, though no details have currently been provided, and the Council's ecologist has requested further swift boxes. It is recommended that further details of proposed ecological enhancements be secured by condition to include number and location. It is further noted that the proposed development incorporates substantial additional soft landscaping of the site, both to the front and rear, which is considered to represent an improvement on the existing hard surfacing.

Subject to suitable conditions to secure additional details of the proposed landscaping and biodiversity enhancement measures, it is considered that the proposal would result in improved on-site biodiversity. As such, it is considered that the proposal would be compliant with Policy DM2.

### Flood risk

With regard to Policy CCC1, it is noted that development should not be permitted in areas of identified flood risk unless in accordance with appropriate sequential and exception tests, with the risk being appropriately managed and mitigated.

The application site does not lie within an area of identified flood risk, though the site does lie in close proximity to the River Test to the east. With regard to section 3.1.21 of the Partnership for South Hampshire Level 1 Strategic Flood Risk Assessment (February 2024), the site does lie within an area indicated as being potentially sensitive to future possible increase in flood risk associated with climate change.

With regard to the above, while the site is not situated within an area of defined flood risk, the proposal would result in a change in the built form of the site. The existing site is hard surfaced and no details have been provided of the existing drainage arrangements. While there is the potential for the increase in soft landscaping on site to improve the drainage capacity of the site, in order to ensure any offsite drainage is managed it is considered appropriate to secure details of a drainage strategy by condition to ensure that the proposal does not result in additional localised surface water drainage issues.

#### Habitat Mitigation and Nitrate neutrality and impact on Solent SAC and SPAs

##### a) Recreational Impacts

Policy ENV1 identifies that all development must ensure appropriate mitigation is secured to protect designated habitats within the New Forest and Solent area. In accordance with the Conservation of Habitats and Species Regulations 2017 ('the Habitat Regulations'), an Appropriate Assessment has been carried out as to whether granting planning permission would adversely affect the integrity of the New Forest and Solent European sites, in view of those sites' 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. A legal agreement has secured an appropriate mitigation contribution. As such, it is considered that the proposal complies with Policy ENV1 and no objection is raised in this regard.

##### b) Air quality monitoring

Policy ENV1 identifies that all development must ensure appropriate mitigation is secured to protect designated habitats within the New Forest and Solent area. Since July 2020 the Council is required to ensure that impacts on international nature conservation sites are adequately mitigated in respect of traffic-related nitrogen air pollution (including NO<sub>x</sub>, nitrogen deposition and ammonia). Given the uncertainties in present data, a contribution is required to undertake ongoing monitoring of the effects of traffic emissions on sensitive locations. A monitoring strategy will be implemented to provide the earliest possible indication that the forms of nitrogen pollution discussed (including ammonia concentrations) are beginning to affect vegetation, so that, if necessary, measures can be taken to mitigate the impact and prevent an adverse effect on the integrity of the SAC habitats from occurring. A financial contribution has been secured (through a Section 106 legal agreement) towards monitoring and, if necessary (based on future monitoring outcomes) managing or mitigating air quality effects within the New Forest SPA, SAC and Ramsar site. As such, it is considered that the proposal complies with Policy ENV1 and no objection is raised in this regard.

##### c) Nitrate neutrality and impact on Solent SAC and SPAs

Policy ENV1 identifies that all development must ensure appropriate mitigation is secured to protect designated habitats within the New Forest and Solent area. There is existing evidence of high levels of nitrogen and phosphorus in the water environment with evidence of eutrophication at some European designated nature conservation sites in the Solent catchment. Natural England have now raised this

with the Council and other Councils bordering the Solent catchment area and have raised objections to any new application which includes an element of new residential overnight accommodation unless nitrate neutrality can be achieved or adequate and effective mitigation is in place prior to any new dwelling being occupied. To ensure that the proposal may proceed as sustainable development, there is a duty upon the local planning authority to ensure that sufficient mitigation is provided against any impacts which might arise upon the designated sites. The Council has a policy in its Local Plan, which seeks to safeguard against any adverse impact and that suitable mitigation is in place to avoid any harmful impact on sites of importance for nature conservation. An Appropriate Assessment as required by Regulation 63 of the Habitat Regulations has been carried out, which concludes that the proposed project would have an adverse effect due to the additional nitrate load on the Solent catchment. As the Competent Authority, NFDC consider that there needs to be a mitigation project to provide this development with a nitrate budget. A Grampian condition is recommended to secure these details and a further Appropriate Assessment will be carried out on discharge of this condition. Subject to this condition it is considered that the requirements of Policy ENV1 have been addressed.

#### Developer Contributions

As part of the development, the following has been secured via a Section 106 agreement:

- Air Quality Monitoring Contribution: £981
- Habitats Mitigation (Access Management and Monitoring) Contribution: £5,829
- Habitats Mitigation (Bird Aware Solent) Contribution: £5,627
- Habitats Mitigation (Infrastructure) Contribution: £37,756

As part of the development, subject to any relief being granted the following amount Community Infrastructure Levy will be payable:

Type	Proposed Floorspace (sq/m)	Existing Floorspace (sq/m)	Net Floorspace (sq/m)	Chargeable Floorspace (sq/m)	Rate	Total
Dwelling houses	777	0	777	777	£80/sqm	£93,479.08 *

Subtotal:	£93,479.08
Relief:	£0.00
Total Payable:	£93,479.08

*\*The formula used to calculate the amount of CIL payable allows for changes in building costs over time and is Index Linked using the RICS CIL Index (<https://www.rics.org/uk/products/data-products/rics-community-infrastructure-levy-index/>) and is:*

*Net additional new build floor space (A) x CIL Rate (R) x Inflation Index (I)*

## **11 OTHER MATTERS**

N/A

## **12 CONCLUSION / PLANNING BALANCE**

As set out earlier in this report, the Council cannot currently demonstrate a 5-year supply of deliverable housing sites, which means that paragraph 11(d) of the NPPF is engaged.

In this case, the application site potentially has an impact on designated habitat sites within the Solent and New Forest area. However, as outlined in the report above, it is considered that these impacts can be addressed by the legal agreement associated with the proposal, as well as appropriately worded conditions. On this basis, it is considered that there is not a strong reason for refusing the development in accordance with 11(d)(i).

As such, it is then necessary to consider where any adverse impacts of the development would significantly and demonstrably outweigh the benefits of the proposal with particular regard to the key policies identified within the NPPF relating to directing development to sustainable locations, making effective use of land, securing well-designed places and providing affordable homes.

The site has previously been identified within local plan policies as a town centre site with the potential to accommodate a commercial or mixed use development. The failure to deliver an appropriate use in terms of the development plans policies for this town centre Opportunity Site is a clear adverse impact arising from the proposal. However, due to the lack of a 5-year housing land supply, the Council's local plan policies are out-of-date, and residential development that makes a positive contribution to meeting the district's housing needs is considered justified and acceptable, subject to demonstrating compliance with wider considerations, including integration with local character.

There is a defined need for new dwellings within the local area, with the proposal providing a mix of smaller dwellings within a highly accessible location within the district. Furthermore, and as described above, the proposal will still contribute towards the vitality and viability of the town both through construction and once occupied. The site will ensure that appropriate ecological enhancements are secured. It is considered that these factors weigh materially in favour of the proposed development.

The proposed development would be a significant new building in this context, but being a town centre site, larger buildings are not uncharacteristic of the area, which has a mixed commercial and residential character. The plot is a prominent part of the entrance way into the Totton town centre from the east, and it is considered that the proposed additional landscaping and greening of the site would represent an opportunity to enhance the existing street scene in a sustainable town centre location. As such, it is considered that the proposal does represent an appropriate use of the land within the town centre location and would integrate acceptably with its wider context.

On the basis of the above and within the context of the relevant national planning policies, it is considered that the residential development of the site would be appropriate; and taking into account the weight afforded to the Council's pressing housing need, it is considered that the adverse impacts of the development (in terms of a loss of the site's employment function) would not significantly and demonstrably outweigh the benefits associated with the proposed additional housing. As such,

notwithstanding that the proposal would be contrary to the provisions of Policy DM16 and TOT15, the application is therefore recommended for conditional approval.

## 13 RECOMMENDATION

### Grant Subject to Conditions

#### 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:

Drg No: Oak\_23-056 A (Topographical survey)  
Drg No: PP-12922306v1 (Location plan)  
Drg No: D228 (Accessway elevations)  
(Transport Statement)  
Drg No: NJC-004 C (Swept path tracking - service vehicle)  
Drg No: NJC-002 C (Swept path tracking)  
Drg No: NJC-001 C (Sightlines)  
Drg No: D-120 A (Proposed landscaping)  
Drg No: D-220 E (Proposed ground floor plan)  
Drg No: D-221 E (Proposed first floor plan)  
Drg No: D-222 E (Proposed second floor plan)  
Drg No: D-224 A (Proposed sections)  
Drg No: D-225 A (Proposed street scene)  
Drg No: D-226 A (Proposed block plan)  
Drg No: D-227 (Proposed cycle store)  
Drg No: D-310 F (Proposed elevations)  
Drg No: D-500 E (Illustrative images)  
Drg No: D-501 D (Illustrative images)

Reason: To ensure satisfactory provision of the development.

3. Before development proceeds above damp proof course level, samples or exact details of the facing and roofing materials to be used shall be submitted to and approved in writing by the Local Planning Authority. The development shall only be implemented in accordance with the approved details.

Reason: To ensure an acceptable appearance of the development in accordance with Policy ENV3 of the Local Plan 2016-2036 Part One: Planning Strategy for the New Forest District outside of the National Park.

4. Prior to construction (including demolition) commencing on the site, a Construction Environmental Management Plan (CEMP) shall be submitted to and approved in writing by the Local Planning Authority. The CEMP shall include the following details:

- Development contacts, roles and responsibilities

- Public communication strategy, including a complaints procedure
- A programme of and phasing of demolition and construction work (to include construction methodology)
- A strategy for the management of contractor parking
- A strategy for deliveries associated with construction works
- Access and egress arrangements for plant and machinery during construction works
- Location of temporary site buildings, compounds, construction material and plant storage areas
- Management Plan to cover methodology for suppression, mitigation and avoidance measures for dust and mud during construction
- Noise reduction measures, including use of acoustic screens and enclosures, the type of equipment to be used and their hours of operation
- Use of fences and barriers to protect adjacent land, properties, footpaths and highways

The approved details shall be implemented before the development hereby permitted is commenced and retained throughout the duration of construction. The development shall only be carried out in accordance with the CEMP so approved.

Reason: In order that the Local Planning Authority can properly consider the effect of the works on residential amenity and highway safety and in accordance with Policy ENV3 of the Local Plan Part 1 Planning Strategy.

5. Before development above damp proof course level, a scheme of landscaping of the site shall be submitted for approval in writing by the Local Planning Authority. This scheme shall include :

- a) a specification for new planting (species, size, spacing and location);
- b) areas for hard surfacing and the materials to be used;
- c) the treatment of the boundaries of the site and other means of enclosure;
- d) a method and programme for its implementation and the means to provide for its future maintenance.

Development shall thereafter only take place in accordance with the agreed details and shall be fully implemented in accordance with the agreed details within the first planting and seeding season following the occupation of the buildings or completion of the development (which is the sooner). Any trees or plants which within a period of 5 years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size or species, unless the Local Planning Authority gives written consent to any variation.

Reason: To ensure that the development takes place in an appropriate way and to comply with Policies ENV3 and ENV4 of the Local Plan 2016-2036 Part One: Planning Strategy for the New Forest District outside of the National Park.

6. The development hereby permitted shall not be occupied until the access and parking spaces as well as refuse and cycle stores (as shown in Drg No. NJC-001 Rev C, Drg No. D-227, Drg No. D-220 Rev E and D-228) have been provided in accordance with the submitted details. The areas identified for the parking and turning of motor vehicles and the storage of refuse and cycles shall be retained and kept available for these purposes for the dwellings hereby approved at all times.

Reason: To ensure adequate provision for access and necessary facilities for the proposed development is made in the interest of highway safety and in accordance with Policies ENV3 and CCC2 of the Local Plan 2016-2036 Part One: Planning Strategy for the New Forest District outside of the National Park.

7. Before first occupation of the development hereby approved, a surface water sustainable drainage system (SuDS) shall be designed and installed to accommodate the run-off from all impermeable surfaces including roofs, driveways and patio areas on the approved development such that no additional or increased rate of flow of surface water will drain to any water body or adjacent land and that there is capacity in the installed drainage system to contain below ground level the run-off from a 1 in 100 year rainfall event plus 30% on stored volumes as an allowance for climate change as set out in the Technical Guidance on Flood Risk to the National Planning Policy Framework.

Infiltration rates for soakaways are to be based on percolation tests in accordance with BRE 365, CIRIA SuDS manual C753, or a similar approved method.

In the event that a SuDS compliant design is not reasonably practical, then the design of the drainage system shall follow the hierarchy of preference for different types of surface water drainage system as set out at paragraph 3(3) of Approved Document H of the Building Regulations.

The drainage system shall be designed to remain safe and accessible for the lifetime of the development, taking into account future amenity and maintenance requirements.

Reason: In order to ensure that the drainage arrangements are appropriate and in accordance with Policy ENV3 of the Local Plan 2016-2036 Part One: Planning Strategy for the New Forest District outside of the National Park and the New Forest District Council and New Forest National Park Authority Strategic Flood Risk Assessment for Local Development Frameworks.

8. The development hereby permitted shall not be occupied until:
- a) A water efficiency calculation in accordance with the Government's National Calculation Methodology for assessing water efficiency in new dwellings has been undertaken which demonstrates that no more than 110 litres of water per person per day shall be consumed within the development, and this calculation has been submitted to, and approved in writing by, the Local Planning Authority; all measures necessary to meet the agreed waste water efficiency calculation must be installed before first occupation and retained thereafter;

- b) A mitigation package addressing the additional nutrient input arising from the development has been submitted to, and approved in writing by, the Local Planning Authority. Such mitigation package shall address all of the additional nutrient load imposed on protected European Sites by the development when fully occupied and shall allow the Local Planning Authority to ascertain on the basis of the best available scientific evidence that such additional nutrient loading will not have an adverse effect on the integrity of the protected European Sites, having regard to the conservation objectives for those sites; and

The mitigation package shall include a timetable for implementation and measures for retention and maintenance of that mitigation package, which shall thereafter be implemented.

Reason: There is existing evidence of high levels of nitrogen and phosphorus in the water environment with evidence of eutrophication at some European designated nature conservation sites in the Solent catchment. The PUSH Integrated Water Management Strategy has identified that there is uncertainty as to whether new housing development can be accommodated without having a detrimental impact on the designated sites within the Solent. Further detail regarding this can be found in the appropriate assessment that was carried out regarding this planning application. To ensure that the proposal may proceed as sustainable development, there is a duty upon the local planning authority to ensure that sufficient mitigation for is provided against any impacts which might arise upon the designated sites. In coming to this decision, the Council have had regard to Regulation 63 of the Conservation of Habitats and Species Regulations 2017.

9. Before development commences above slab level, a scheme of ecological enhancements shall be submitted to and approved in writing by the Local Planning Authority. Prior to the first occupation of the development hereby approved (or within such other timeframe as is agreed in writing with the Local Planning Authority), the ecological enhancement measures shall be installed in accordance with the approved details.

Reason: To safeguard and enhance biodiversity and protected species in accordance with Policies ENV3, ENV4 of the Local Plan 2016-2036 Part One: Planning Strategy for the New Forest District outside the National Park and Policy DM2 of the Local Plan for the New Forest District outside the National Park (Part 2: Sites and Development Management).

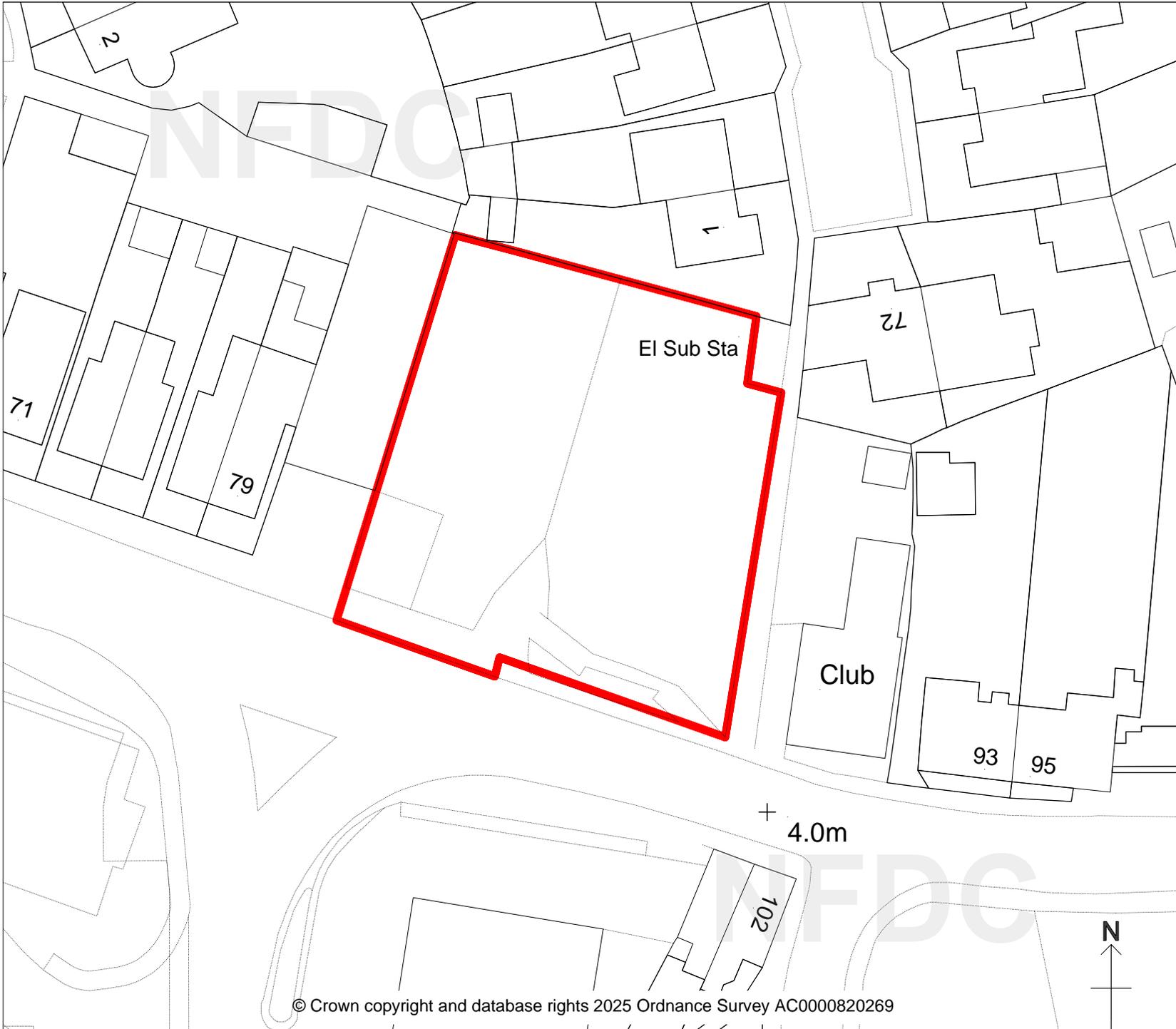
10. Before development commences, the proposed slab levels in relationship to the existing ground levels set to an agreed datum shall be submitted to and approved in writing by the Local Planning Authority. Development shall only take place in accordance with those details which have been approved.

Reason: To ensure that the development takes place in an appropriate way in accordance with Policy ENV3 of the Local Plan 2016-2036 Part One: Planning Strategy for the New Forest District outside of the National Park.

**Further Information:**

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# New Forest

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## PLANNING COMMITTEE

May 2025

83 Commercial Road  
Totton

24/10445

Scale 1:500

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