



Working in Partnership



Agenda Item

Report PC

Report to Planning Committee

Date of Committee 11 November 2015

By Head of Planning Services

Local Authority Chichester District Council

Application No: SDNP/15/02781/CND

Validation Date 4 June 2015

Target Date: 30 July 2015

Applicant:

Proposal: Variation of Condition 2 of SDNP/13/05945/FUL to accommodate the minor change in the siting of Plot 1 relative to southern boundary together with a minor increase in the width of Plots 1 and 4.

Site Address Fuel Care, 10 Midhurst Road, Fernhurst, Midhurst, West Sussex, GU27 3EE

Purpose of Report The application is reported to Committee for a decision

**Recommendation: That the application be Approved for the reasons and subject to the conditions set out in paragraph 10.1 of this report.**

## Executive Summary

### **Reason for Committee referral: Parish objection - Officer recommendation to PERMIT**

Planning permission has previously been granted for the redevelopment of this site for the erection of 4 detached dwellings together with two covered parking areas comprising six spaces and four uncovered spaces following demolition of existing buildings and hard surface. The application is retrospective in that it seeks to regularise the discrepancies identified from the previously approved scheme with respect to a marginal increase in the overall width of the dwellings and the siting of Plot 1, which is between 0.3 and 0.5 metres closer to the south boundary. It is concluded that the development as built remains sympathetic to the character and appearance of the surrounding area and that these minor changes are not considered to have had an adverse impact on the living

conditions of occupiers of nearby properties or on the future health of the protected Horse Chestnut in the front garden of the adjoining property.

## **1. Site Description**

1.1 The application site is located on the west side of Midhurst Road (A 286) close to the centre of Fernhurst village, just south of the junction with Vann Road. The site formerly operated as a fuel depot, providing a distribution service for customers in the local area. Planning permission was granted for the redevelopment of the site with four detached dwellings, garaging and turning and new landscaping and planting. A significant amount of remediation of the site was required to be undertaken in view of the potential contamination in connection with the former use and the extent of built development and concrete hardstanding within the site.

1.2 To the north of the site is the Fernhurst Club, a detached part two storey/part single storey building. The rear single storey section extends westward along the majority of the common boundary with the application site. There are no windows or other openings in the elevation facing the application site. The Fernhurst Club is largely screened by a 2.3 metre high close boarded fence. To the south of the application site is The Coach House, a detached two storey dwelling. The south boundary is defined by existing and replacement fencing of varying heights and the presence of a line of mature conifer trees along the majority of its length. On the opposite side of the road the prevailing character is a mixture of residential and commercial premises.

1.3 To the rear (west) of the application site is a public car park, beyond which is further C20th residential development.

## **2. Relevant Planning History**

FH/11/04716/PENP - Residential development of 4No. 3 bed semi-detached houses and 4 No. 2 bed apartments. Pre-application advice given 07.03.2012.

SDNP/13/05945/FUL - Erection of 4 detached dwellings together with two covered parking areas comprising six spaces and four uncovered spaces following demolition of existing buildings and hard surfaces. PERMIT 28.04.2014

SDNP/14/02760/DCOND - Discharge of Condition Nos. 3 and 5 from permission SDNP/13/05945/FUL. APPROVE 26.08.2014

SDNP/14/03822/DCOND - Discharge of conditions 1, 2, 4, 6, 7, 8 and 9 from permission SDNP/13/05945/FUL. APPROVED (SPLIT DECISION) 28.11.2014

SDNP/14/04501/DCOND - Discharge of conditions relating to 13/05945/FUL, conditions 10, 11. APPROVED 13.11.2014

SDNP/15/03550/DCOND - Discharge of condition 7 of permission SDNP/13/05945/FUL. APPROVED 29.09.2015

### **3. Proposal**

3.1 The application seeks retrospective planning permission to regularise the variation in the siting of Plot 1 1.7 metres from the south boundary, which is 0.3 metres closer than approved under planning permission SDNP/13/05945/FUL. The application also addresses the marginal increase in width of Plots 1 and 2 from 7.575 metres to 7.64 metres (0.065m). All other aspects of the development have been carried out in accordance with the previously approved plans and various discharge of conditions consents.

### **4. Consultations**

#### **Parish Council Consultee**

Fernhurst Parish Council recommends objection to this application on the following grounds:

Upon a site visit undertaken by the the Parish Council, it was noted that there may be more than one deviation from the dimensions stated in the original planning consent.

We ask that the Planning Enforcement team satisfy themselves that the 'as-built' dimensions of the dwellings on Plot 1 and Plot 4 correspond to those permitted.

If there should be multiple discrepancies, this will be at the detriment of the rest of the village and may create a precedent.

In addition, the Parish Council requests that formal confirmation be sought from the CDC Tree Officer that the now reduced distance between the TPO'd Horse Chestnut and the south elevation of Plot 1 still poses no threat to the long-term future of the tree.

#### **Tree Officer - CDC**

The adjacent site to the trees is slightly lower ground level than the trees. The boundary fence is still in situ but a small retaining wall has been removed and I understand some concrete bases have been removed when the site was an oil store.

The installed piling work would have limited/less impact on the trees as the area dug would be a lot smaller than a strip foundation and as shown on the plan only 3 pile holes were dug adjacent to the trees.

It wasn't clear but it seems unlikely that roots from the TPO'd Horse Chestnut tree have been damaged, possibly the Cypress trees (even though they are closer and in raised ground) might have had a little damage but again not clear.

The Cypress trees have been topped and there was one stump from one Cypress tree on the eastern end which had been felled. This in the long run could benefit the Horse Chestnut tree which has been greatly suppressed by the Cypress trees to the north of it.

My only concern was the cement lying on the ground to the north of the trees. This has toxic chemicals in it and I asked if it could be cleared as soon as possible to prevent leaching into the ground.

## **5. Representations**

2 representations received.

### **2 Third Party objections**

Plot 1 slightly wider and closer to south boundary by 300mm

May not be worth effort of pursuing

Possible impact of original excavation works on future health of boundary trees, including protected Horse Chestnut.

Tree Officer comments should be sought on possible impact

Property devalued

Causes shadowing of frontage

Require Plot 1 to be re-sited 2.0 metres from boundary, as original plans, roof to be fully hipped and boundary fence to a height of at least 2.4 metres, new planting on my side of fence and repair of damaged fence.

### **Applicants comments**

I confirm measured dimensions as follows. I have pasted the Parish Council's measurements in, to make reference easier.

I took these measurements on Saturday 26 September.

The width of the footprint of Plot 1 - Parish Council comment: approx. 7900 mm.  
Permitted width: 7575 mm. Actual width: 7640

The width of the footprint of Plot 4 (the other dwelling facing the road) - Parish Council comment: approx. 7900 mm. Permitted width 7575 mm. Actual width 7640

The distance between flank walls of Plots 1 and 4 (permitted as 5700 mm) where the access road runs. Measured width: 5700

The reason for the discrepancies on plots 1 & 4 is due to brick course sizes with 7640 being the nearest upward size to 7575.

The dimension from plot 1 to the south boundary is 1700 mm as per the amended plan and from plot 4 to the north boundary is 1000 mm as per the original plan.

I would also add that I met Wade Sowman of the Enforcement section on site to check the dimensions to the side boundary on 5th May 2015 and again with the Tree Officer on 10 June 2015 who had no issue with regard to the TPO'd tree.

## 6. Policy Context

- 6.1 Applications must be determined in accordance with the Development Plan unless material considerations indicate otherwise. The statutory development plan in this area is the Chichester Local Plan First Review (1999). The relevant policies to this application are set out in section 7, below.

### National Planning Policy Framework (NPPF) and Circular 2010

Government policy relating to National Parks is set out in English National Parks and the Broads: UK Government Vision and Circular 2010 and The National Planning Policy Framework (NPPF) which was issued and came into effect on 27 March 2012. The Circular and NPPF confirm that National Parks have the highest status of protection and the NPPF states at paragraph 115 that great weight should be given to conserving landscape and scenic beauty in the National Parks and that the conservation of wildlife and cultural heritage are important considerations and should also be given great weight in National Parks.

### 6.2 National Park Purposes

The two statutory purposes of the SDNP designation are:

- To conserve and enhance the natural beauty, wildlife and cultural heritage of their areas;
- To promote opportunities for the public understanding and enjoyment of the special qualities of their areas.

If there is a conflict between these two purposes, conservation takes precedence. There is also a duty to foster the economic and social well being of the local community in pursuit of these purposes.

### 6.3 Relationship of the Development Plan to the NPPF and Circular 2010

6.4 In addition to the above, the following paragraphs and sections are considered relevant to the determination of this application:

Paragraphs 14, 17, 58, 183, 184  
Sections 2, 6, 7, 11

6.5 As of March 2014, Fernhurst Parish Council has published a pre-submission draft Neighbourhood Plan (May 2014) for review by the SDNPA. This is at an early stage in its preparation and as such can only be afforded limited weight.

Policy MH1 recognises capacity within Fernhurst Parish to accommodate further market housing, although the emphasis is on the provision of smaller units (1-2 bedrooms). Policy SA1 of the Neighbourhood Plan identifies the application site as being suitable for residential redevelopment of at least 3 units. Other policies of note include DE1 (style of residential development and DE2 (building materials)

6.6 The draft South Downs Local Plan Preferred Options 2015 was approved by the South Downs National Park Authority on 16 July 2015. The public consultation

on the document will take place in September and October 2015. The document and the policies contained therein are now a material consideration when determining planning applications within the National Park, however at this stage the policies will carry limited weight.

The following policies are considered relevant to this application:

SD6 - Design  
SD23 - Housing  
SD37 - Trees, hedges and Woodland  
SD43 - Public Realm and Highway Design Local Guidance

#### 6.4 The South Downs Partnership Management Plan

The South Downs Partnership Management Plan (SDPMP) was adopted on 3 December 2013. It sets out a Vision and long term Outcomes for the National Park, as well as 5 year Policies and a continually updated Delivery Framework. The SDPMP is a material consideration in planning applications and has some weight pending adoption of the SDNP Local Plan.

The following Policies and Outcomes are of particular relevance to this case:

##### General Policy 1

Conserve and enhance the natural beauty and special qualities of the landscape and its setting, in ways that allow it to continue to evolve and become more resilient to the impacts of climate change and other pressures.

##### General Policy 50

Housing and other development in the National Park should be closely matched to the social and economic needs of local people and should be of high design and energy efficiency standards, to support balanced communities so people can live and work in the area.

## 7. **Planning Policy**

The following policies of the Chichester Local Plan First Review (1999) are relevant to this application:

- BE1 (CH)Settlement Policy Areas
- BE11 (CH)New Development
- BE13 (CH)Town Cramming
- BE14 (CH)Wildlife Habitat, Trees, Hedges And other Landscape features
- TR6 (CH)Highway Safety

## **8. Planning Assessment**

8.1 The development as a whole has been subject to a detailed compliance check by Officers as a result of a complaint and the matters that represent a departure from the previously approved plans are confirmed as being an increase in the overall width of the individual dwellings on the road frontage (Plots 1 and 4) and the finished distance between the flank wall of Plot 1 and the southern boundary of the site with 12 Midhurst Road. The remainder of the development can be confirmed as having been built in accordance with the plans approved under planning application SDNP/13/05945/FUL.

8.2 In terms of the increased width of the dwellings on the road frontage (Plots 1 and 4), this amounts to 65 mm and can be accounted for through a technical requirement when bricklaying. Ordinarily, this would be considered well within normal build tolerances and would be treated as being de minimis. It has been the detailed setting out of plots 1 and 4 that has given rise to the discrepancy in the distance to the south boundary.

8.3 The main issues with this application are considered to be whether the development as built has a materially harmful effect on the character and appearance of the area, the living conditions of nearby occupiers or the future health of the protected Horse Chestnut tree within the front garden of the property to the south of Plot 1.

### **The impact of the development on the character and appearance of the area**

8.4 The development of the site is now substantially completed and final landscaping is being carried out. The proposal comprises the four houses, central access, carports and turning area set out as originally permitted under reference SDNP/13/05945/FUL. The two dwellings fronting the main highway preserved the linear rhythm of the built form through this central part of Fernhurst. Their scale, form and appearance reflect the established but varied character of existing residential development nearby. Good quality materials have been used for the dwellings, which again ensures that the development will be quickly assimilated into the street scene. The pair of houses to the rear of the site are adjusted to suit the original fall in levels across the site from east to west and are not considered to be unduly prominent when viewed from the public car park to the west of the site.

8.5 It is concluded that on this issue, the effect of the relatively minor differences between the approved scheme and the development as built on the character of the surrounding area are considered to be negligible and do not result in material harm to the character and appearance of the area.

### **The effect on the living conditions of nearby properties**

8.6 The Coach House (No. 12 Midhurst Road) is a two storey dwelling with a gabled roof facing the south boundary of the application site, attached to which is a timber lean-to outbuilding. In addition to a new 2.1 metre high close boarded fence along the length of the boundary, there is a line of substantial conifer trees approximately 6 metres in height on the neighbours side of the boundary.

Approximately 2.0 metres further south of the common boundary and within the front garden of No. 12 is a Horse Chestnut, which is protected by a Tree Preservation Order.

8.7 Plot 1 is - as was always the case - sited forward of the front elevation of No.12 Midhurst Road. The flank wall to Plot 1 has been constructed with a half-hipped gable as was originally approved and is set at a lower level than No. 12. The frontage of No.12 comprises access, turning and parking areas for the dwelling and can be partially viewed from Midhurst Road. The line of conifer trees and Horse Chestnut existing along No. 12's side of the boundary continues to provide effective physical screening and itself produces a greater shading effect than the new development because of their proximity to that dwelling. The measurements taken show that the distance between the flank wall of Plot 1 and the new boundary fence varies between 1.5 metres at the front corner of the dwelling and 1.7 metres at the rear corner. This is due to the fact that the position of new boundary fencing varies along its length and has been erected inboard of the conifer trees. Whilst there is a minor variation in the distance from the boundary, this is considered to remain a reasonable distance from the common boundary and in the context of the existing boundary treatment (including the new 2.1 metre fencing) it is concluded that the siting of the dwelling marginally closer to the common boundary does not result in an overbearing form of development and therefore does not have a materially harmful impact on the living conditions of the occupiers of No. 12 Midhurst Road.

8.8 The occupant of No. 12 Midhurst Road has requested that the dwelling is re-sited to its original position to restore the 2.0 metre gap to the common boundary with his property and that the roof to Plot 1 is redesigned with a full hip on the south side. It is considered that the reduction in the distance to the south boundary by 0.3 - 0.5 metres does not have a materially harmful impact on the living conditions of the occupier of No. 12. The height of the flank wall to eaves level measures 7.4 metres, at which point the roof then pitches away from the boundary, softening the presence of this elevation. The position of Plot 1 some distance forward of the dwelling at No. 12 and adjacent to the access and turning area means that Plot 1 does not have an overbearing relationship with the adjoining property. Although marginally closer to the boundary than previously approved, this elevation also remains effectively screened by the existing vegetation along this boundary and it is not considered that the substitution of the half hipped roof with a hipped roof would result in any significant material difference or impact on No. 12 Midhurst Road.

### **The effect of the revised siting on the protected Horse Chestnut**

8.9 The Council's Tree Officer has assessed the impact of the development on the adjacent protected tree. It was noted the piled foundation design was less intrusive than traditional strip foundations would have been and unlikely to have resulted in harm to the rooting system of the Horse Chestnut. This tree has also been heavily suppressed on its north side in any event by the close proximity and dense foliage of the Leylandii trees and therefore much of its canopy spread is toward the south. The Tree Officer also noted that some minor pruning of overhanging branches of both the leylandii and Horse Chestnut had been carried out but that this was necessary in order to carry out the development and would not therefore have required consent.

8.10 The Tree Officer goes on to conclude that in view of the foundation design for Plot 1, it is unlikely that there is damage to the rooting system of the Horse Chestnut and other trees as a result of the development. In addition, the minor pruning works to the trees surrounding the Horse Chestnut are likely to benefit this protected tree in the longer term because its growth is not longer suppressed by the Leylandii to the same extent.

## 9. Conclusion

9.1 Officers have identified two discrepancies from the previously approved scheme, which are the marginal increase in the overall width of the dwellings, and the siting of Plot 1 between 0.3 metres and 0.5 metres closer to the south boundary than previously approved. Even when taking into account these aspects, the development of the former Fuel Care site has been carried out in a manner sympathetic to the character and appearance of the surrounding area and other than these matters, in accordance with the terms of the original planning permission and associated conditions. Furthermore, these minor changes are not considered to have had an adverse impact on the living conditions of occupiers of nearby properties or on the future health of the protected Horse Chestnut tree.

## 10. Recommendation

It is recommended that the application be approved subject to the conditions set out below

1. The development hereby permitted shall be carried out in accordance with the following plans:

Plan Type	Reference	Version	Date on Plan	Status
Plans - 1:250 Site layout	1321/PL.02	E	02.06.2015	Approved

**Reasons:** For the avoidance of doubt and in the interests of proper planning.

02. All planting, seeding or turfing comprised in the approved scheme of landscaping under reference SDNP/15/03550/DCOND and shown on Drawing No. 486-01 Rev D shall be carried out in the first planting and seeding seasons following the occupation of the buildings or the completion of the development, whichever is the sooner, and any trees or plants, including any existing trees or hedgerows indicated as being retained in the approved scheme, 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 and species, unless the Local Planning Authority gives written consent to any variation.

Reason: In the interests of amenity and of the environment of the development.

03. Notwithstanding the provisions of Schedule 2 Part 1 Class A of the Town and Country Planning (General Permitted Development) Order 2015 (or any Order revoking and re-enacting or amending that Order) no windows or other openings

other than those shown on the plans hereby approved shall be formed at first floor level in the north wall(s) of Plots 3 and 4 or the south wall(s) of Plots 1 and 2 without a grant of planning permission from the Local Planning Authority.

Reason: To protect the amenities of adjoining residential properties.

**11. Crime and Disorder Implications**

It is considered that this planning application does not raise any crime and disorder implications.

**12. Human Rights Implications**

This planning application has been considered in light of statute and case law and any interference with an individual's human rights is considered to be proportionate to the aims sought to be realised.

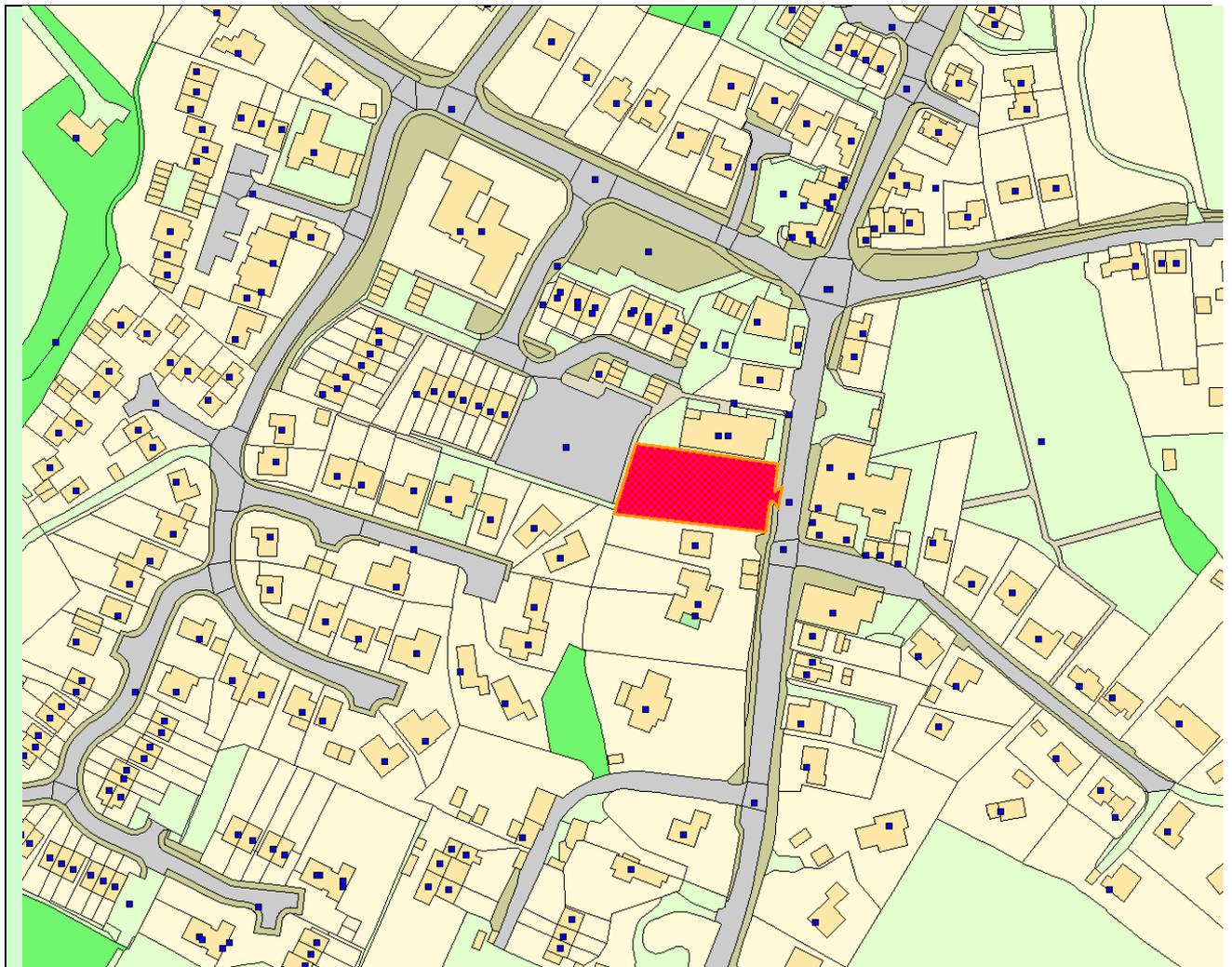
**13. Equalities Act 2010**

Due regard, where relevant, has been taken of the National Park Authority's equality duty as contained within the Equalities Act 2010.

Case Officer Details Name: Derek Price Tel No: 01243 534734

## Appendix 1

### Site Location Map



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