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| Application Number: | P/FUL/2024/00218 | | |
| Webpage: | https://planning.dorsetcouncil.gov.uk/ | | |
| Site address: | 5 Mill Lake Factory Hill Bourton Dorset SP8 5FS | | |
| Proposal: | Retain change of use from Residential (Class C3) to Mixed Use (Residential Class C3 and Office Class E) | | |
| Applicant name: | Mr Sean Dandy | | |
| Case Officer: | Jamie Francis | | |
| Ward Member(s): | Cllr Potheary, Cllr Ridout, Cllr Woode | | |
| Publicity expiry date: | 2 nd April 2024 | Officer site visit date: | 20 th February 2024 |
| Decision due date: | 17 th July 2024 | Ext(s) of time: | 17 th July 2024 |
| No of Site Notices: | 2 | | |
| SN displayed reasoning: | <ul style="list-style-type: none"> - On fence post on south boundary of property - On fence post on north boundary of property | | |

1.0 Service Manager for Development Management decided application to be determined by Planning Committee in light of the committee referral request made by Dorset Council Member Cllr Ridout, and noting the objections raised by the Parish Council.

2.0 Summary of recommendation:

Grant, subject to conditions

3.0 Reason for the recommendation

- Para 11 of the National Planning Policy Framework (NPPF) sets out that permission should be granted for sustainable development unless specific policies in the NPPF indicate otherwise
- There is not considered to be any significant harm to neighbouring residential amenity.
- There are no material considerations which would warrant refusal of this application

4.0 Key planning issues

| Issue | Conclusion |
|-------|------------|
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| Principle of development | The principle of a change of use from residential to mixed use (offices and residential) is considered acceptable in this location, in accordance with the NPPF, Local Plan and Neighbourhood Plan. |
| Impact on the living conditions of the occupants and neighbouring properties | <p>Offices are defined in the use classes order as Class E(g)(i) which are considered:</p> <p>‘Uses which can be carried out in a residential area without detriment to its amenity’</p> <p>The change of use from residential to a mix of office and residential is not considered to result in significant harm to neighbouring properties through noise or disturbance. The scale of the development is small-scale, allowing two bedrooms to be used as offices, and the living area as a meeting space.</p> |
| Highway impacts, safety, access and parking | <p>Dorset Highways Officer did not object but commented:</p> <p>‘The proposed floor plan suggests that there could be three offices available. The allocated parking spaces for this property are two. There is a possibility that visitors will have to park in the immediate vicinity of the site. Whilst this would not appear to present any highway safety issues it could impact upon amenity. This concern could be further compounded if the offices are let on an individual basis that could lead to a greater parking demand.’</p> <p>However, the amended plans have reduced the change of use to only include two offices, reflecting its current use to be retained. Considering there are two offices, and the application form confirms there are two employees, the parking is considered acceptable. Furthermore, upon a site visit, the case officer considered there is ample parking in the surrounding area during working hours, should on-street parking be required, should the employees increase, or a meeting occur.</p> |

5.0 Description of Site

The site is located within the settlement boundary of Bourton. The site is located along the west of Mill Lake, where it joins the junction of Factory Hill. The area is

part of the Bourton Mills estate, which is a 35 dwelling residential area currently under construction.

The building is a 4-story terraced dwelling, currently in mixed use as an office and dwelling. The adjoining and surrounding properties are in residential use.

6.0 Description of Development

The development seeks to retain the change of use of the building from Residential (Class C3) to Mixed Use (Residential Class C3 and Office Class E). The office uses are on the first floor and second. Altering the original floor plans from Living Area and Bedrooms to Meeting Space and Offices respectively. The residential use of the third floor is retained, as is the garage and toilet facilities on the ground floor.

7.0 Relevant Planning History

2/2012/0066/PLNG - Decision: Granted - Decision Date: 27/01/2014

Develop the land with a mixed use development comprising of 29 No. dwellings with parking and Class B1 business use with parking. (Outline application to determine access and layout).

2/2015/1841/PLNG – Decision: Granted. Decision Date: 20/05/2016

Application to vary conditions from application number: 2/2012/0066/PLNG dated 27/01/2014 to Condition Number(s): 4 - Amend the layout of the approved employment use and replace with 6 no. residential units

2/2016/0610/REM - Decision: Granted. Decision Date: 20/07/2016

Erect 35 No. dwellings with garaging, parking and associated landscaping. (Reserved Matters application to determine Appearance, Landscaping and Scale, following grant of Outline Planning Permission No. 2/2015/1841).

P/VOC/2022/03470 - Decision: Granted. Decision Date: 10/03/2023

Erect 35 No. dwellings with garaging, parking and associated landscaping. (Reserved Matters application to determine Appearance, Landscaping and Scale, following grant of Outline Planning Permission No. 2/2015/1841/VARIA approved under 2/2016/0610/REM). (Variation of condition No. 1 under planning permission 2/2016/0610/REM to allow amendments to Plot 14 and Plot 20).

8.0 List of Constraints

Risk of Surface Water Flooding Extent 1 in 30

Flood Zone 3

9.0 Consultations

All consultee responses can be viewed in full on the website.

Consultees

1. Bourton Parish Council

1. As part of the approval for development of the Bourton Mill site, the applicant received clearance for a temporary site office, located at the north of the 'open space' (on the south side of the development).

Until Q1 2023 the applicant had been using a portacabin on this location as the site office, such that it was the administrative hub for the Bourton Mill development. However, following completion of Plot 21 & 21A dwellings, the applicant relocated the site office to 5 Mill Lake (plot 21 on the Bourton Mill schematic diagram).

2. The portacabin ceased being used as the Bourton Mill site office in early-2023. As recent photos of the site office in Figures 1 & 2 (below) indicate, the portacabin is still in its original location but is now used by Max Haulage & Plant Ltd., which is run by the developer's son, mainly for its associated vehicle parking.

3. If the applicant intends using the 5 Mill Lake dwelling for business purposes following completion of the Bourton Mill site's development, the application should be refused as being wholly inappropriate for a rural residential housing development. Also, should the change of use be approved, it will obviously reduce the number of residential properties on the Bourton Mill site.

4. The access road to the 5 Mill Lake property is very narrow. The property's change of use, especially if it extends to external business and commercial activities, is likely to involve numerous visitors for which there is no parking provision. This will inevitably cause disruption to residents of neighbouring properties.

For these reasons, Bourton PC opposes this application for change of use. However, should the application be approved, Dorset Council must insist that the portacabin be removed and the area that it currently occupies be grassed and returned to its role as part of the flood alleviation basin.

2. DC - Rights of Way Officer

No comments received

3. Ramblers Association

No comments received

4. Gillingham Ward Member – Cllr Potheary

No comments received

5. Gillingham Ward Member – Cllr Ridout

No comments received other than the request that the application is determined by the Committee.

6. Gillingham Ward Member – Cllr Woode

No comments received

7. DC - Highways

The proposed floor plan suggests that there could be three offices available. The allocated parking spaces for this property number two. There is a possibility that visitors will have to park in the immediate vicinity of the site. Whilst this would not appear to present any highway safety issues it could impact upon amenity. This concern could be further compounded if the offices are let on an individual basis that could lead to a greater parking demand.

Representations received

| Total - Objections | Total - No Objections | Total - Comments |
|--------------------|-----------------------|------------------|
| 0 | 0 | 0 |

10.0 Duties

s38(6) of the Planning and Compulsory Purchase Act 2004 requires that the determination of planning applications must be in accordance with the development plan unless material circumstances indicate otherwise.

11.0 Relevant Policies

Development Plan

The following policies are considered to be relevant to this proposal:

Adopted North Dorset Local Plan:

- Policy 1 - Presumption in Favour of Sustainable Development
- Policy 2 - Core Spatial Strategy
- Policy 12 - Retail, Leisure and other Commercial Developments
- Policy 23 - Parking
- Policy 24 - Design
- Policy 25 - Amenity

Made Bourton Neighbourhood Plan

- Policy 4 - Traffic and Parking
- Policy 12 - Support for Local Business

Emerging Local Plans:

The Dorset Council Local Plan

The Dorset Council Local Plan Options Consultation took place between January and March 2021. Being at a very early stage of preparation, the relevant policies in the Draft Dorset Council Local Plan should be accorded very limited weight in decision making.

National Planning Policy Framework

Paragraph 11 sets out the presumption in favour of sustainable development. Development plan proposals that accord with the development plan should be approved without delay. Where the development plan is absent, silent, or relevant policies are out-of-date then permission should be granted unless any adverse impacts of approval would significantly and demonstrably outweigh the benefits when assessed against the NPPF or specific policies in the NPPF indicate development should be restricted.

Other relevant NPPF sections include:

Paragraph 86 sets out plans should be flexible enough to accommodate needs not anticipated in the plan, allow for new and flexible working practices (such as live-work accommodation), and to enable a rapid response to changes in economic circumstances.

Paragraph 93 sets out that a sequential approach should not be applied to applications for small scale rural offices or other small scale rural development

Other material considerations

Dorset Council Interim Guidance and Position Statement Appendix B: Adopted Local Plan policies and objectives relating to climate change, renewable energy, and sustainable design and construction. December 2023.

12.0 Human rights

Article 6 - Right to a fair trial.

Article 8 - Right to respect for private and family life and home.

The first protocol of Article 1 Protection of property.

This recommendation is based on adopted Development Plan policies, the application of which does not prejudice the Human Rights of the applicant or any third party.

13.0 Public Sector Equalities Duty

As set out in the Equalities Act 2010, all public bodies, in discharging their functions must have “due regard” to this duty. There are 3 main aims:-

- Removing or minimising disadvantages suffered by people due to their protected characteristics
- Taking steps to meet the needs of people with certain protected characteristics where these are different from the needs of other people

- Encouraging people with certain protected characteristics to participate in public life or in other activities where participation is disproportionately low.

Whilst there is no absolute requirement to fully remove any disadvantage the Duty is to have “regard to” and remove or minimise disadvantage and in considering the merits of this planning application the planning authority has taken into consideration the requirements of the Public Sector Equalities Duty.

The proposal is not considered to result in any disadvantages under the Public Sector Equalities Duty to persons with protected characteristics.

Environmental Implications

None relevant to the proposed change of use.

14.0 Planning Assessment

Principle of the Development

The application to retain the change of use of a mix use of office and residential, in a residential area, is considered under local plan Policy 12 - Retail, Leisure and other Commercial Developments.

The policy states that proposals for retail and other main town centre uses that are not in an existing town centre and are not in accordance with the development plan will only be permitted if:

- h) they satisfy the ‘sequential test’ in national policy; and
- i) they will not have a significant adverse impact on existing, committed and planned public and private investment in a centre or centres in the catchment area of the proposal; and
- j) they will not have a significant adverse impact on town centre vitality and viability.

Point h) is addressed in the NPPF Para 93 which states that ‘this sequential approach should not be applied to applications for small scale rural offices or other small scale rural development’, such as this application.

This small building company office, featuring two bedrooms converted into offices, and 1 living/kitchen area to become a meeting space would not have a significant adverse impact on planned public and private investment in a centre, or significant adverse impact on town centre vitality/viability. Therefore, the proposal is considered to comply with Local Plan Policy and the NPPF.

Policy 12 of the Bourton Neighbourhood Plan Policy 12 (Support for Local Business) states that:

“Proposals that support working from home, local tourism, the development of small-scale social enterprises and other businesses that meet the needs of the community, such as the creation of live-work units, will be supported provided that they would:

- a) Not involve the loss of dwellings.

- b) Contribute to the character and vitality of the local area.
- c) Protect residential amenity.
- d) Not adversely impact upon road safety.
- e) Conform to the environmental and other policies in this plan.”

Initially the proposal involved the loss of a dwelling as all floors of the building were to be converted into office space, however following a discussion with the agent, it was agreed that the third floor should be retained as living accommodation, and the ground floor shall be retained as garage space and therefore the property would be in mixed use.

This change to the description and plans also reflects the current use of the building. This amendment ensures that the building still functions as a dwelling, limits the level of office activity, and ensures appropriate parking and/or storage would be available. The amended plan means that the application is considered to comply with the neighbourhood plan policy, as a dwelling is partially retained.

A condition requiring only the first and second floors to be used as offices, and no other Class E use is recommended. This is to ensure that further expansion of office space does not occur, and serves to prevent the business activity becoming excessive. Although office use is considered one which can be carried out in a residential area without detriment to its amenity, other potential Class E uses could cause significant impacts to amenity.

Conditions have also been agreed requiring the office functions of the building to only be used for this purpose during the regular daytime business hours. This seeks to prevent loss of amenity to neighbouring properties outside of normal working hours.

Furthermore, these conditions serve to contain the level of activity which in turn should reduce the demand for parking and limiting the necessity of employee parking to daytime hours.

Considering the number of employees employed at the property is two, and the limitations on office space, the onsite parking space is likely to meet requirements on most occasions. Should this not be sufficient due to a meeting, there is parking space along Factory Hill, a short walk to the south of the site.

The Parish Council's objections relating to the use of the current site office are not material considerations and are considered a separate matter that could be pursued by the Council's Planning Enforcement Team should it be considered there is a breach of condition or planning control. The further objections raised by the Parish Council and Highways Officer in relation to parking and amenity have been addressed above and are considered to be satisfactorily mitigated by the agreed conditions.

15.0 Conclusion

The development would comply with the development plan taken as a whole. Para 11 of the National Planning Policy Framework (NPPF) sets out that permission should be granted for sustainable development unless specific policies in the NPPF indicate otherwise. The site is located within the settlement boundary of Bourton and is considered to be a sustainable location for small scale office use.

There would be no significant harm to neighbouring residential amenity and sufficient parking would be provided to serve the development.

There are no material considerations which would warrant refusal of this application.

16.0 Recommendation, Grant, subject to conditions:

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

PP-12719325v1 Location Plan

21-00-091 P1 Block plan of the site

21-00-200 P1 Existing Floor Plans & Elevations

21-10-200 P2 Proposed Elevations & Floor Plans

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

2. The first and second floor shown on drawing number 21-10-200 P2 shall not be used for the office purposes hereby permitted outside the hours of 08:00 to 17:30 on Mondays to Fridays, 08:00 to 17:30 on Saturdays, and 09:00 to 16:00 on Sundays or Public Holidays.

Reason: To safeguard the character and amenity of the area and living conditions of any surrounding residential properties.

3. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 as amended, and the Town & Country Planning Use Classes Order 1987 as amended (or any order revoking and re-enacting those Orders with or without modification) the first and second floor of the building shown on drawing number 21-10-200 P2 shall be used for offices and for no other purpose (including any other purpose in Class E of the Schedule to the Town and Country Planning (Use Classes) Order 1987, as amended, or in any provision equivalent to that Class in any statutory instrument revoking and re-enacting that Order. The 3rd floor shall remain as residential living accommodation and not be used for any other purpose.

Reason: The Council considers an unrestricted Class E use may not be compatible with the living conditions of surrounding residential properties, and do not consider that business activity should expand further in this location.

Informative Notes:

1. Informative: National Planning Policy Framework Statement

In accordance with paragraph 38 of the NPPF the council, as local planning authority, takes a positive approach to development proposals and is focused on providing sustainable development.

The council works with applicants/agents in a positive and proactive manner by:

- offering a pre-application advice service, and

- as appropriate updating applicants/agents of any issues that may arise in the processing of their application and where possible suggesting solutions.

In this case:

- The applicant/agent was updated of any issues and provided with the opportunity to address issues identified by the case officer.