

P/15/1023/FP

MR PETER FULLEGAR

WARSASH

AGENT: VIVID DESIGN STUDIO
LTD

DEMOLITION OF EXISTING SINGLE GARAGE AND THE ERECTION OF NEW DOUBLE DETACHED CAR PORT WITH USE OF THE EXISTING ACCESS.

20 CHURCH ROAD WARSASH FAREHAM SO31 9GD

Report By

Mark Wyatt Direct Dial 01329 824704

Introduction

At the meeting of the Planning Committee in January 2016 the Committee resolved to grant a planning permission for the proposed development subject to the prior completion of an agreement pursuant to Section 106 of the Town and Country Planning Act 1990. The Obligation under Section 106 sought to bind the application site, and the adjoining land to the rear of number 20, to ensure that if residential development exceeding 5 dwellings or more occurred across the two parcels of land then a contribution towards affordable housing would be secured. The agreement is in draft form but has not yet been completed.

In November 2014 the National Planning Practice Guidance (NPPG) set out that affordable housing contributions should not be sought "...from developments of 10-units or less". This NPPG advice was as set out in the Written Ministerial Statement on small-scale developers. Whilst not part of the development plan, it was considered that the NPPG advice was a material consideration afforded significant weight in decision making and outweighed the policy requirement in CS18.

West Berkshire Council and Reading Borough Council sought to judicially challenge the Ministerial Statement in the High Court and were successful in July 2015. As such the weight afforded to the development plan policy was reversed and became greater than the ministerial statement and the paragraph in the NPPG was removed. It is on the basis of the successful challenge by Reading and West Berkshire that the Council sought to bind the application site and the land to the rear of 20 Church Road earlier this year.

However, since this resolution by the Planning Committee, the Government appealed this decision and very recently (May 2016) the Court of Appeal handed down its judgement. The earlier High Court judgement was overturned which in effect means the reinstatement of the 10-unit threshold below which Local Authorities cannot require affordable housing. The NPPG was subsequently amended in mid-May to reflect this Judgement.

On the basis that the NPPG advice and the recent case law is afforded more weight than development plan policy CS18, Officers do not believe that the planning obligation required by the Committee resolution in January can now be required for this application.

Below, for Members information, is the previous committee report which sets out the issues. The recommendation is amended, however, to one of simply Permission subject to conditions, with no requirement for a legal agreement.

Site Description

The application site is to the south side of number 20 Church Road in Warsash. The site is

currently laid primarily to lawn with a driveway up to a pre-fabricated garage. The levels on the site are generally flat and consistent.

Description of Proposal

The application seeks full planning permission for a new double car port in place of an existing single, pre-fabricated garage.

Policies

The following guidance and policies apply to this application:

National Planning Policy Framework (NPPF)
Planning Practice Guidance (PPG)

In addition to the development Plan Policies below, the recently adopted Borough Design Guide (excluding Welborne) SPD is of relevance.

Approved Fareham Borough Core Strategy

CS2 - Housing Provision

CS4 - Green Infrastructure, Biodiversity and Geological Conservation

CS5 - Transport Strategy and Infrastructure

CS6 - The Development Strategy

CS9 - Development in Western Wards and Whiteley

CS17 - High Quality Design

CS18 - Provision of Affordable Housing

Approved SPG/SPD

RCCPS - Residential Car and Cycle Parking Standards Supplementary Planning Document,

Development Sites and Policies

DPS1 - Sustainable Development

DSP3 - Impact on living conditions

DSP4 - Prejudice to adjacent land

Relevant Planning History

The following planning history is relevant:

P/15/0947/FP - Four 4 bedroom detached houses. garage and car ports, parking and new access from Sandycroft - under consideration

P/15/0673/FP - Construction of 3 X 4 Bed Detached And 2 X 3 Bed Semi Detached Houses, Car Ports, Parking With Access Off Sandycroft; 1 X 3 Bed Detached House And Parking Between 20-24 Church Road - under consideration.

P/15/0254/FP - Erection Of 7 Houses With Associated Parking, Accessed Via Sandycroft - refused 02/06/2015 - Appeal Lodged and pending.

P/14/1161/FP - Proposed 3no. 4 Bed & 1no. 3 Bed Houses With Garaging And Access From Sandycroft - withdrawn 03/02/2015

P/14/1106/FP - Proposed 3no. 4 Bed & 1no. 3 Bed Houses With Garaging And Access From Sandycroft - Invalid 02/12/2014

Representations

Seven letters (if more than one is from the same address it is counted as one) received from:

1, 2 (x2), 11 Sandycroft; 8, 14, 24 Church Road; 9a Osborne Road

Objecting on the following grounds:

- This is an attempt to divide up the space previously treated as a whole
- It denies the possibility of access to the rear of 20 Church Road rather than via Sandycroft
- Endorsing the division creates an opportunity for further development should the permission lapse and avoid affordable housing
- No public notice has been posted anywhere
- I have received no notification and am not on the consultee list despite having made comments on other applications
- Is the garage not contaminated?
- Is an ecology report required?
- Concern at demolition as the garage has a cement roof and may contain asbestos

Planning Considerations - Key Issues

The key issues in the determination of this application are:

- The principle of the development
- Impact upon the Character and Amenity of the area
- Parking and highway impacts
- Affordable housing

THE PRINCIPLE OF THE DEVELOPMENT:

The site is, for the purposes of the development plan, within the defined urban settlement boundary such that the principle for this type of application is acceptable.

IMPACT UPON THE CHARACTER AND APPEARANCE OF THE AREA:

Church Road is typically made up of semi detached pairs of dwellings within generally narrow plots of reasonable length and parking generally to the side and front.

The proposed car port will replace an old and deteriorating pre-fabricated garage building. To the south, at number 24 is a detached forward garage such that the proposed car port is not considered to be an alien addition to the street scene and will preserve the character of the area.

PARKING AND HIGHWAY IMPACTS:

The proposal provides for adequate parking for number 20 and there is adequate turning space proposed.

AFFORDABLE HOUSING:

Policy CS18 of the Core Strategy would not typically apply to this type of proposal given that the proposed development only proposes a car port.

However policy CS18 does states that "...should a site fall below the...identified thresholds but is demonstrably part of a potentially larger developable site, the Council will seek to achieve affordable housing on a pro-rata basis".

The planning history above clearly sets out two applications for six and seven units proposed on land including the application site and the adjoining land to the rear of number 20 Church Road. The site, therefore, is clearly part of a demonstrably larger site such that policy CS18 is engaged and takes effect.

In order to ensure that the application site is not combined with the adjoining land to create a larger site it is a requirement of the recommendation that the applicant should enter into a legal agreement including an obligation to the effect that should the car port be demolished and a residential scheme be proposed on the application site in the future then there would be a requirement to provide an affordable housing contribution at that time compliant with the development plan policies.

Subject to the above planning obligation and appropriate conditions the proposal is considered to be acceptable for permission without demonstrable harm to the visual amenities of the area or users of the highway.

Recommendation

PERMISSION subject to conditions:

01. The development shall begin before the expiry of three years from the date of this decision notice.

REASON: To comply with Section 91 of the Town and Country Planning Act 1990.

02. The development shall be carried out in accordance with the following approved plans:

- 150062 01 Site Location Plan
- 150062 02 Proposed Site Plan
- 150062 03 Proposed Car Port Details

REASON: To secure the satisfactory appearance of the development in accordance with Policy CS17 of the Adopted Fareham Borough Core Strategy.

03. No development shall take place above damp proof course (dpc)/slab level on the car port until details of all external materials to be used in the construction of that building hereby permitted have been submitted to and approved by the local planning authority. The development shall be carried out in accordance with the approved details.

REASON: To secure the satisfactory appearance of the development in accordance with Policy CS17 of the Adopted Fareham Borough Core Strategy.

Informatives:

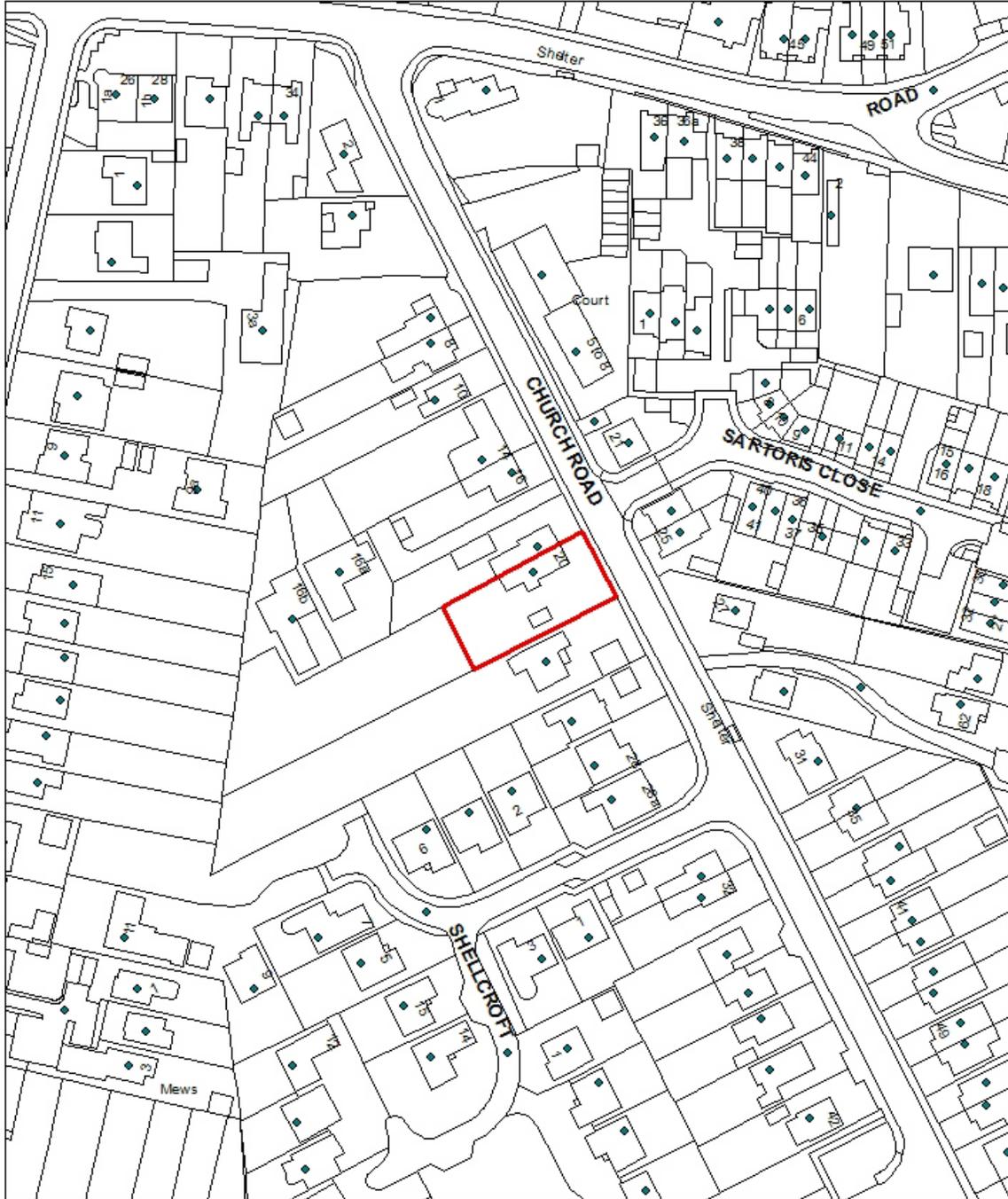
The applicant is advised to take care and seek specialist advice (if necessary) on the demolition of the existing garage to ensure that in the event it contains asbestos fibres that these are appropriately removed from the site and safely disposed of.

Background Papers

see "relevant planning history" section above

FAREHAM

BOROUGH COUNCIL



20 Church Road
SCALE: 1:1,250

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