



HYTHE AND DIBDEN PARISH COUNCIL

The Grove, 25 St. John's Street, Hythe, Hampshire SO45 6BZ

Serving the communities of Dibden, Dibden Purlieu and Hythe

DAVID SHIMPE Clerk to the Council

Tel: (023) 8084 1411

Ext: 207

Fax: (023) 8084 2181

email:david.shimpe@btconnect.com

To: Members of the Council

AGPLN393

12 May 2011

Members of the Planning Committee

are hereby summoned to attend the Planning Committee meeting to be held in The Grove, St. John's Street, Hythe on Wednesday next, 18 May 2011, immediately following the Council meeting.

Yours faithfully

Clerk to the Council

AGENDA

1. Election of Chairman.
2. Election of vice Chairman.
3. Apologies for absence.
4. To note any declarations of interest made by Members in connection with an Agenda item. The nature of the interest must also be specified.
5. Public Participation Period.
6. Notification of any other urgent business to be raised at the end of the meeting.
7. Forthcoming events that could affect the communities within the Parish.
8. To sign the Minutes of the meeting held on 26 April 2011.
9. Planning lists: -
 - a) New Forest District Council received up to 11 May 2011.
 - b) National Park received up to 11 May 2011.
10. Hampshire County Council Planning Application – The Forest Education Centre, Cabot Drive, Dibden, Southampton SO45 5UQ attached. (plans will be available at the meeting)



11. Notice of Appeal Decision – Balmer Lawn Honda, North Road, Dibden Purlieu, Hampshire
SO45 4PG
12. Any other urgent business concerning the Committee.

Planning Applications to be considered on 18 May 2011

1 11/97004

14/04/11

Applicant - Mr and Mrs Rogers

Proposal - Two storey rear extension; replacement garage

Site - 12 Dale Road, Hythe SO45 5DW

2 11/97029

08/04/11

Applicant - Mr Cooper

Proposal - Use of detached garage as ancillary living accommodation; detached garage

Site - Forest Lodge Home Farm, Fawley Road, Hythe SO45 3NJ

3 11/97045

12/04/11

Applicant - Mr Green

Proposal - Roof alterations; rear dormer in association with new first floor; single-storey front extension.

Site - 61 Hollybank Crescent, Hythe SO45 5GF

4 11/97046

12/04/11

Applicant - Mr Lester

Proposal - Second floor to create 2 flats

Site - Ford Court, Beaulieu Road, Hythe SO45 4NS

5 11/97061

14/04/11

Applicant - Mr Anstey

Proposal - 6' x 8' greenhouse

Site - Ashyana, Claypits Lane, Dibden Hythe SO45 5TN

6 11/97068

15/04/11

Applicant - Mr and Mrs Gray

Proposal - Rear conservatory

Site - 15 Fernlea Way, Dibden Purlieu SO45 5SG

7 11/97078 18/04/11

Applicant - Windward Day Services Ltd

Proposal - Change of use from office (Use Class B1) to non residential educational centre for special needs (Use Class D1)

Site - 20 Pylewell Road, Hythe SO45 6AR

8 11/97082 18/04/11

Applicant - Mr S Miah

Proposal - Use as restaurant and hot food takeaway in connection with adjoining restaurant (Use Classes A3 and A5)

Site - 40 Pylewell Road, Hythe SO45 6AQ

New Forest National Park Application

9 96386/11 22/04/11

Applicant - Mr and Mrs Kelly

Proposal - Single storey side extension

Site - 3 Locks Cottages, Main Road, Dibden SO45 5TS

Hampshire County Council Application

10 HCC/2011/0076 13/04/11

Applicant - Hampshire County Council

Proposal - Continued siting for 3 temporary double modular buildings on site for a further seven years until 31 August 2018

Site - The Forest Education Centre, Cabot Drive, Dibden SO45 5UQ

Members are asked to consider the recommended responses in respect of the following tree applications:-

11 TPO/11/0115 26/04/11

Proposal - T1 - T5 Beech - Deadwood T3 Beech - Reduce lateral branches by up to 2m growing over boundary of No. 1 Challenger Way

Site - Adjacent to 1 Challenger Way, Dibden

The Parish Council will accept the advice of New Forest District Council's arboriculturist.

12 TPO/11/0119

03/05/11

Proposal - T1 Oak - Crown reduce to maintain 7m tall tree

Site - 6 Amberslade Walk, Dibden Purlieu SO45 4NW

The Parish Council will accept the advice of New Forest District Council's arboriculturist.

13 TPO/11/0123

04/05/11

Proposal - Oak 3838 - Reduce 2 lowest lateral branches extending west by 2m

Site - 15 Linwood Close, Hythe SO45 3LD

The Parish Council will accept the advice of New Forest District Council's arboriculturist.

14 TPO/11/0129

09/05/11

Proposal - T1 Spruce - Remove broken branches T2 & T3 Willow - Fell

Site - 41 Dukeswood Drive, Dibden Purlieu SO45 4NH

The Parish Council will accept the advice of New Forest District Council's arboriculturist.

15 TPO/11/0131

09/05/11

Proposal - T1 Oak - Crown lift to 4m, reduce and reshape regrowth by 1.5m, crown thin by 10% and deadwood T2 Oak - Crown lift to 4m, crown thin by 10% and deadwood T3 Oak - Crown thin by 10% and deadwood

Site - 16 Woodlands Close, Dibden Purlieu SO45 4JG

The Parish Council will accept the advice of New Forest District Council's arboriculturist.

Planning Application Decisions up to 12 May 2011

1 09/94624

04/03/11

Applicant - Miss E Hayter

Proposal - Single-storey front extension; external flue; parking; boundary fence

Site - 22 Home Farm Close Hythe SO45 6JN

Decision 12/05/11
Refused

2 10/96451

08/12/10

Applicant - Mrs P Boyles

Proposal - Use as hot food takeaway; extract flue to rear

Site - Unit 1A, The Marsh, Hythe SO45 6AJ

Decision 12/05/11
Granted subject to conditions

3 11/96655

02/03/11

Applicant - Mr and Mrs Lowe

Proposal - Single-story side extension

Site - 5 School Road, Hythe SO45 6BJ

Decision 12/05/11
Granted subject to conditions

4 11/96664

25/01/11

Applicant - Mr Hastings

Proposal - Single-storey rear extension; detached garage

Site - 42 Hollybank Crescent, Hythe SO45 5GG

Decision 12/05/11
Refused.

5 11/96722

18/02/11

Applicant - Mr Watkins

Proposal - Single-storey side extension; two-storey front and side extension.

Site - 27 Foxtail Drive, Dibden Purlieu, Hythe SO45 4NZ

Decision 12/05/11

Granted subject to conditions.

6 11/96776

15/02/11

Applicant - Mr and Mrs Maguire

Proposal - Two-storey side extension

Site - 54 Whitewater Rise, Dibden Purlieu SO45 4BY

Decision 12/05/11

Refused.

7 11/96806

21/02/11

Applicant - Mr Lewis

Proposal - Single-storey rear extension; dormers; roof alterations in association with new first floor.

Site - 7 Solent Road, Dibden Purlieu SO45 4QF

Decision 12/05/11

Granted subject to conditions.

8 11/96854

03/03/11

Applicant - Mr G Newhouse

Proposal - House; access (Extension to time limit of planning permission 08/91624)

Site - Land of 1 Dukeswood Drive, Dibden Purlieu, Hythe SO45 4NH

Decision 12/05/11

Withdrawn by applicant

9 11/96879 09/03/11

Applicant - Mr D Taylor

Proposal - Single-storey rear extension

Site - 11 Redwood Close, Dibden Purlieu SO45 5SN

Decision 12/05/11
Granted subject to conditions

10 11/96890 11/03/11

Applicant - Mr and Mrs Smith

Proposal - Two-storey side extension; single-storey rear extension

Site - 2 Hirst Road, Hythe SO45 6EP

Decision 12/05/11
Granted subject to conditions

11 11/96906 15/03/11

Applicant - Mr and Mrs P Blasby

Proposal - First floor rear extension; porch; rear extension to garage

Site - 26 Atheling Road, Hythe SO45 6BR

Decision 12/05/11
Granted subject to conditions

12 11/96908 15/03/11

Applicant - Heathfield Developments Ltd

Proposal - One terrace of 3 houses; demolition of existing

Site - 17 Ingle Glen, Dibden Purlieu SO45 4ND

Decision 12/05/11
Refused

Enquiries to Martin Leeds My reference PLAN/ML/NFE044
Direct Line 01962 846733 Your reference
Date 6 May 2011
Email planning@hants.gov.uk

Dear Sir/Madam,

Continued siting for 3 double temporary modular buildings on site for a further seven years until 31st August 2018 at The Forest Education Centre, Cabot Drive, Dibden, Southampton SO45 5UQ

May I please have your observations on the above application, details of which can be viewed on the Planning and Development website at <http://www3.hants.gov.uk/planning/application-details.htm?id=14683>. In accordance with the Local Government (Access to Information) Act 1985 any comments will be made available to the public.

Please note that this is an application where the County Council will be making the decision. Therefore whilst the application will be registered by the District Council, you will need to send any comments to us to ensure your views are taken into account.

It is important that I have your reply by 3 June 2011. If I do not hear from you by that date I will assume that you have no comments to make.

Should you have any further queries please do not hesitate to contact the case officer on the above extension.

Yours faithfully

Martin Leeds
Development Control Officer

<http://www3.hants.gov.uk/planning/application-details.htm?id=14683>



Appeal Decision

Site visit made on 6 April 2011

by **N P Freeman BA(Hons) Dip TP MRTPI DMS**

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 13 April 2011

Appeal Ref: APP/B1740/A/11/2144860

Balmer Lawn Honda, North Road, Dibden Purlieu, Hants, SO45 4PG

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
- The appeal is made by Balmer Lawn Honda against the decision of New Forest District Council.
- The application Ref. No. 10/96145, dated 16 September 2010, was refused by notice dated 9 December 2010.
- The development proposed is the retention of a shed.

Summary of Decision: The appeal is allowed, and planning permission granted subject to conditions set out below in the Formal Decision.

Main Issue

1. This is the impact of the shed and its use on the living conditions of neighbouring residents in terms of noise, smell and outlook.

Reasons

2. The timber shed that has been erected is located in the northern corner of the yard which serves the appellant's car dealership business. This is on the northern side of the local shopping centre which flanks Beaulieu Road to the south. The main complex of buildings for the dealership (workshop, showroom/parts/service, MOT bay) are grouped together in the south-eastern corner, adjacent to a supermarket and filling station beyond. The front of the site provides open display areas for new and used cars with a separate fenced compound behind where the shed is located and parking space is provided for customers vehicles awaiting repairs, servicing and valeting. To the north and east are residential properties.
3. The appellant's agent argues that the shed provides a dry environment used only for valeting and polishing of cars, with equipment for these purposes stored in the shed. This accords with what I saw on my site visit. One car was being polished by one employee. There was a small cupboard in the corner in which polish and cleaning rags were stored and some other associated materials on shelves. There were two vacuum cleaners inside (not in use) and a 'white board' on the wall with details of the registration numbers and the make of vehicles to be worked on that week. There was no evidence of any other tools or equipment for vehicle repair, bodywork or maintenance.
4. The agent has provided an estimate of the number of vehicles that are likely to be worked on in the shed on average per day. This is based on the valeting for sale of new and used cars and the valeting of stock cars (unsold) over the

period January to November 2010. The figure calculated is 1.38 cars per day. Local residents have challenged this figure on the basis that the garage advertises (copies supplied) complimentary wash and vacuum as part of seasonal safety checks on vehicles. The appellant has responded that this is a different service provided for those having a vehicle serviced or repaired and not carried out in the shed. The appellant would be willing to accept an hours of use restriction, including the hours suggested by the Council.

5. The agent refers to the jet-washing of vehicles but this is carried on outside and not in the shed. Residents have objected to this practice but the agent claims that this is an historic use which would continue even if the shed had to be removed. I should make it clear that I am only dealing with the use of the shed. Other activities on the site or within the open are not before me for consideration or determination. Concern about these matters should be raised with the Council who have referred to conditions on an earlier planning permission which restricts uses outside the permitted workshop. They also refer to investigations carried out by their Environmental Health (Pollution) Department (EHD) following noise complaints from neighbouring residents which are said to have been found to constitute a statutory nuisance. However, I understand that these related to jet washing and vacuum cleaning in the open air and not within the shed.
6. I note that although when the application was determined the EHD raised no objection, they object now on the basis of the noise assessment of the operation of vacuum cleaners within the shed. The noise from three cleaners was measured at a neighbouring property (position of noise meter and property undefined - assumed as Copper Beech to the north) and the LAeq was found to range between 46.5dB to 48.6dB. The background noise level (LA90) is calculated as 39.6dB. Applying the appropriate guidance on 'rating levels' for noise from industrial development set out in BS 4142: 1990, which takes account of tonal or impulsive characteristics, the rating level for the noisiest cleaner is calculated as 52.6dB. The appellant has not contested these calculations but says that the quieter cleaner is now used.
7. I have had regard to the relevant advice on assessing noise from industrial and commercial developments set out in paragraph 19 of Planning Policy Guidance (PPG) 24: Planning and Noise. This refers to the calculation of the rating level which should then be compared with the background noise level. A difference of 10dB or more indicates that complaints are likely and a difference of 5dB is of marginal significance. In this case the difference is 13dB so complaints would be likely.
8. Notwithstanding this finding, I consider that there are a number of other points to bear in mind. The calculation of the EHD is based on the noisiest vacuum cleaner. If the calculations are carried out for the quietest I assess the difference to be 10.9dB which is only just above the threshold of when complaints are likely. Added to that EHD state that the assessment has not taken account of the fact that vacuum cleaning is unlikely to be going on continuously for an hour and is indicative. This could lessen the noise impact.
9. Another factor to consider is that the assessment was made with the shed doors open. Whilst I have no figures to show, I would expect that shutting the doors would significantly reduce the noise emitted and could be conditioned – as suggested in the Council's requested list. Indeed, the appellant says the vacuuming now only takes place with the doors shut. Added to that, it would

be possible to introduce sound insulation within the building which could lessen the noise 'breakout' and this is another condition requested by the Council if permission were granted. Restricting the hours of use would also reduce the impact on the neighbours, especially if it precluded use on Saturday afternoons, Sundays and Bank Holidays – times when residents are most likely to be at home and wishing to use their gardens.

10. I appreciate from the information before me, that vehicle repair work is precluded by condition outside the workshop but it is a moot point as to whether this includes cleaning and valeting. As I have already made clear this is not a matter which I am deciding. Nevertheless, the background is that a statutory nuisance has resulted from cleaning in the open air and the appellant has now provided a shed to carry out some of these cleaning activities. I have considered the point about the location close to residential property but also borne in mind the layout of the site which I consider does not present an obvious alternative position. The valeting could be undertaken in the workshop but I appreciate that for operational reasons this may not be appropriate.
11. A further point is that those who have bought property next to a commercial car dealership must expect that there will be some disturbance from time to time. I accept that they are still entitled to a reasonable level of amenity and should not have to put up with excessive noise levels. Nevertheless, they cannot expect the same degree of peace and quiet that would be found in residential areas that are not adjacent to commercial premises. As the Council state in their report on the application (para. 12.5) "The residential properties to the east of the site (*Lawnswood Close*) were constructed after the garage and therefore the prospective purchasers would have been aware of the impacts of the garage site." The owner of Copper Beech also indicates that the property was purchased from Dibden Ford (previous occupying dealership) in July 2001 who used it as offices. This shows that commercial activity has historically taken place beyond the confines of the present site and that the owner was fully aware that he was buying property converted to a dwelling right next to the dealership.
12. A final point is that photographic evidence has been supplied by the appellant showing a building in a similar position to the shed. This is claimed to have been a concrete building used by the former dealership for some 20 years for valeting and car preparation before demolition around late 2003 / early 2004. Taking all these factors into consideration, and having regard to the scope to impose conditions that could limit the use and the emissions, I conclude that, on balance, the development is acceptable in noise terms.
13. Local residents and the Council have also raised objection on the basis of smells and odours emanating from the building. I was able to smell polish when I visited but this does not seem to me to be an unpleasant or pervading odour and the EHD have not substantiated harm in this respect. I also consider that carrying out the polishing within a building would be likely to reduce the level of smell, especially if the doors were kept shut. There is no evidence that the shed is used for paint-spraying repairs and this could be precluded by the imposition of a use condition.
14. Another objection raised by some residents is the visual impact of the building itself. I have examined the photographs provided and accept that the upper parts of the building can be seen above boundary fences. However, the building is not particularly tall and is of typical shed design with timber walls

and a felt-clad roof. It is a type of building that is often viewed in garden settings. In these circumstances I do not consider that it is visually intrusive or materially harmful to the outlook of those neighbours who can see it.

15. Bringing all these findings together I conclude that, subject to the imposition of various conditions which are discussed below, the development would not cause material harm to the living conditions of neighbouring residents in terms of noise, smell or outlook. As such I find that the development would not conflict with the relevant requirements of Policies CS2 and CS5 of the New Forest District Council Core Strategy 2009.

Other matter

16. Some residents have made reference to their human rights enshrined in Article 8 (Right to respect for private and family life) and Article 1 of the First Protocol (Right to peaceful enjoyment of possessions) of the European Convention on Human Rights (ECHR). These are not absolute rights and must be balanced against the interests of the economic well-being of the country and the protection of the rights and freedoms of others. In this case I consider that the level of interference is proportionate, having regard to the scope to impose planning conditions, and strikes a fair balance in compliance with the requirements of Article 8 and Article 1 of the First Protocol of the ECHR.

Conditions

17. Based on the above reasoning I agree that, in the interests of residents' amenities, conditions should be imposed to limit the use to the valeting of cars for sale, requiring the doors and windows to be kept shut when valeting takes place and restricting the hours of use. I consider that the hours requested by the Council are reasonable and would strike the right balance between safeguarding the amenities of adjacent residents and the business interests of the appellant. It is also necessary and appropriate to require details of noise and odour control to be provided so that the noise levels can be adequately mitigated and smells addressed. As the use has already commenced I will attach a modified form of wording which provides the necessary backstops in the event of the details not being agreed. I will also attach a condition specifying the approved plans.

Formal Decision

18. I allow the appeal, and grant planning permission for the retention of a shed at Balmer Lawn Honda, North Road, Dibden Purlieu, Hants, SO45 4PG in accordance with the terms of the application, Ref. No. 10/96145, dated 16 September 2010, subject to the following conditions:
- 1) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 and the Town and Country Planning (Use Classes) Order 1987 (or any order revoking and re-enacting those Orders with or without modification), the shed hereby approved shall only be used for the purposes of valeting cars for sale.
 - 2) The valeting of cars shall only take place when the doors and windows of the shed are shut.
 - 3) The valeting of cars shall only take place between the hours of 0900 and 1800 on Mondays to Fridays, 0900 to 1300 on Saturdays and not at all on Sundays and Bank Holidays.

- 4) The use hereby permitted shall cease and the shed shall be demolished and removed from the land within 28 days of the date of failure to meet any one of the requirements set out in (i) to (iv) below:
 - i) within 2 months of the date of this decision a scheme for the control of noise and odours (hereafter referred to as the site development scheme) shall have been submitted for the written approval of the local planning authority and the said scheme shall include a timetable for its implementation;
 - ii) if within 10 months of the date of this decision the site development scheme has not been approved by the local planning authority or, if the local planning authority refuse to approve the scheme, or fail to give a decision within the prescribed period, an appeal shall have been made to, and accepted as validly made by, the Secretary of State;
 - iii) if an appeal is made in pursuance of (ii) above, that appeal shall have been finally determined and the submitted site development scheme shall have been approved by the Secretary of State;
 - iv) the approved scheme shall have been carried out and completed in accordance with the approved timetable.
- 5) The development hereby permitted shall accord with the following approved plans: Honda Sht 1 & 2.

N P Freeman

INSPECTOR