

Planning Committee



Application Address	30-34 Panorama Road, Poole, BH13 7RD
Proposal	Demolition of existing buildings and erection of 4 storey block comprising - Basement - parking, cycle and bin stores to serve residential development - Ground floor - boat yard cafe/restaurant and office (as part of the Sandbanks Yacht Company composite boat yard use) and estate agents office - First, 2nd and 3rd floors - 15 residential apartments (12 x 2 bed and 3 x 1 bed)
Application Number	APP/19/00818/P
Applicant	Phoenix Spencer (Sandbanks) Ltd
Agent	Ken Parke Planning Consultants
Ward and Ward Members	Canford Cliffs Councillor Mohan Iyengar and Councillor May Haines
Status	Public Report
Meeting Date	20 January 2022
Summary of Recommendation	Grant subject to securing relevant contributions and to conditions
Reason for Referral to Planning Committee	<p>This application is brought before committee due to the issues raised by Councillor Iyengar relating to, the plan showing segments of the boundary which are incorrect, Boat-yard storage is permanently reduced, no safe pedestrian access is provided to the boatyard, and the impact of a restaurant almost triple the size of the existing boatyard café and the resultant level of noise and disturbance.</p> <p>Over 20 representations raising material planning issues have now also been received.</p>
Case Officer	Claire Moir

Executive Summary

For clarification, this current application was deferred from a previous planning committee meeting in August 2020. The reason for this was to address concerns raised in one of the counsels' opinions submitted by a third-party representative just prior to the meeting. Given the time that has elapsed, this report has been re-drafted to address the various representations received since the deferral and to cover all necessary further matters rather than seek to update and amend the previous report to committee.

Summary of Key Issues

The key planning issues for Members to consider are set out below. Members will have to balance all of the planning issues and objectives when making a decision on the application, against policy and other material considerations.

Representations received

Objections were received from 69 individual addresses. A summary of the objections has been provided within the consultation section of the report.

Planning History

There is a long planning history relating to the site and adjacent land, which is summarised in the report. A key part of the history is the planning permission granted in 2010 (ref: APP/09/00946/F) to develop the site and adjacent land for residential and a boatyard. The function of the boatyard and uses permitted (in terms of whether they are composite or ancillary to the boatyard) within has been subject to various counsel opinions during the course of the application.

Regard has been had to the various arguments raised by respective counsel, and it is considered that (i) the 2010 permission was for a composite use that included boat storage, parking, chandlery, restaurant and workshop and (ii) that the purpose and effect of the various conditions was to define and control the various elements of the composite use permitted.

There have been a series of minor material and non-material amendment approvals since that have sought to amend various conditions and plans lists. Although it is accepted that the wording of the condition in the July 2013 consent and 2019 Non Material Amendment refer to the term "ancillary", which unfortunately may have led to some confusion, the 2010 permission was for a composite range of uses and all versions of the relevant condition do expressly refer to a composite range of uses existing at the boatyard. As identified above, it is therefore considered that the existing use of the boatyard site is a composite one.

Principle of Development

The proposal is for a four-storey block, and basement, comprising 15 flats, a café/restaurant as part of the boatyard composite uses and an estate agent's office. The proposed ground floor would provide good active frontage along this part of Panorama Road and the residential units would contribute towards the Borough's housing targets. Overall, there is no objection to the principle of development.

Flood Risk

In this instance the most vulnerable part of the development; the residential units, are at first floor and above with the lowest finished floor level at 6.65AOD. Therefore, taking account of existing, and less vulnerable uses at ground floor it would be difficult to resist the proposals on this basis alone.

A condition is proposed to secure flood resilience measures, furthermore residents could escape to higher ground in The Horseshoe in the event of an emergency. This could be covered by a Management Plan in the event of flooding and which is duly secured by this condition.

The Environment Agency have no objections to the proposals and the sequential and exception tests have been passed. The proposal is therefore concluded to be acceptable in flood risk terms and compliant with PP38 and the NPPF.

Character

Having regard to the evolving character of this part of Panorama Road and the approval at no's. 36-38, the proposals would preserve the character and appearance of the street scene and views from the Harbour and accord with Policies PP27, (1) i), ii) iii) and vi) and PP28 (1) a) of the Poole Local Plan which seek to ensure that development reflects or enhances local patterns of development as well as neighbouring buildings and the NPPF. Appearance and landscaping remain reserved matters. The site currently has limited landscaping or trees due to the footprint of the existing buildings.

Neighbours and Future Occupiers of the site

Subject to conditions to prevent areas of flat roof from being used as balconies and obscure glazed balcony screens, the proposals will not result in harmful overlooking of neighbouring amenity areas, elsewhere there is sufficient distance to residential properties to protect their privacy and amenities.

A restaurant exists at the site and has a relationship with existing residential properties in the local area. The proposals, however, seek to introduce flats above the restaurant. In this respect the applicant has agreed to a condition to require noise attenuation within the building to reduce this impact and hours of operation are also imposed by condition. This is supported by Environmental Services.

Function of the boatyard

The applicant has confirmed that the number of boats stored is fluid and reactive to circumstances; a matter that changes due to owners' intent and the season.

Under the current boatyard use, the boatyard consists of a number of composite uses including boat storage; parking; chandlery; restaurant; and workshop. A condition was attached to planning approval APP/09/00946/F restricting the boatyard to such uses in order to seek to retain the boatyard's future viability. Neither this consent nor those that followed contained a condition specifying a minimum number of boat storage spaces and therefore there is flexibility in the number that has to be provided. As such it would not be reasonable to refuse the application because of the loss of these spaces and the flexible and changing nature of storage requirements, as explained above.

Affordable housing

Whilst it has been demonstrated that the scheme cannot make a contribution towards affordable housing at this present time the applicant has agreed to entering into a planning obligation containing an overage clause which by way of a review mechanism will potentially enable a contribution toward affordable housing to be secured in the event of the viability situation improving prior to the residential units being sold.

Highways

Sufficient parking, cycle parking and Electric vehicle charging points have been provided as part of the development which is acceptable. Provision is also made for the commercial units to the front. With regards to parking provision for the restaurant, as part of an existing composite use, there already exists some flexibility in the scale of the extant restaurant/café; the conditions proposed as part of this consent would control against any future expansion and general public parking is also available along the main road and in the area. The proposal will also result in the removal of existing commercial units which, in some cases at least, might potentially themselves currently be able to be changed to a variety of different uses with proposed conditions also restricting the range of uses for the proposed replacement estate agents.

The applicant has provided a technical report to demonstrate that vehicle conflicts at the access are likely to be minimal.

Summary

It is recommended that this application be Granted subject to ensuring the securing of the relevant SAMM contributions and affordable housing overage clause, as identified above via a s106 agreement or other appropriate mechanism and the proposed conditions set out in the report.

Description of Development

1. Outline Planning consent is sought for demolition of existing buildings and erection of a 4-storey block comprising the following:
 - Basement: Parking, cycle and bin stores to serve residential development
 - Ground floor: boat yard, café / restaurant, and office (as part of the Sandbanks Yacht Club Company composite boat yard use) and estate agents office
 - First, 2nd and 3rd floors: 15 residential apartments (12 x 1 bed and 3 x 2 bed).
2. Matters to be considered are those relating to layout, access and scale with appearance and landscaping being reserved matters.

Key Issues

3. The main considerations involved with this application are:
 - The principle of residential development in this location
 - The principle of non-residential uses in this location
 - Flood risk

- The impact on the character and appearance of the area
- The impact on the amenities of existing and future neighbours/ occupants
- The impact on highway safety
- The impact on the retained boatyard facility
- Provision for affordable housing
- Section 106 agreement/ CIL compliance/SAMM

Planning Policies

4. Poole Local Plan (Adopted 2018)

PP01	Presumption in favour of sustainable development
PP02	Amount and broad location of development
PP08	Type and mix of housing
PP11	Affordable housing
PP22	Retail and Main Town Centre Uses
PP27	Design
PP28	Flats and plot severance
PP31	Poole's coast and countryside
PP32	National, European and internationally important sites
PP33	Biodiversity and geodiversity
PP34	Transport strategy
PP35	A safe, connected and accessible transport network
PP37	Building sustainable homes and businesses
PP38	Managing flood risk
PP40	Viability

5. Supplementary Planning Documents

SPD3	Dorset Heathlands Planning Framework (2015-2020)
SPD4	Affordable Housing SPD (Adopted November 2011)
SPD5	Poole Harbour Recreation SPD (2019-2024)
SPD6	Nitrogen Reduction in Poole Harbour (Adopted Feb 2017)
	Parking Standards SPD (adopted January 2021)

6. National Planning Policy Framework (February 2021)

Public sector Equalities Duty

7. In accordance with section 149 Equality Act 2010, in considering this proposal due regard has been had to the need to —
- eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under this Act;
 - advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it;
 - foster good relations between persons who share a relevant protected characteristic and persons who do not share it.

Other relevant duties

8. In accordance with section 40 Natural Environment and Rural Communities Act 2006, in considering this application, regard has been had, so far as is consistent with the proper exercise of this function, to the purpose of conserving biodiversity.
9. For the purposes of this application, in accordance with: section 2 Self-build and Custom Housebuilding Act 2015, regard has been had to the register that the Council maintains of individuals and associations of individuals who are seeking to acquire serviced plots in the Council's area for their own self-build and custom housebuilding; and
10. section 17 Crime and Disorder Act 1998, due regard has been had to, including the need to do all that can reasonably be done to prevent, (a) crime and disorder in its area (including anti-social and other behaviour adversely affecting the local environment); (b) the misuse of drugs, alcohol and other substances in its area; and (c) re-offending in its area.

Relevant Planning Applications and Appeals

17-19 and 30-34 Panorama Road

11. **2002:** 17-19 Panorama Road - planning permission was **refused** at appeal to demolish existing dwellings and erect 12 x 3 storey semi-detached houses with integral parking and associated car parking/boat storage, to be accessed from Panorama Road – (ref: 01/35959/000/P).
12. 30-32 Panorama Road- planning permission was **refused** at appeal to erect 12 flats, restaurant and club house, boat lift and slipway, boat workshop, chandlery and office, with underground car parking and boat storage together with associated parking – (ref: 01/03718/039/P).
13. **2010:** Demolish 3 existing houses and replace with 9 houses and boatyard with associated workshop, restaurant, chandlery and underground car park.
Approved (APP/09/00946/F)
14. **2012:** Non material amendment following approval of APP/09/00946/F to request for a condition listing all approved drawings as follows:- 1137 / P04A, P05A, P06A, P07A, P08A, P09, P10A, P11A, P12, P13, P14, P15, P16, P17, FL01A.
Approved (ref: APP/12/00754/F)
15. **2013:** Minor material amendment to Planning Permission APP/09/00946/F and Condition 1 of APP/12/00754/F to substitute drawings 1137/PO4A, PO6A, PO8A & PO11A with the following drawings 2406/504B, 506, 511, 550 & 551, for elevational amendments to Plots 7, 8 & 9 (as amended plans received 18th February 2013). **Granted** (ref: APP/13/00047/F)
16. **2013:** Non Material amendment re permission app/13/00047/F (ref: 09/00946/F) for alterations to glazing configuration at 1st floor level on north elevation. Indication of proposed kitchen extract cowl at roof level. **Granted** (ref: APP/13/00612/F)

17. **2013:** Variation of Condition 5 of permission app/13/00047/F (re: app/09/00946/F & app/12/00754/F) to add the use 'Gymnasium' to the list of uses. **Approved** (APP/13/00609/F).
18. **2016:** Variation of Condition 5 of Permission APP/13/00047/F to add the use 'offices', use class B1 (business), to the list of uses listed in condition 5 was **Refused**. (ref: APP/15/01765/F)
19. **2019:** Non Material Amendment following approval of original application APP/09/00946/F & subsequent applications APP/12/00754/F, APP/13/00047/F & APP/13/00609/F to change plan references (ref: APP/19/01291/F was **Approved**).

30-38 Panorama Road

20. **2017:** Demolition of the existing buildings and the erection of a 5-storey replacement mixed use building (Commercial/Restaurant on the ground floor with 31 residential flats above) with associated access, cycle and bin stores (Outline). **Refused** (ref: APP/16/01679/P)
21. **2017:** Outline application for the demolition of the existing buildings and the erection of a mixed use building with three commercial units and replacement Sandbanks Yacht Club restaurant on the ground floor with 31 residential flats above with associated access, cycle and bin stores. (Revised Scheme). **Withdrawn** (ref: APP/17/00925/F)
22. **2018:** Outline application for the demolition of the existing buildings and the erection of a mixed use building with two commercial units, a new marina office & chandlery and a replacement restaurant for The Sandbanks Yacht Co. Club on the ground floor with 31 residential flats above with associated access, cycle and bin stores. (Revised Scheme which now includes the buildings, slipways, boat park/storage etc in association with Sandbanks Yacht Co. Club). **Refused** (ref: APP/18/00506/P).

36-38 Panorama Road

23. **2002:** Demolition of two dwellings and erection of 3 storey block of flats - 38 Panorama Road. Was **Refused** on appeal ref: 00/05772/028/P.
24. **2016:** Demolition of the existing buildings and the erection of a 4-storey replacement mixed use building with 2 commercial units on the ground floor; 12 flats above and associated basement parking, cycle and bin stores (outline). **Refused** (APP/15/01233/P).
25. This application was subsequently **Dismissed** at appeal. The Inspector concluded that the proposed restaurant uses at ground floor would not meet the requirements of Policy DM3 (now replaced by Policy PP22 in the Poole Local

Plan 2018) as it would be 250 sq m and was therefore a town centre use. No sequential test was provided to support the proposals and the Inspector concluded that a restaurant in this locality could attract patrons from further afield and would therefore have an impact on Town Centre. Furthermore, he disagreed with the appellants argument regarding location stating that the small group of shops containing the new Rick Stein restaurant were not considered a Local Centre and were in any event removed from the site. The Inspector also concluded that although parking would not impact on character, the shortfall in spaces would be detrimental to Highway safety.

26. **2016:** Demolition of the existing buildings and the erection of a 4 storey replacement mixed use building with a replacement car showroom on the ground floor with 12 flats above with associated basement parking, cycle and bin stores (revised Outline scheme). **Approved** (APP/16/00512/P)

27. **2019:** Reserved matters application following approval of Outline application ref: APP/16/00512/P to erect 4 storey mixed used building, car showroom on the ground floor with 12 flats above. Landscaping (ref: APP/19/00755/R) was **Approved**.

34 Panorama Road

28. Application ref: APP/20/01014/K, Certificate of Lawfulness for Proposed use or operation to: Change the use to Cafe/restaurant use (Class E). **Refused**.

Pre -application Enquiry

29. PREA/19/00018 for demolition of existing and erection of 4 storey block comprising commercial/restaurant use at ground floor and 15 residential flats, access and basement parking was submitted. Comments were generally negative with areas which required to be addressed including:

- Strong horizontal emphasis, bulky, jarring with existing buildings.
- Basement access did not allow vehicles to wait
- Reallocating of parking spaces required
- Potential issues with narrowing of boatyard access
- Parking numbers required to meet SPD
- Secure cycle parking required

Representations

30. In addition to letters to neighbouring properties a site notice was posted outside the site on 11 July, 2019 with an expiry date for consultation of 04 August 2019. Further consultation was carried out following amendments to the red line on 03 July 2020 with a site notice posted on 26 May 2020 with an expiry date for consultation of 19 June 2020.

31. 69 representations have been received, in which the following concerns are raised:

- Inconvenience of piling
- Potential flooding issues of basement
- Additional cars cannot be sustained
- Scale and height are too large
- Entrance to car park is dangerous and inadequate
- Second homes are likely and will not contribute to the economy
- No improvement to street scene
- Size and nature of restaurant is self contained and not acceptable with no restrictions on it
- Extent of building will affect viability of boatyard, including reducing boat storage capacity
- Unsafe one-way access and egress
- No provision for boatyard refuse and nowhere for refuse lorries to stop and private bin collection will not work
- No replacement trees or landscaping
- Reduced access to seaside
- Footprint is bigger
- No set back to frontage
- Restaurant will be a public nuisance
- Flats are excessive in size
- Overlooking
- Traffic is already over capacity
- Potential Air B&B
- Increase in pollution, noise, light and traffic
- Set precedent
- Insufficient parking
- Overdevelopment of site/plot
- Mechanical plant
- Insufficient parking
- Excessive density
- Mass out of keeping
- Over tree line
- Design is out of character
- Taxi rank or drop off for restaurant not catered for
- Building oversails boatyard
- No pedestrian access to boatyard
- Lift is of an insufficient size to cater for refuse bins, disabled or cycles

32. Various Counsels' opinions have been submitted on behalf of both the applicant and third party representatives commenting on issues relating to this application and the original officer report produced in relation to it. As at the date of this report, counsels' opinions received from either the applicant or third party representatives following the submission of this application that contain information considered relevant to matters addressed in this report are:

- 12th August 2020 – James Neill;
- 27th September 2020 – opinion – Scott Stemp;
- 4th December 2020 – opinion – James Neill;

- 4th February 2021 -opinion – Scott Stemp; and
- 12th May 2020 (but believed misdated and should say 2021) – opinion - James Neill.

33. Some of the submissions in these opinions also relate to an application for a Certificate of Proposed Use submitted in relation to part of this site (see Relevant Applications and Appeals – 34 Panorama Road) above. Copies of these opinions and related relevant correspondence can be found on the Council's website in respect of these specific applications. (Additional opinions have also been submitted on behalf of the applicant and the third party in relation to various previous applications which can also be found on the Council's website. They are not listed here as they pre-date the submission of the current application.)

34. The opinions submitted in relation to the current application raise a number of issues and matters of disagreement between the applicant and the third party, in particular:

- issues relating to the red line area required for the application;
- the extent to which the existing boatyard use is a mixed/composite use, or whether the boatyard is the primary use and other uses are ancillary - and the operative conditions relating to this issue, including issues relating to their lawfulness;
- the status of the existing ground floor commercial units;
- whether the permission would have the effect of permitting a self-standing primary restaurant use and whether a condition which sought to retain the restaurant as part of the existing boatyard use would be unlawful, unenforceable and fail the relevant legal and national policy tests on conditions;
- the extent to which policy PP22 is relevant to the application;
- the extent to which a highway assessment should assume a new A3 (restaurant) use;

These issues are addressed, at appropriate points, in the relevant sections of the report below.

Consultations

35. BCP Highway Authority – No objection to the proposal, subject to appropriate conditions.

36. FCERM – By 2133 majority of site could be flooded, at 3.26AOD the FRA underestimates extent of predicted site at risk of flooding. The proposed ground floor is 3.4 AOD first floor is 6.665AOD. To take account of freeboard the floor level should be 3.86AOD. However, taking account of existing, and less vulnerable uses at ground floor, no objection.

37. Environmental Services- The proposals are on a former garage site which still houses three underground fuel tanks and therefore there is potential for contamination. This should be addressed by conditions.

38. Potential impact of noise between restaurant and flats above and existing neighbours. An acoustic report should be submitted and a further condition post construction to that levels of attenuation have been achieved.
39. Waste Authority – Objects. The plans show that bins will be serviced via private collections which in our experience are not always sustained in the long term. The Council has a Statutory duty to collect waste if private collections fail. In this instance the bin store is shown in the basement which the Local Authority collection vehicle is unable to access and exceeds 10 m from the stopping point of the vehicle.
40. Natural England – No objection subject to mitigation and biodiversity enhancements.
41. Poole Harbour Commissioners – Boatyard should continue to operate.
42. Environment Agency – No objection.

Planning assessment

Site and Surroundings

43. The application site comprises nos. 30-34 Panorama Road. No 34 is currently occupied by various commercial operations at ground floor that are separate to the boatyard. On the ground floor at 34D there is a Higher Me Cherry Picker office, at 34E there is an Estate Agents and at 34C is an architect's office. On the first floor above, there is a residential flat which has a separate residential access at ground floor situated between 34D and 34E and storage space linked to the neighbouring boatyard. The application also includes part of nos. 30-32 which are currently occupied as a boatyard involving permitted uses for boat storage, parking, chandlery, restaurant, gym and workshop forming the Sandbanks Boatyard complex. The extent of the uses relating to the boatyard also includes Sandbanks Yacht Club storage below 1-6 The Peninsula. For clarification only part of the boatyard is contained within the red line but the whole of it is within blue land (shown part by blue colouring and also by blue line) as shown on the location plan for this application.
44. The character of the area is predominantly residential, mainly in the form of detached houses which vary in design and massing with a mixture of one, two-storey and three-storey buildings. Except for the small parade of commercial units included in the application site (34C, D and E).
45. The application site is mostly within flood zone 1, however the Council's Strategic Flood Risk Assessment indicates that most of the site will be at risk of future flooding by 2133.

The Proposed Development

46. The proposals are a mixed use development including office and restaurant at ground floor and three floors of flats above (15 in total). Basement parking is

proposed with access from Panorama Road shared with the existing boatyard access. The front of the site would include landscaping, four parking spaces and a separate commercial unit with an identified proposed use as an estate agents.

47. The restaurant is to replace that which currently exists as part of the boatyard 'composite' uses originally permitted in 2010 (ref: APP/09/00946/F) (see the section below on the 2010 and subsequent permissions and amendments). This will be retained as part of the boatyard uses by condition with other conditions also proposed to contain the scope for future expansion and the operation of the restaurant. The proposed office use is also to replace existing facilities at the Boatyard on site and will again be controlled via condition (see further below).
48. The application is outline with matters of access, layout and scale being considered and appearance and landscaping as reserved matters.
49. This application follows numerous refused applications on the wider site of 30-38 Panorama Road and approval of a four-storey building at 36-38 Panorama Road and subsequent reserved matters approval (APP/19/00755/R).
50. The application was amended in 2020 to resolve an issue with the red line as originally submitted. Third party representations highlighted that there was a potential error on the originally submitted red line that did not include all the required development area. The applicant accepted this point and submitted revised drawings to correct the red line. It is noted that this was in part one of the reasons for the call in by a ward Cllr, which has since been resolved through the amended drawings.

2010 Planning Permission and subsequent permissions and amendments

51. The Sandbanks Yacht Company land was part of an application in 2010 to demolish 3 existing houses and replace with 9 houses and boatyard with associated workshop, restaurant, chandlery and underground car park which led to approval of a number of residential properties (ref: APP/09/00946/F) but critically retained the 'boatyard' use in line with then current policy L12 of the Poole Local Plan First Alteration Adopted 2004 (as amended by Secretary of State Direction 2007). This permission included condition 4 which stated:

“Notwithstanding the provisions of the Town and Country Planning (Use Classes) Order 1987 and the Town and Country Planning (General Permitted Development) Order 1995 or any subsequent re-enactments thereof, the development hereby approved within the area outlined in GREEN on the approved plans (drwg no.s 1137/P01B, 1137/P03B & 1137/P13 dated 13/11/09) shall be used for a boatyard consisting of a composite range of uses including boat storage, parking, chandlery, restaurant and workshop only and for no other use purposes, whatsoever, without formal planning permission first being obtained.

Reason -

To retain a boatyard and associated activities on the site and in accordance with Policy L12 of the Poole Local Plan First Alteration Adopted 2004 (as amended by Secretary of State Direction September 2007)."

52. Following the grant of that permission there have been a considerable number of approved amendments/ variations to both the original permission and this condition.
53. Issues have been raised in the counsels' opinions referred to above as to the consequence of the grant of some of these permissions and the interpretation of the various iterations of condition 4 of the 2010 PP. These include criticism / points as to the detailed wording and effect of the original condition 4 and the amendments to it in subsequent permissions in 2013 and a non-material amendment in 2019. In particular, it is argued by the applicant that there is a composite boatyard use, including boat storage, parking, restaurant, workshop and gym, and argued by the third party that the boatyard is the primary use of the site and the other uses are ancillary to that primary use.
54. As set out above, the 2010 consent granted permission to demolish 3 existing houses and replace with 9 houses and boatyard with associated workshop, restaurant, chandlery and underground car park and the purpose and effect of condition 4 was to secure retention of the boat yard and its associated facilities. There have been 3 further iterations of condition 4 in subsequent permissions and a non-material amendment.
55. The first, in March 2013, incorporated in permission ref: APP/13/00047/F, adopted the same wording (in condition 5) as condition 4 in the 2010 permission. The subsequent permission of July 2013 ref: APP/13/00609/F amended the wording, as follows:

"Notwithstanding the provisions of the Town and Country Planning (Use Classes) Order 1987 and the Town and Country Planning (General Permitted Development) Order 1995 or any subsequent re-enactments thereof, the development hereby approved within the area outlined in GREEN on the plans (drwg no.s 1137/P01B, 1137/P03B & 1137/P13 dated 13/11/09) approved under Planning Permissions APP/09/00946/F and APP/13/0047/F shall be used for a boatyard consisting of a composite range of uses which could include any or all of the following, namely boat storage, parking, a gymnasium, chandlery, restaurant and/ or a workshop. The composite range of uses listed shall be ancillary to the Sandbanks Yacht Club and for the benefit of its members only".

56. Finally, the 2019 amendment (ref: APP/19/01291/F] altered the condition in the July 2013 permission so that it read as follows:

"Notwithstanding the provisions of the Town and Country Planning (Use Classes) Order 1987 and the Town and Country Planning (General Permitted Development) Order 1995 or any subsequent re-enactments thereof, the development hereby approved within the area outlined in RED on plan ref: 1454-SYM-00-ZZ-DR-A-0250 P01 received 15/10/2019 approved under Planning

Permission APP/13/00609/F shall, with the exception of the 15 parking spaces marked in Purple on the approved plan, be used for a boatyard consisting of a composite range of uses which could include any or all of the following, namely boat storage, parking, a gymnasium, chandlery, restaurant and/ or a workshop. The composite range of uses listed shall be ancillary to the Sandbanks Yacht Club and for the benefit of its members only.”

57. Regard has been had to the various arguments raised by respective counsel, and it is considered that (i) the 2010 permission was for a composite use that included boat storage, parking, chandlery, restaurant and workshop and (ii) that the purpose and effect of the various conditions set out above was to define and control the various elements of the composite use permitted.

58. Although it is accepted that the wording of the condition in the July 2013 consent and 2019 Non Material Amendment refer to the term “ancillary”, which unfortunately may have led to some confusion, the 2010 permission was for a composite range of uses and all versions of the relevant condition do expressly refer to a composite range of uses existing at the boatyard. As identified above, it is therefore considered that the existing use of the boatyard site is a composite one.

59. One consequence of this view and that fact that the proposed restaurant use is to remain part of the existing boatyard composite use is that the level of user of the various component uses may vary albeit if one component became sufficiently dominant it could give rise to an argument that there was a material change of use. Therefore, measures to control the operation of the restaurant, as part of the composite use of the site and, in particular, the relationship of the restaurant to the boatyard and any further increase in the size of the proposed restaurant, are recommended below. These take account of land within the ownership and control of the applicant. In this respect, it is considered that the location plan submitted accords with article 7 of the Town and Country Planning (Development Management Procedure) Order 2015 and the relevant provisions in the NPPG in that it identifies the extent of the land to which the application relates by incorporating in red all the land necessary to carry out the proposed development. The blue line shown on the location plan shows additional land within the ownership of the applicant whilst the blue coloured area indicates the land within the applicant’s ownership relating to certain areas situated below the residential properties identified.

60. As noted at the start of this report, this current application was deferred from a previous planning committee meeting in August 2020 in order to address concerns raised in one of the counsels’ opinions submitted by a third party representative just prior to the meeting – relating to the proposed restaurant use and conditions.

Principle of Residential Use

61. Subject to compliance with other relevant development plan policies, the principle of residential development on the site is accepted as it is an appropriate use in view of the context of the Sandbanks area. The area is predominantly residential

in character and the neighbouring site has extant approval for a mixed-use development including flats on the upper floors.

62. Having regard to the NPPF, paragraph 11 addresses the presumption in favour of sustainable development. For decision making this is identified as meaning:

“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 are out-of-date, granting permission unless:

- i) the application of policies in this Framework that protect areas or assets of particular importance provided a clear reason for refusing the development; 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”.*

63. Footnote 8 identifies that the phrase “out-of-date” for the purposes of the NPPF includes applications involving the provision of housing where the Housing Delivery Test (HDT) indicates that the delivery of housing was “substantially below” (less than 75% of) the housing requirement over the previous three years.

64. The HDT for the Poole Local Plan area was published in January 2021. In high level terms, the HDT compares the net homes delivered over three years to the homes that should have been built over the same period (the housing requirement). The HDT shows that the total number of homes delivered in Poole, compared to those required over a defined 3-year period was 73%, which is below the government’s “substantially below” threshold of 75% - the number of homes required between 2017 and 2020 was 1,860 whereas the number of homes delivered in that time period was 1,361. This results in a shortfall of 499 Dwellings over the Local Plan target for that period. As a reminder the 5-year residential supply and HDT results continue to relate to each legacy area separately, until the existing legacy local plans are superseded by a BCP Local Plan. The implication of the Poole area failing the HDT is that the NPPF’s presumption in favour of sustainable development is engaged (unless the application of policies in the NPPF that protect areas or assets of particular importance provides a clear reason for refusing the development proposed (see NPPF Footnote 7), or any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the NPPF taken as a whole.

65. Policy PP2 identifies broad locations for housing development, the majority of which will be directed to the most accessible locations within Poole. These are defined in PP2 (2) (a) as Poole town centre; the district and local centres; and sustainable transport corridors.

66. PP2 (2) (b) states that developments outside of these areas will be permitted provided that the scheme is capable of delivering sustainable patterns of

development, including achieving a policy compliant level of affordable housing. At paragraph 4.13 of the Poole Local Plan it also confirms that there is potential for other sites outside of these areas to come forward to contribute towards housing needs with the Council encouraging the development of brownfield sites.

67. The site does not fall within any of the most accessible locations defined in PP2 (2) (a) and therefore is to be considered under PP2 (2) (b). The policy is clear that development can come forward in PP2 (2) (b) locations subject to the development being capable of delivering sustainable patterns of development. In this case, the planning history on the site has demonstrated in the past that additional residential development can be acceptable on what is a brownfield site. Developing brownfield land is considered to be more sustainable than developing non-brownfield land. The proposals also make provision for cycle parking with Electric Vehicle charging proposed to be conditioned. The area is serviced by two bus routes, the Breezer 50 and 60 which are half hourly through the main part of the day and provide sustainable access to Poole and Bournemouth town centres.
68. The development has been assessed for its ability to provide affordable housing in line with policies PP11 and PP40. It has been demonstrated through a viability appraisal, independently viewed by the District Valuers, that the development cannot make a contribution towards affordable housing and is therefore policy compliant. The applicant has agreed to enter into a section 106 agreement containing an overage clause in respect of the affordable housing (see further on this in the Affordable Housing section below), which raises the possibility of this scheme providing some contribution in the future should market conditions improve.
69. The proposal will also provide 15 dwellings (net 14 units) in an area where the delivery of housing is significantly below the housing requirement. The contribution of additional dwellings is considered to be a benefit in terms of social objectives of sustainable development.
70. Overall, have considered relevant matters it is concluded that the development is capable of delivery a sustainable pattern of residential development in accordance with PP2 (2) (b) and therefore acceptable in principle.

Principle of Non-residential Uses

71. The proposal includes commercial use at ground floor to include an Estate Agents that replaces an existing estate agents; a restaurant to replace the restaurant/ café currently at the Sandbanks Yacht Company (SYC) and a SYC Office.
72. The application form accompanying the current proposals identifies a proposed restaurant /café size of 352.5 square metres. In the counsel's opinion dated 12th August 2020 there is a reference to an increase of floor space from 93 sqm. It is not clear from where this figure is derived; however, the application form that accompanied the 2010 application (which was the permission that originally granted planning permission for the restaurant on this site), identified a proposed

restaurant/café floorspace of 229 square metres. The current proposals therefore are identifying a potential increase in floorspace from that originally envisaged as at 2009/10 of 123.5 square metres.

73. As identified above (see Relevant Planning Applications and Appeals), part of the application site relating to the ground floor of 34 Panorama Road was recently subject to a CLOPUD application. In September 2020 changes were made to the Town and Country Planning (Uses Classes) Order 1987. Part of the amendments made at that time provided that buildings or land used for class A1, A2, A3 or B1 as at 31st August 2020 should from 1st September 2020 be treated as if used for a purpose within a new Class E.
74. In addition to a variety of other uses, the new use Class E includes a use for the sale of food and drink principally to visiting members of the public where consumption of that food and drink is mostly undertaken on the premises. This is reflective of wording previously used in class A3 for restaurant type uses.
75. The CLOPUD application was determined on the basis that it sought a certificate as to the lawful use of the whole ground floor area to which it related as a proposed restaurant. It was refused for various reasons which particularly focused on the lawful existing uses of parts of the ground floor. However, for the purposes of this report, and based on the information currently available, on balance it is considered that at least 2 of the existing commercial units would likely be affected by the identified amendment to the 1987 Order but that there is currently insufficient evidence to conclude that the third unit (34C) would be. Changes of use within the same use class do not involve development for the purposes of triggering a need for planning permission.
76. As a result of the new Class E of the Town and Country Planning (Use Classes) Order 1987 (as amended September 2020), the range of possible uses has increased to which the existing uses (in the commercial units that are to be demolished as part of this proposal) could be put (if the buildings were to remain on site), including potentially restaurant type uses.
77. As explained above (see section '2010 Planning Permission and subsequent permissions and amendments'), under the current implemented planning approvals on the site, it is considered that the existing restaurant is part of the 'composite' use of the boatyard and could occupy a larger or smaller area within the site without needing a further and separate planning permission. Therefore, the increase in restaurant size resulting from the current proposals is not considered to be so significant as to be materially different to that which would currently be possible under the existing permissions and the provisions relating to Class E having particular regard to the matters identified above.
78. The previously refused application ref: APP/15/01233/P proposed *new* ground floor restaurants. In the subsequent appeal, the Inspector concluded that these A3 uses were not supported by a sequential test and therefore failed to meet the requirements of Policy DM3 of the Poole Site Specific Allocations and Development Management Policies (adopted 2012).

79. In contrast the appealed scheme, this current application seeks to retain the existing café/restaurant use, as part of the existing range of composite uses on the boatyard site. As a consequence, it is accepted that the proposed restaurant is not a new main town centre use to which PP22 (4) would apply and the policy does not therefore require a sequential test to be carried out.
80. Conditions are proposed to ensure that the restaurant remains part of the composite uses of the boatyard and these relate to land either within the red or blue line of the site, (the latter denoting ownership by the boatyard outside of the application site). This includes a condition to link the restaurant to the boatyard uses, recognising that the restaurant is proposed as part of the boatyard, and will provide a facility for boatyard patrons and members of the public. Other conditions include a restriction on operating hours and deliveries, and size of the restaurant. These will help ensure an acceptable co-existence with neighbours and future occupiers of the site and assist in controlling certain possible impacts on the highway (further regard is had to these matters later on in this report). Conditions are also included ensuring that the office use remains ancillary to the boatyard uses and that the estate agents will be retained in such a use or similar. The conditions set out below meet the relevant legal and national policy tests.
81. Whilst there will be a net loss in commercial uses on the site, this is not an area where in principle the loss of such units is contested, ie: it is not within an Employment Area or retail centre. Furthermore, the gain in residential units is an overall benefit and therefore on balance the loss of a commercial unit is accepted.
82. The principle of the uses is therefore considered acceptable. The benefits that arise from the enhanced commercial use and contribution that this will have on provision of jobs and supporting the tourism function of the Sandbanks area are considered to weigh in favour of the proposal.

Flood Risk

83. In terms of flood risk, the site is in a future flood zone as identified in the Council's SFRA. The majority of the site could be at risk of flooding by 2133.
84. Residential development is classified as more vulnerable development that wherever possible should be located outside of existing or future flood zones. As a result, the application is required to be subject to a sequential test to assess whether there are any suitable alternative sites in a lower risk of flooding that could accommodate the development.
85. The applicant has submitted a Flood Risk Assessment that includes a sequential test. In addition to the submitted information it is evident that this application is proposed to remain part of the composite boatyard use. In this regard the development cannot be located anywhere else unless the boatyard were to be relocated, which is impractical. In view of the information submitted and assessment of locational restrictions of the site it is concluded that the sequential test is passed. Once the sequential test is passed the NPPF requires the Exception Test to also be passed considering the public benefits of any proposal.

86. The submitted Flood Risk Assessment also provides information with regard to the Exception Test. Paragraph 164 of the NPPF provides that to pass the exception test it should be demonstrated that:

- “a) the development would provide wider sustainability benefits to the community that outweigh the flood risk; and*
- b) the development will be safe for its lifetime taking account of the vulnerability of its users, without increasing flood risk elsewhere, and, where possible, will reduce flood risk overall.”*

87. The application will provide enhanced commercial uses that will be available for use by the public. The restaurant is the main example of this and will provide a larger facility than existing that will be a positive addition to the area and help support and sustain the ongoing attraction of Sandbanks as an important tourist destination for the town of Poole, as well as provide jobs.

88. The application will also deliver net 15 new homes (14 net) in a flood safe way given how the development is laid out. The delivery of new homes in an area that is experiencing under delivery will contribute to addressing the housing shortfall. Meeting housing needs is an important aspect of the social objectives of sustainable development and along with the benefits that will arise from the enhanced commercial uses is considered to together ensure the exception test is met on this occasion.

89. The proposed non-residential uses are considered 'less vulnerable' forms of development within Flood Zones and are therefore considered appropriate uses for the ground floor of the building.

90. Under paragraph 167 of the NPPF, development should only be allowed in areas at risk of flooding where, it can be demonstrated that: the most vulnerable development is located in the area of lowest risk; the development is appropriately flood resistant and resilient; any residual risk can be managed; and safe access and escape routes included as part of any agreed emergency plan.

91. In this instance the most vulnerable part of the development; the residential units, are at first floor and above with the lowest finished floor level at 6.65AOD. Therefore, taking account of existing, and less vulnerable uses at ground floor it would be difficult to resist the proposals on this basis alone.

92. A condition is proposed to secure flood resilience measures, furthermore residents could escape to higher ground in The Horseshoe in the event of an emergency. This could be covered by a Management Plan in the event of flooding and which is duly secured by this condition.

93. The Environment Agency have no objections to the proposals and overall, the proposal is concluded to be acceptable in flood risk terms and compliant with PP38 and the NPPF.

Impact on Character of the street scene

94. The proposals are to demolish existing commercial and residential buildings at the site including the existing café/restaurant. These would be replaced with a four-storey flat-roofed building in a contemporary style, to include commercial units and a restaurant at ground floor, with the restaurant retained as part of the composite uses of the boatyard, and three floors of residential accommodation above consisting of 15 flats.
95. The proposals would result in a significant increase in massing on site. The proposals have however evolved since pre-application to take account of concerns, including changes to the materials and detailing; reduced massing at top floor; and softened balcony and window detailing. This has resulted in a scheme which takes proper account of its location and the evolving character of the street scene, which includes the approval of a four storey building on the neighbouring site at 36-38 Panorama Road (APP/16/00512/P).
96. Given that the adjoining site at 36-38 Panorama Road has an extant approval, this current application has been considered in respect of its relationship to both the existing building and its already approved potential replacement. In the context of the approved four-storey building at 36-38 Panorama Road, the proposals have been designed to create a gap at top floor to this neighbouring building and a contrast in materials so that it is not read as one monolithic structure, like that of the refused application across both sites ref: APP/18/00506/P. The designs are different to show two developments but also have similarities to harmonise and not appear at odds with one another. The previously refused five-storey scheme across the site lacked any articulation.
97. The proposals also address the boatyard creating a corner feature to the site, further improving the architecture and its relationship to its surroundings.
98. In terms of the impact of the proposals on the existing 2-storey buildings at 36-38 Panorama Road, the proposals have been set in at top floor to reduce their dominance where they adjoin no. 36, and the impact of this relationship compared to the relationship between the approval at 36-38 on the existing buildings at the application site, is less dominant.
99. Having regard to the evolving character of this part of Panorama Road and the approval at no's. 36-38, the proposals would preserve the character and appearance of the street scene and views from the Harbour and accord with Policies PP27, (1) i), ii) iii) and vi) and PP28 (1) a) of the Poole Local Plan which seek to ensure that development reflects or enhances local patterns of development as well as neighbouring buildings and the NPPF. Appearance and landscaping remain reserved matters. The site currently has limited landscaping or trees due to the footprint of the existing buildings.

Impact on the amenities of existing and future neighbours/occupiers of the site

100. The proposals will be four storeys in height. The proposals will either adjoin the existing development at 36 Panorama Road or that approved at 36-38 Panorama Road (4-storey). The proposals will not result in harm to the

amenities of existing or future occupiers of these sites. The top floor is set in from no.36 and the flat roof areas at first and third floor are shown for maintenance only. This can be conditioned to preserve neighbouring amenities.

101. To the rear of the site the proposals are angled away from 10-12 The Horseshoe with a parapet wall screening balconies on this elevation. Views from this elevation will principally be across the existing boatyard and towards the Harbour.
102. Adjacent to the access to the boatyard is 28 Panorama Road, this has permission for a new dwelling. The existing dwelling has a blank elevation adjoining the boatyard, the proposed dwelling has its principal rooms to the front and rear of the dwelling and as such the proposals will not cause loss of privacy.
103. Subject to conditions to prevent areas of flat roof from being used as balconies and obscure glazed balcony screens, the proposals will not result in harmful overlooking of neighbouring amenities areas, elsewhere there is sufficient distance to residential properties to protect their privacy and amenities.
104. A restaurant exists at the site and has a relationship with existing residential properties in the local area. The proposals however seek to introduce flats above the restaurant. In this respect the applicant has agreed to a condition to require noise attenuation within the building to reduce this impact and hours of operation are also imposed by condition. This is supported by Environmental Services.
105. Furthermore, whilst an outside seating area currently exists at the site it is considered reasonable to put an additional restriction on its use having regard to the number of additional residential units which this proposal would result in directly above the restaurant. This aspect should also be covered in the attenuation report.
106. Environmental Services have also requested a condition relating to post completion testing to ensure that the required level of attenuation have been achieved prior to occupation.
107. Whilst the existing permissions on site also allow use of the boatyard as a workshop, the impacts of this too could change as a result of the current application allowing an increase in residential units within close proximity. This should be addressed by the attenuation report and a restriction on hours of operation is imposed.
108. In respect of accessible and safe environments (PP27 (1) e), the proposals will have windows in all elevations giving good surveillance of public or shared areas.
109. For the above reasons it is considered that the proposals accord with those parts of policies PP27c) d) e) and PP28 1) relating to impact on local residents and future occupiers of the site.

Function of the Boatyard

110. The proposals will result in the loss of approximately 7 boat storage spaces from the front of the site along the access. Elsewhere the boatyard is not included within the submitted development so no works are proposed to this area. It is understood that a number of spaces have been lost to the rear of the site, although these are not part of this application. It is noted that with the boatyard consisting of a composite range of uses there is some fluidity accepted within the site and boat storage is one such use.
111. The applicant has confirmed that the number of boats stored is fluid and reactive to circumstances and which boats need to be stored, a matter that changes due to owners' intent and the season. The operators are experienced and use mini tractors to move boats in and out of position and can double stack and store them in the space available. Furthermore, they have recently installed racks for storage of paddle boards and kayaks.
112. Under the current boatyard use, the boatyard consists of a number of composite uses including boat storage; parking; chandlery; restaurant; and workshop. A condition was attached to planning approval APP/09/00946/F restricting the boatyard to such uses in order to seek to retain the boatyard's future viability. Neither this consent nor those that followed contained a condition specifying a minimum number of boat storage spaces and therefore there is flexibility in the number that has to be provided. As such it would not be reasonable to refuse the application because of the loss of these spaces and the flexible and changing nature of storage requirements, as explained above.

Affordable Housing

113. The applicant has submitted a viability appraisal which has been independently assessed by the District Valuers. The conclusion is that the proposals cannot make a contribution towards affordable housing in line with Policy PP11 of the Poole Local Plan. Whilst this assessment was made some time ago, recent advice from the DVS is that the outcome would not change having regard to the UK House Price index for BCP and the BCIS indices. There has been a small increase in both since September 2019 but not sufficient to make it viable.
114. Within Policy PP8 schemes of more than 11 homes should consider the needs set out in the SHMA and other relevant evidence including self-build and custom housing. It is noted that within Poole, provision of self/build custom housing is currently exceeding identified demand. As this proposal is for a block of flats it is not considered the scheme would be suitable for self build / custom housing.
115. Whilst it has been demonstrated that the scheme cannot make a contribution towards affordable housing at this present time the applicant has agreed to entering into a planning obligation containing an overage clause which by way of a review mechanism will potentially enable a contribution toward affordable

housing to be secured in the event of the viability situation improving prior to the residential units being sold.

Highways

116. The proposals include replacement of commercial uses, a larger restaurant and 15 new flats. Surface parking is provided to the front of the ground floor commercial units, basement parking is provided for the residential units with access from a revised vehicle access point, shared with the boatyard.
117. The proposals result in the following parking arrangements:
- Residential Parking – 18 basement spaces (an over provision of 3 spaces in line with the Council's Parking SPD 2021)
 - Proposed Office Parking (SYC Office and Estate Agents) 4 spaces (over provision of 2).
 - At least 2 basement spaces are disabled adaptable and 1 surface space for disabled parking is provided.
118. Although there is a slight over provision for the commercial and residential units this is considered acceptable (see further in this respect below).
119. With regard to parking provision for the restaurant, as previously identified, as part of an existing composite use, there exists some flexibility to the size of the existing café/restaurant, without giving rise to a material change in use. Like similar previous applications, this use will be tied to the overall composite use of the boatyard by appropriate planning condition and to that extent is considered not to be materially different than occurs /could occur at present for the existing restaurant use.
120. As identified above, the increase in the restaurant size over that originally envisaged in the 2010 permission is circa 123.5 sqm (see Principle of Non Residential Uses above). On this basis, even if no allowance was made as to the composite use situation, the Council's Highway Unit has advised that this difference would generate a need for a further 4 parking spaces based on the Council's current parking SPD and given that there are existing pay and display parking bays along the main road in the area, it is not considered the impact of the increase could justify a refusal of the proposal on parking provision or highway safety grounds. (It will be clear from the section above dealing with Policy PP22 that there is no need for a highway assessment to be carried out that assumes a new A3 use.)
121. The 4 surface parking spaces will provide parking for the SYC office and estate agent use, these have been amended in their orientation during the application process to provide safe access onto the highway.
122. The provision of Electric Vehicle Charging requirements in the new SPD can be dealt with by way of condition.

123. Assuming the office uses takes up 1 surface cycle parking opportunity as per the SPD figure, then the residential units would have access to a total of 19 cycle parking opportunities. The SPD requires 26 cycle spaces for the residential units and therefore there is shortfall of cycle parking spaces in the proposal. There are local policies requiring development to support cycle use including Policy PP2 and the Council is currently investing in improving cycle infrastructure across the conurbation. Addressing the shortfall of cycle parking spaces in this proposal appears easily achievable with the removal of 1 basement parking space and replacing it with a cycle store, noting that there is a slight over provision of car parking to the SPD so loss of 1 parking space would be acceptable. Alternatively the applicant could propose cycle parking somewhere else within the site to address the shortfall. This will be secured by condition. The lift has been increased in size to accommodate a cycle. Cycle parking has also been provided to the front of the site for use by visitors of the restaurant.
124. Any frontage landscaping to the main road should be kept at a height of no more than 1m in order to ensure adequate visibility from the boatyard and parking exits, which is secured by condition.
125. Significant amendments have been made to the basement parking during the application including, provision of at least 2 basement parking spaces which are disabled adaptable and there is surface level disabled parking provision. Re-siting of parking spaces has also been done to allow for easy and safe access and eliminate potential conflicts with the in/out access. As part of the revisions a raised kerb has also been added to ensure there is separation between a vehicle coming down the ramp and a car waiting in the basement. This would also guide an exiting car to the correct waiting spot and also avoid a vehicle coming down the ramp driving over any traffic light sensor in the basement floor at the waiting bay. The default setting for any traffic signal should be green for vehicles entering off Panorama Road. The basement ramp has also been revised to overcome previous concerns with the gradient, this is now acceptable.
126. Concern has been raised as to the potential for vehicle conflicts at the proposed access which includes the basement access and access to the boatyard. In order to address this, the applicant has submitted a technical highway report which provides further details to clarify the likely occurrence of vehicle conflicts at the access. Those conflicts are likely to be minimal, even factoring up to the peak season use of the boat yard. Another consideration is that the boat yard access/use is existing and the entrance/exit will not operate much differently from the existing arrangements should the development go ahead. Measures to reduce conflict are to be implemented such as prioritising a "green" traffic signal entrance to the residential basement car park at all times, unless a vehicle is on the exit ramp. Vehicle speeds turning into and out of both the boat yard and residential basement car park will be very low which reduces safety risks. A further measure of having 2 different surface materials to distinguish between the 2 accesses would also enhance safety – eg. 2 differing block paviour details for each access. This can be secured by condition.

127. Existing accesses onto Panorama Road, which involve vehicles reversing directly out onto the road are to be closed and this represents a highway safety gain.
128. It is noted that within their submission the applicant acknowledged that the traffic survey was not taken at a peak time for vehicle movements in the area. The Council assessed the applicant's data but also carried out its own judgement on the traffic activity likely to occur as a result of the proposal. There are many material considerations that came into this assessment but in particular the existing restaurant use, size and the existing parking situation and servicing arrangements by delivery vehicles. There is in fact limited existing parking and servicing arrangements for the existing restaurant and as such it is considered that the proposals would not compound the existing situation. Furthermore, an application of this nature would not normally require a survey, this was submitted by the applicant in part to demonstrate turning movements into the site.
129. The proposal is therefore considered to accord with Policies PP27 (1) f) and g) (see further in this respect assessment below in relation to waste) and PP28 (1) c) and d) relating to highway matters, including cycle storage and car parking subject to compliance with the necessary conditions.

Bin Storage

130. Bin storage is provided within the basement. This is not within 10 metres of the highway and as such the Local Authority Waste team object and would not provide collection. The applicant has offered a private collection. Due to the nature and constraints of the site it has been difficult to provide a solution whereby the bins could be collected by the Local Authority without detriment to the character of the area. In this instance collection by a private company, which the applicant has agreed to and can be conditioned is accepted. The proposed condition will address both residential and commercial waste elements. The applicant has also been advised that if in the future the Local Authority are required to provide collection this may not be possible as it does not meet current guidance however given the emphasis of the NPPF on delivering development it would not be sufficient justification to refuse the application on the grounds of bin storage.
131. The proposal is therefore considered to comply with Policy PP27(f) and (g).

Biodiversity

132. A scheme for biodiversity enhancements at the site in accordance with Policy PP33 of the Poole Local Plan is secured by condition. This recognises the limitations of the site in respect of likelihood of wildlife currently existing at the site and seeks measures such as bat and swift boxes which could be attached to the new building.

Section 106 Agreement/CIL compliance

133. Mitigation of the impact of the proposed development on recreational facilities; Dorset Heathlands and Poole Harbour Special Protection Areas; and strategic transport infrastructure is provided for by the Community Infrastructure Levy (CIL) Charging Schedule adopted by the Council in February 2019. This confirms that dwellings are CIL liable development and are required to pay CIL in accordance with the rates set out in the Council's Charging Schedule.
134. The site is within 5km (but not within 400m) of Heathland SSSI and the proposed net increase in dwellings would not be acceptable without appropriate mitigation of their impact upon the Heathland. As part of the Dorset Heathland Planning Framework a contribution is required from all qualifying residential development to fund Strategic Access Management and Monitoring (SAMM) in respect of the internationally important Dorset Heathlands. This proposal requires such a contribution, without which it would not satisfy the appropriate assessment required by the Habitat Regulations.
135. In addition, the proposed net increase in dwellings would not be acceptable without appropriate mitigation of their recreational impact upon the Poole Harbour SPA and Ramsar site. A contribution is required from all qualifying residential development in Poole to fund Strategic Access Management and Monitoring (SAMM) in respect of the internationally important Poole Harbour. This proposal requires such a contribution, without which it would not satisfy the appropriate assessment required by the Habitat Regulations.
136. The applicant has entered into arrangements with the Local Planning Authority to seek to secure the relevant contributions towards Dorset Heathlands and Poole Harbour Recreation SAMM. The proposals are therefore considered to accord with Policy PP32.

Contributions Required			Dorset Heathland SAMM	Poole Harbour Recreation SAMM
Flats	Existing	2	@ £394	@ £140
	Proposed	15		
	Net increase	13	£5,122	£1,820
Total Contributions			£3,432 (plus admin fee)	£1,235 (plus admin fee)
CIL	Zone A		@ £230sq m	

137. In addition as identified in the affordable housing section above the applicant has agreed to enter into a planning obligation to secure an overage clause in respect of affordable housing.

Planning Balance

138. The scheme will make provision for additional residential units in an area which although comprising houses is also populated by flats. The character is therefore mixed and the proposals will accord with the direction of travel of development in this area. Whilst the scheme will not provide affordable housing, having regard to the Council's current housing situation, the provision of this additional housing (net 13 units) is considered to be a significant public benefit. When considered alongside the housing, the benefits that arise from the enhanced commercial use and contribution that this will have on provision of jobs and supporting the tourism function of the Sandbanks area are considered to be material benefits that weigh in favour of the proposal.
139. The design of the scheme has been modified to take account of its impact on the character and appearance of the street scene and both existing and approved development adjoining the site. Measures have been secured to address issues of potential impact with existing / future occupiers.
140. The scheme retains commercial use at ground floor and a replacement restaurant for the boatyard which will be conditioned to be retained as part of the 'boatyard' composite uses.
141. The proposals make sufficient provision for parking, cycle parking and disabled appropriate bays for the flats and commercial units and conditions are attached to support this.
142. The residential car parking provision is acceptable. Provision is also made for the commercial units to the front. With regards to parking provision for the restaurant, as part of an existing composite use, there already exists some flexibility in the scale of the extant restaurant/café; the conditions proposed as part of this consent would control against any future expansion and general public parking is also available along the main road and in the area. The proposal will also result in the removal of existing commercial units which, in some cases at least, might potentially themselves currently be able to be changed to a variety of different uses with proposed conditions also restricting the range of uses for the proposed replacement estate agents.
143. To address potential vehicle conflicts at the entrance to the basement car park and boatyard, the applicant has demonstrated that those conflicts are likely to be minimal, including during peak season use of the boat yard. Another consideration is that the boat yard access/use is existing and the entrance/exit will not operate much differently from the existing arrangements should the development go ahead. Measures to reduce conflict are to be implemented such as prioritising a "green" traffic signal entrance to the residential basement car park at all times, unless a vehicle is on the exit ramp. Vehicle speeds turning into

and out of both the boat yard and residential basement car park will be very low which again reduces safety dangers.

144. Any potential harm to the integrity of protected European sites can be addressed by the securing of appropriate mitigation.
145. Overall, for the reasons set out above, the proposal is considered to be in accordance with the Development Plan when read as a whole. In the context of the acknowledged shortfall in housing delivery and the operation of the presumption in favour of sustainable development in NPPF paragraph 11, it is not considered that any policies in the Framework that protect areas or assets of particular importance provide a clear reason for refusal. Further, no adverse impacts have been identified that would significantly and demonstrably outweigh the benefits, when assessed against the policies in the NPPF taken as a whole. In particular, those benefits include the additional housing and enhanced commercial use, and the contribution that this will have on provision of jobs and supporting the tourism function of the Sandbanks area.

RECOMMENDATION

It is therefore recommended that this application be Granted subject to ensuring the securing of the relevant SAMM contributions and affordable housing overage clause, as identified above via a s106 agreement or other appropriate mechanism and the conditions below. (Informative 1 provides a definition for several phrases used in some of the conditions, for the avoidance of doubt and ease of reference.)

1. OL010 (Submission of Reserved Matters)

No development shall commence on site until details of the appearance and landscaping, in respect of which approval is expressly reserved and are hereinafter called 'the reserved matters') have been submitted to, and approved in writing by, the Local Planning Authority. The development shall be carried out in accordance with the approved details.

Reason -

The application was made for outline planning permission and is granted to comply with the provisions of Section 92 of the Town and Country Planning Act 1990 and Part 3 of the Town and Country Planning (General Development Procedure) Order 2015.

2. OL020 (Timing of Reserved Matters Submission)

Application for approval of the reserved matters shall be made to the Local Planning Authority before the expiration of 2 years from the date of this permission and the development hereby permitted shall be begun either before the expiration of 3 years from the date of this permission or before the expiration of 2 years from the date of approval of the last of the reserved matters to be approved whichever is the later.

Reason -

This condition is required to be imposed by the provisions of Article 5 of the Town and Country Planning (Development Management Procedure) Order 2010 and Section 92 of the Town and Country Planning Act 1990.

3. PL01 (Plans Listing)

Subject to condition 13 below (cycle storage provision), the development hereby permitted shall be carried out in accordance with the following approved plans:

Site Plans ref: 1454-SYM-00-XX-DR-A-0400 P04 received 05/05/2020

Site Plans ref: 1454-SYM-00-XX-DR-A- 0400 P05 received 05/05/2020

Basement and Ground Floor ref: 1454-SYM-00-ZZ-DR-A-0401 P06 received 24/10/2019

Upper Floors ref: 1454-SYM-00-XX-DR-A-0402 P04 received 03/10/2019

Elevations Sheet 1 ref: 1454-SYM-00-XX-DR-A-0403 P04 received 03/10/19

Elevations Sheet 2 ref: 1454-SYM-00-XX-DR-A-0404 P03 received 03/10/19

Street scene ref: 1454-SYM-00-XX-DR-A-0405 P03 received 03/10/19

Site Plan showing Basement ref: 1454-SYM-00-ZZ-DR-A-0250 P01 received 03/10/2019

Site Uses ref: 1454-SYM-00-XX-DR-A-0412 P02 received 07/04/2021

Extent of Boatyard Plan ref: 1454-SYM-00-XX-DR-A-0413 P01 received 07/04/2021

Composite Use Plan ref: 1454-SYM-00-XX-DR-A-0414 P01 received 07/04/2021

Reason -

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

4. AA01 (Non standard Condition)

Notwithstanding the provisions of the Town and Country Planning (Use Classes) Order 1987 and the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any order(s) revoking and re-enacting either of those orders with or without modification), the Café/Restaurant Use carried out within the Boatyard shall remain in operation only while the Boatyard, as shown on drawing ref: 1454-SYM-00-XX-DR-A-0413 P01, is used for the Boatyard Uses.

(Informative 1 defines “Boatyard”, “Boatyard Uses” and “Café/Restaurant Use”, for the purposes of this condition.)

Reason -

To ensure that the link between the Café / Restaurant Use and visitors to the Boatyard which provides an important element for the justification of the Café / Restaurant Use in this location is retained and therefore help prevent the loss of the Boatyard accordance with Policy PP31 of the Poole Local Plan adopted 2018.

5. AA01 (Non standard Condition)

Notwithstanding the provisions of the Town and Country Planning (Use Classes) Order 1987 and the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any order(s) revoking and re-enacting either of those orders with or without modification):

- (a) the Café/Restaurant Use hereby permitted shall only be carried on within the Boatyard as shown on drawing ref: 1454-SYM-00-XX-DR-A-0413 P01;
- (b) the total gross floor area of the Boatyard used for any Café / Restaurant Use shall not exceed 352.95 square metres; and

- (c) no Café/Restaurant Use shall be located in any part of the Boatyard other than in the area annotated as 'restaurant' on plan ref: 1454-SYM-00-XX-DR-A-0412 P02 submitted in relation to the application.

(Informative 1 defines "Boatyard" and "Café/Restaurant Use", for the purposes of this condition.)

Reason -

To help secure the amenities of the proposed residential units and the use of the Boatyard in accordance with policy PP31 of the Poole Local Plan adopted 2018.

6. AA01 (Non standard Condition)

Notwithstanding the provisions of the Town and Country Planning (Use Classes) Order 1987 and the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any order(s) revoking and re-enacting either of those orders with or without modification) the office hereby permitted shall only be:

- (a) used for an Office Use ancillary to any of the composite uses forming part of the Boatyard Uses and for no other purpose whatsoever; and
- (b) located within the 'Boatyard'. \

(Informative 1 defines "Boatyard", "Boatyard Uses" and "Office Use" for the purposes of this condition.)

Reason –

To prevent a functionally separate Office Use and to assist in the retention of the use of the Boatyard in accordance with Policy PP31 of the Poole Local Plan 2018. [[[

7. AA01 (Non standard Condition)

Notwithstanding the provisions of the Town and Country Planning (Use Classes) Order 1987 and the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any order(s) revoking and re-enacting either of those orders with or without modification) that part of the development as shown coloured dark grey on plan ref: 1454-SYM-00-XX-DR-A-0412 P02 shall only be used for the provision of the following services principally to visiting members of the public—

- (a) financial services, and
- (b) professional services (other than health or medical services) but including an estate agents,
- (c) other appropriate services in a commercial, business or service locality and for no other purposes whatsoever.

Reason -

To ensure the separation of the boatyard and estate agent use and to prevent inappropriate uses in this non primary shopping location in accordance with Policy PP22 of the Poole Local Plan 2018.

8. AA01 (Non standard Condition)

Notwithstanding the provisions of the Town and Country Planning (Use Classes) Order 1987 and the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any order(s) revoking and re-enacting either of those

orders with or without modification) the Boatyard shall only be used for the Boatyard Uses and for no other uses whatsoever.

(Informative 1 defines “Boatyard and “Boatyard Uses” for the purposes of this condition.)

Reason –

To help ensure preservation of the use of the Boatyard with its current range of uses in accordance with Policy PP31 of the Poole Local Plan adopted 2018.

9. GN030 (Sample of Materials)

Details and samples of all external facing and roofing materials to be used shall be submitted to, and approved in writing by, the Local Planning Authority before any materials are brought onto site. The development shall thereafter be carried out in accordance with the approved details.

Reason -

To ensure that the external appearance of the building(s) is satisfactory and in accordance with Policy PP27 of the Poole Local Plan (November 2018).

10. GN070 (Remove Use as Balcony)

Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015 (or any order replacing and re-enacting that order with or without modification) and the Town and Country Planning Act 1990 or any subsequent re-enactments thereof, the flat roof area to the rear at first floor of the building hereby permitted shall not be used as a balcony, roof garden or similar amenity area.

Reason -

To protect the amenity and privacy of adjoining residential properties and in accordance with Policy PP27 of the Poole Local Plan (November 2018) .

11. GN080 (Screening to Balcony)

Prior to the first occupation of any of the flats hereby approved, obscure glazed screens of at least 1.8 metres in height which conform to or exceed Pilkington Texture Glass Privacy Level 3 shall be erected along the north western side of the balconies to flats 5, 10 and 15 on the first, second and third floor respectively. The screens shall thereafter be permanently retained as such.

Reason -

In the interests of privacy and amenity of the neighbouring properties and in accordance with Policy PP27 of the Poole Local Plan (November 2018).

12. HW100 (Parking/Turning Provision)

The development hereby permitted shall not be brought into use until the access, turning space, vehicle parking and cycle parking shown on the approved plan have been constructed, and these shall thereafter be retained and kept available for those purposes at all times. Within the basement three parking spaces which are disabled appropriate shall be marked out as such and thereafter retained.

Reason -

In the interests of highway safety and in accordance with Policies PP27, PP34, PP35 and PP36 of the Poole Local Plan (November 2018).

13. AA01 (Non standard Condition)

Prior to first residential occupation of any of the flats hereby approved and notwithstanding the approved plans details of additional bicycle parking to accommodate a minimum of 7 bicycles shall have been submitted to and approved in writing by the Local Planning Authority and implemented. All the bicycle parking provided on the development pursuant to this permission shall at all times be retained thereafter.

Reason -

In the interests of highway safety and in accordance with Policies PP34, PP35 and PP36 of the Poole Local Plan (November 2018).

15. HW010 (No Other Access Except That Shown)

Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 or any order revoking and re-enacting that order with or without modification, no other vehicle access, other than that shown on the approved plan ref: 1454-SYM-00-XX-DR-A- 0400 P05 received 05/05/2020, shall be formed to the site to which this permission relates.

Reason -

In the interests of highway safety and in accordance with Policy PP35 of the Poole Local Plan (November 2018).

16. HW240 (Electric Vehicle Charging Points)

Within 3 months of the commencement of the development details of the provision of Electric Vehicle Charging Points and associated infrastructure shall be submitted to the Local Planning Authority for approval in writing. Those details shall be in accordance with any extant Parking Standards SPD adopted by the local planning authority existing at the time of the submission. No residential part of the development hereby permitted shall be occupied until such details have been approved and brought into operation. Thereafter, the Electric Vehicle Charging Points shall be permanently retained available for use at all times.

Reason:

In the interests of promoting sustainable development including sustainable forms of transport in accordance with Policy PP35 of the Poole Local Plan - November 2018

17. GN162 (Renewable Energy - Residential)

Prior to first occupation of any of the building(s) hereby permitted, details of measures to provide 20% of the predicted future energy use of each dwelling from on-site renewable sources, shall be submitted to and approved in writing by the local planning authority. These measures must then be implemented before any residential occupation is brought into use and maintained thereafter.

Reason-

In the interests of delivering a sustainable scheme, reducing carbon emissions and reducing reliance on centralised energy supply, and in accordance with Policy PP37 of the Poole Local Plan (November 2018).

18. AA01 (Non standard Condition)

Prior to commencement of the development hereby approved a scheme to ensure effective waste collection from the site (including all commercial and residential elements) shall be submitted to and agreed in writing by the Local Planning Authority. The scheme shall thereafter be implemented and the development only be occupied in accordance with the approved scheme.

Reason -

To ensure that waste collection is provided to the site and in accordance with Policy PP27 of the Poole Local Plan adopted 2018

19. AA01 (Non standard Condition)

The traffic control signal for the basement car park access ramp (ref: 1454-SYM-00-ZZ-DR-A-0401 P06) shall be implemented prior to the approved basement car park being first brought into use and shall be maintained in full working order at all times thereafter. Those signals shall be operated in accordance with Paragraph 27 of the Access Note prepared by Vectos, dated January 2019.

Reason -

In the interests of highway safety and in accordance with Policies PP27, PP34, PP35 and PP36 of the Poole Local Plan (November 2018).

20. AA01 (Non standard Condition)

Details of the construction materials for the first 5m of the basement ramp entrance shall be submitted to and approved in writing by the Local Planning Authority prior to any part of the development hereby approved being first brought into use. The details shall include for different materials to be used for the access to the Boatyard and the basement car park entrance. The approved details shall be constructed prior to any part of the development hereby approved being first brought into use and thereafter retained as such.

(Informative 1 defines "Boatyard" for the purposes of this condition.)

Reason -

In the interests of highway safety and in accordance with Policies PP27, PP34, PP35 and PP36 of the Poole Local Plan (November 2018).

21. AA01 (Non standard Condition)

Prior to occupation of any part of the development hereby approved, details of flood resilience and management measures shall be submitted to and agreed in writing by the Local Planning Authority. The scheme shall thereafter be implemented in accordance with those agreed details and thereafter retained as such.

Reason -

To ensure that the site is resilient to future flood risk; to protect the wellbeing and safety of residents and occupiers of the building; and in accordance with Policy PP38 of the Poole Local Plan adopted 2018.

22. AA01 (Non standard Condition)

Notwithstanding the approved plans, frontage boundary features such as, but not limited to; any walls, fencing, railings and landscaping to Panorama Road shall be implemented and maintained at no higher than 1m in height with this height measured from the level of the adjacent adopted footway.

Reason -

In the interests of highway safety and to secure pedestrian visibility in accordance with Policies PP27, PP34, PP35 and PP36 of the Poole Local Plan (November 2018).

23. AA01 (Non standard Condition)

Prior to occupation of any residential unit hereby approved a scheme for biodiversity enhancements to the site which should include but not be limited to a bat and swift box, shall be submitted to and agreed in writing by the Local Planning Authority. The biodiversity enhancements shall thereafter be implemented in accordance with the approved scheme prior to first occupation of the dwellings hereby permitted and retained thereafter.

Reason -

To secure biodiversity enhancements within the site and in accordance with Policy PP33 of the Poole Local Plan adopted 2018.