

Application No: 25/01234FULL Full Application

Site: 11, Fleur-de-lys Park Homes, Pilley Hill, Pilley, Lymington SO41 5QJ

Proposal: Outbuilding; demolition of existing; hardsurfacing

Applicant: Mr & Mrs Fitzgerald

Case Officer: Liz Young

Parish: Boldre Parish Council

1. REASON FOR COMMITTEE CONSIDERATION

Contrary to Parish Council view

2. POLICIES

Development Plan Designations

Conservation Area
Listed Building (adjacent)

Principal Development Plan Policies

Policy SP1 Supporting sustainable development
Policy DP2 General development principles
Policy SP6 The natural environment
Policy SP16 The historic and built environment
Policy SP17 Local distinctiveness
Policy DP18 Design principles
Policy DP37 Outbuildings

Supplementary Planning Documents

Design Guide (2022)
Boldre Parish Design Statement (2013)

National Planning Policy Framework (2024) (NPPF)

Sec 2 Achieving sustainable development
Sec 4 Decision-making
Sec 12 Achieving well-designed places
Sec 15 Conserving and enhancing the natural environment
Sec 16 Conserving and enhancing the historic environment

3. MEMBER COMMENTS

None received

4. PARISH COUNCIL COMMENTS

Boldre Parish Council: Recommend refusal (two responses) for the following reasons (summarised):

- Retrospective Application.
- Contrary to New Forest NPA and NFDC Licensing regulations.
- Concerns over commercial use.
- Noise disturbance.
- Inadequate provision for dog waste.
- Inappropriate materials.
- Fire risk.
- Lack of visitor parking.
- Proposed use is unclear.
- Harmful impact upon the living conditions of park home residents.
- Does not comply with DP2, DP8, DP18, SP6, SP15 and SP17.
- Request that the application should be determined at Planning Committee.

5. CONSULTEES

Building Design and Conservation Officer: No objections raised.

New Forest District Council (NFDC) Environmental Protection: No adverse comments:

NFDC – Environmental Health (Commercial): Comments:

- In its current location the dog kennel does not comply with the licence conditions attached to the Fleur de Lys Park caravan site.
- There should be a 4.5 metre clear distance between a combustible structure and any adjacent caravan. The distance from the kennels to 10 Fleur de Lys Park is 3.2 metres.
- The kennel is very close to the site boundary. The licence states that no caravan or combustible structure shall be positioned within 3 metres of the boundary of the site without prior written approval of the local authority.
- It is possible that with relocation, and permission being granted, compliance with the site licence could be achieved.
- Whilst not a licencing issue, it is also noted that the kennel does not comply with site rules for the site, which are rules set by the site owner, which apply to all site residents.

6. REPRESENTATIONS

Seven objections received on the following grounds:

- Contrary to Policies DP2 and SP15.

- Mobile home parks do not benefit from permitted development rights.
- Risk of intensification or commercial use (dog breeding and boarding) which would materially increase noise, activity, and waste and would be difficult to monitor, control or enforce.
- No waste, hygiene, drainage, or environmental management details have been provided.
- The siting and use of a kennel also cumulatively harms the character of the park home site, contrary to SP17 (Local Distinctiveness) and DP18 (Design Principles).
- The requirement for outbuildings to be modest is not relevant to a dog kennel use – and DP37 is therefore not relevant
- If permission is granted conditions should be imposed in relation to non-commercial use, number of dogs, noise management, waste management and drainage and restrictions on further structures being introduced.
- The development lies close to neighbouring properties.
- Noise disturbance associated with the kennel use has already occurred.
- Dogs within the kennel are typically left unattended for long periods and cause a persistent noise nuisance.
- No scope for noise mitigation.
- The development has reduced the saleability of the adjacent plot.

7. RELEVANT HISTORY

Retention of 12 caravans (NFR/XX/01323/3) granted on 17 Mar 1960

8. ASSESSMENT

Application Site

8.1 The Application Site (just under 200 square metres in size) comprises a residential caravan plot and its curtilage. The unit lies within a residential park home site which lies immediately to the rear of the Fleur-de-llys Public House, a Grade II listed building. The units all share a single point of access from Pilley Hill which lies to the north of the site. The site lies within the Forest South East Conservation Area. The rear boundary of the site is adjoined by the public house garden along with the garden of a private dwelling which lies immediately to the east. Neighbouring caravans lie to the north and south of the site. For the purposes of planning policy, the site lies within open countryside.

Proposed Development

8.2 Consent is sought to retain an outbuilding which replaces a pre-existing structure which lies to the rear of the site. Based upon the submitted plans, the pre-existing building (which appears to have been in place since at least 2014) had an external footprint of just over 10 square metres and an overall height of just under three metres. The replacement building has an external footprint of 15 square metres and an overall height of just under three metres. The majority of the building would be

used as a kennel, with a small area intended to be used as a garden shed.

8.3 By way of background, an amended site plan was received on 29 January adjusting the orientation of the building. It was not considered necessary to re-publicise the amendment as it did not alter the relationship between the development and neighbouring residential uses. The current position of the building on the site is as indicated on the previously submitted drawing and so in the event that consent is forthcoming it would be necessary to impose a condition to ensure the revised orientation as indicated on the latest drawing would be implemented within three months of any approval. The amendment was made so as to ensure the development would be more closely aligned to site licencing requirements and to ensure a greater degree of separation from the neighbouring park home plot.

Consideration

Development Principle

8.4 Section 38 (6) of the Planning and Compulsory Purchase Act 2004 and paragraph 48 of the National Planning Policy Framework (NPPF, 2024) require that applications for planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise.

8.5 Policy DP37 supports the general principle of domestic outbuildings where they:

- are proportionate and clearly subservient to the dwelling they are to serve in terms of their design, scale, size, height and massing;
- are located within the residential curtilage of an existing dwelling;
- are required for purposes incidental to the use of the main dwelling;
- are not providing additional habitable accommodation; and
- will not reduce private amenity space – including parking provision – around the dwelling to an unacceptable level

8.6 It is recognised that third party comments suggest that Policy DP37 is not relevant owing to the fact that the building is used as a dog kennel. It should be highlighted, however that Part 1, Class E of Schedule 2 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) ("the GDPO") permits amongst other things any building or enclosure required for a purpose incidental to the enjoyment of a dwellinghouse, included in the definition of which is "*the keeping of poultry, bees, pet animals, birds or other livestock for the domestic needs or personal enjoyment of the occupants of the dwellinghouse*". Thus, the keeping of birds and animals in gardens and the erection of buildings and enclosures to house them does not require planning permission in many instances provided that the level of activity is "*incidental*". Whilst in this case planning permission is required, it should be recognised that Policy DP37 is consistent with the provisions within the GDPO in terms of its requirement for outbuildings to be

incidental to the dwelling they are intended to serve. Therefore, there is a recognition within both the GDPO and the Development Plan of the right for householders to develop outbuildings for incidental purposes - including the purpose of keeping domestic animals. Given that the development relates to a building required for the keeping of animals in association with the residential occupation of the mobile home, it can be concluded that Policy DP37 is relevant in this case.

8.7 In considering the incidental requirement (and concerns raised in relation to the potential for commercial uses to be introduced), previous legal rulings have established that six dogs would exceed the number normally kept in domestic circumstances (although there are differing views as to how rigidly figure this should be applied) but also that, regardless of scale, a functional relationship between the use concerned and the main dwelling must exist if it is to be demonstrated that no material change of use has occurred. In this instance, the use involves just three dogs (well below the six dog threshold) which are the pets of the Applicant. Given this, there is no reason to conclude that the keeping of three dogs within the building would not be incidental to the main dwelling.

8.8 In considering the other criteria contained within Policy DP37, in this instance, the proposal would remain modest in scale, notwithstanding the slight increase in footprint compared with the pre-existing structure. It would clearly be subservient to the main mobile home as a result of its simple construction and modest overall height. The development lies wholly within the established residential curtilage of the mobile home, is used in association with the residential use on the site and does not include any form of habitable accommodation. Because the development is located to the rear of the site and would only occupy a modest proportion of the overall garden area, it would not significantly reduce amenity or parking provision. Overall, it is therefore concluded that the development is in accordance with Policy DP37 and on this basis is acceptable in principle.

Design and Character

8.9 With regards to impacts upon local character and landscape, given the modest scale of the development and its location within an established garden area to the rear of the mobile home it is considered that it is appropriate in terms its scale, appearance, form, siting and layout. For the same reason it is also considered to be contextually appropriate and does not harm key visual features, landscape setting or other valued components of the landscape.

8.10 Overall it is concluded that, as required by paragraph 89 of the NPPF, the development design is sensitive to its surroundings and would also be in accordance with Policies SP1, DP2, DP18 and SP15.

Historic Environment

8.11 As identified above, the site lies within the Forest South East Conservation Area and to the rear of the Fleur de Lys Public House (Grade II listed).

8.12 Section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990 states that in considering whether to grant planning permission for development which affects a listed building or its setting, the local planning authority shall have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses. Section 72 of the Act requires Local Planning Authorities to pay special attention to the desirability of preserving or enhancing the character or appearance of conservation areas.

8.13 Paragraph 212 of the NPPF states that when considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation (and the more important the asset, the greater the weight should be).

8.14 Policy SP16 requires development to conserve and enhance the significance or special interest of designated heritage assets. It also states that proposals that would harm the significance or special interest of a heritage asset will be resisted unless any harm is outweighed by the public benefits of the proposal, proportionate to the degree of harm and significance.

8.15 Having regard to the distance between the development and the Grade II listed building, the modest scale of the development and the presence of intervening features, it is considered that the development does not have a significant harmful impact upon the setting of the Fleur de Lys Public House. Similarly, because the development lies within the confines of the existing mobile home park, is sensitively sited and is modest in scale, it does not impact significantly upon the character and appearance of the conservation area.

8.16 Overall, it is concluded that the development preserves the setting and significance of adjacent listed buildings as required by Section 66 of the Planning (Listed Buildings and Conservation Areas Act 1990). The proposal would conserve the character and appearance of the Conservation Area in accordance with Section 72 of the Planning (Listed Buildings and Conservation Areas Act 1990) and Policy SP16 of the adopted Local Plan.

Amenity

8.17 Policy DP2 states that development should not result in unacceptable adverse impacts on amenity in terms of additional impacts, visual intrusion, overlooking or shading. Whilst the outbuilding is readily visible from neighbouring properties, its modest scale and the absence of any openings facing towards the boundaries with the neighbours ensures it does not give rise to significant adverse impact upon the living

conditions of neighbouring properties as a result of visual intrusion, overlooking or shading. On this basis, it is concluded that no conflict with Policy DP2 has been identified.

8.18 It is recognised that a number of third party concerns have been raised in relation to the impact of noise nuisance resulting from the development. On this issue, the NPPF in paragraph 187 states that planning decisions should contribute to and enhance the natural and local environment by preventing new and existing development from contributing to, being put at unacceptable risk from, or being adversely affected by, unacceptable levels of noise (and other things).

8.19 Paragraph 198 of the NPPF states that planning decisions should ensure that new development is appropriate for its location taking into account the likely effects (including cumulative effects) of pollution on health, living conditions and the natural environment, as well as the potential sensitivity of the site or the wider area to impacts that could arise from the development. In doing so, the NPPF states that they should mitigate and reduce to a minimum potential adverse impacts resulting from noise from new development.

8.20 In considering the baseline situation, it is understood that the units within the mobile home park have a very limited degree of separation and also limited scope for acoustic mitigation, given the nature of their construction. Given the presence, however, of domestic / vehicular activity in the locality, alongside the adjacent public house it is recognised that the immediate sound environment is already influenced by certain noise sources to some degree.

8.21 As identified above, the application building is intended to be used as a dog kennel. Its overall size measures 15 square metres and it has been designed to accommodate three dogs. Whilst the external footprint is larger than the pre-existing structure, the internal configuration (three separate dog kennels) has not changed from the pre-existing structure based upon the submitted plans (with the additional footprint now accommodating a shed as opposed to additional accommodation for dogs). Having regard to this, alongside the fact that there would be nothing preventing dogs from being kept on the site in the absence of the development, it is considered that the development would not directly give rise to or facilitate a harmful or significant increase in noise levels.

8.22 In having regard to the Explanatory Note to the Noise Policy Statement for England (NPSE) (Department for Environment, Food & Rural Affairs, 2010) (see NPPF footnote 72), there is no available evidence in this case which indicates that noise levels resulting from the development have resulted in a material change in behaviour due to noise on the part of local residents, which would suggest the development does not result in Significant Observed Adverse Effect Level (SOAEL) being reached.

8.23 Overall, it is concluded that the development does not result in unacceptable adverse impacts associated with noise pollution, that it adequately avoids unacceptable environmental impacts on the National

Park and its special qualities and that it is appropriate for its location taking into account the likely effects (including cumulative effects) of pollution on health, living conditions and the natural environment. The development is therefore in accordance with Policies DP2, SP15 and paragraphs 187 and 198 of the NPPF.

Natural Environment

8.24 With regards to impacts upon the natural environment, the location of the development is such that it would not necessitate the removal of or compromise the long-term retention of any notable trees or hedgerows. The development also does not lie within or adjacent to any nature conservation sites and, given that it replaces a pre-existing outbuilding within the curtilage, it is unlikely to impact significantly upon any local ecological interests.

8.25 It is recognised that biodiversity net gain is now required under the statutory framework introduced by Schedule 7A of the Town and Country Planning Act 1990. In this instance, it has been established that the proposal is exempt from mandatory BNG under Regulation 4(1) of the Biodiversity Gain Requirements (Exemptions) Regulations 2024 as it comprises development that does not impact an onsite priority habitat, impacts upon less than 25 square metres of onsite habitat and impacts on less than 5 metres in length of onsite linear habitat.

Licencing

8.26 It is recognised that concerns have been raised that the development is in breach of site licencing requirements. As a foremost it should be recognised, however, that planning and pollution control systems are separate but complementary in that they are designed to protect the environment from potential harm caused by development and operations. The planning system is not designed to duplicate controls which are the statutory responsibility of other bodies.

8.27 Accordingly, the NPPF makes it clear that the focus of planning decisions should be on whether proposed development is an acceptable use of land, rather than the control of processes (where these are subject to separate regimes) – and that planning decisions should assume that these regimes will operate effectively - a point emphasised in the Government's proposed changes to the NPPF (December 2025). Having regard to this, the concerns raised in relation to licencing would not amount to a material planning consideration in this case. Aside from this, as identified above, the orientation of the building as applied for would be compliant with NFDC licencing requirements. It is important to emphasise that any conflicts with the Site Licence are for New Forest District Council to address as the statutory licensing authority for this area of the National Park. The National Park Authority's remit is focused on assessing the planning merits of the application. In doing so we must assume that other regulatory regimes and processes (e.g Environmental Health and noise abatement controls) that are delivered by other statutory bodies operate effectively.

Other Considerations

8.28 It is recognised that concerns have been raised in relation to dog waste and visitor parking. However, a refusal on the grounds of these concerns would not be sustainable given the nature and scale of the development. Furthermore, the provision of visitor parking would not be of direct relevance to the development concerned. Any matters relating to fire risk can reasonably be addressed under any site licencing requirements. A condition restricting the right to carry out any further development would not be reasonable or necessary given that the site comprises a mobile home and does not benefit from permitted development rights.

8.29 With regards to third party suggestions that conditions should be imposed in relation to noise management, waste management and drainage, given the very modest scale of the development, such conditions would not be reasonable or necessary as such controls are not typically in place for the keeping of domestic pets. Furthermore, in the event that any noise issues do arise, as outlined within comments from the Environmental Protection Officer, such impacts could reasonably be addressed satisfactorily through the use of powers under the Environmental Protection Act. With regards to a restriction on the number of dogs, the size and design of the building would sufficiently limit the scope to increase the overall number of dogs on site to any significant degree. However, in accordance with Policy DP37, there would be scope to impose a condition to ensure the building would be used for purposes incidental to the main dwelling on site.

8.30 Concerns raised in relation to the impact the development has had upon the marketing of the adjacent site is not a material planning consideration.

Conclusion

8.31 It is recognised that a number of third party objections have been raised in this case and the matters raised have been discussed between the parish council, New Forest District Council (as the statutory licensing authority) and the National Park Authority. However, the number of comments alone would not be determinative of the outcome of the application as it is necessary to have regard to the materiality and nature of the objections raised along with the extent to which these demonstrate a conflict with the Development Plan or overriding material planning considerations.

8.32 In this instance, it is concluded that the general principle of the proposed development is established through Policy DP37. Furthermore, having regard to the above assessment, it is concluded that in accordance with Policies SP1 and DP2 the development adequately respects, conserves and enhances the natural beauty, historic environment, landscape character and cultural heritage of the National Park and its special qualities. If there are issues relating to compliance with the Site Licence, New Forest District Council have the statutory responsibility for monitoring and enforcement.

8.33 It is therefore recommended that planning permission should be granted subject to conditions.

9. RECOMMENDATION

Grant Subject to Conditions

Condition(s)

1. Development shall only be carried out in accordance with the following drawings:

Site Location Plan - Drawing Number

Site Plan - Drawing Number 04111 Rev C

Proposed Floor and Roof Plan - Drawing Number 04110 Rev A

No alterations to the approved development shall be made unless otherwise agreed in writing by the New Forest National Park Authority.

Reason: To ensure an acceptable appearance of the building in accordance with Policies SP16, SP17, DP18 and DP2 of the adopted New Forest National Park Local Plan 2016- 2036 (August 2019).

2. The building the subject of this permission shall only be used for purposes incidental to the dwelling on the site and shall not be used for habitable accommodation such as kitchens, living rooms and bedrooms or for any commercial use.

Reason: To protect the character and appearance of the countryside in accordance with Policies DP36 and DP37 of the adopted New Forest National Park Local Plan 2016 - 2036 (August 2019).

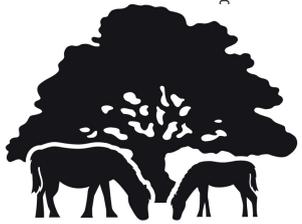
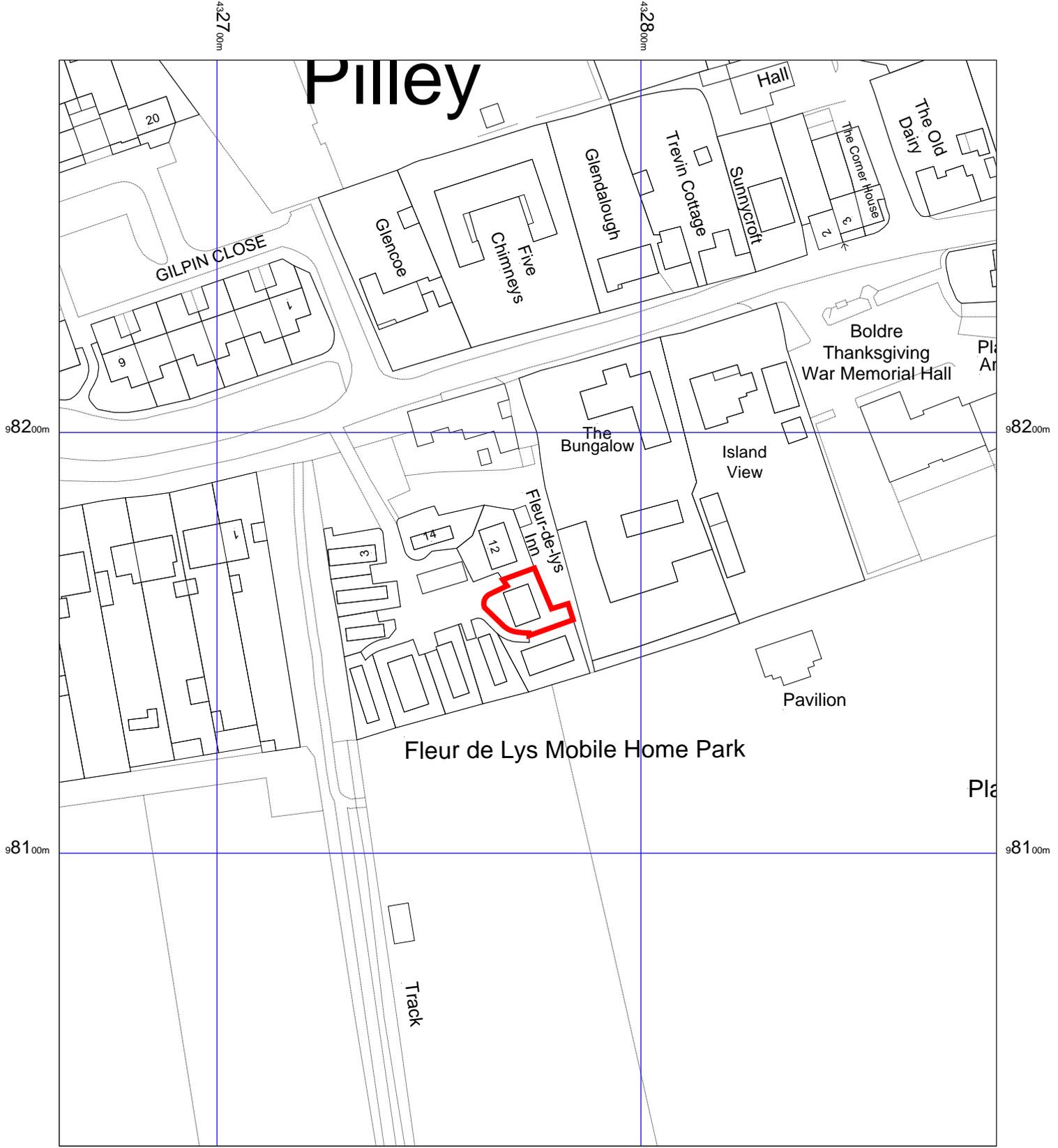
3. The approved siting of the building as indicated in Drawing 04111 Rev C shall be implemented in full within 3 months of the date of this decision and the building shall thereafter be retained in the approved position.

Reason: The current position of the building differs from the positioning applied for and it is therefore necessary to ensure development is undertaken in accordance with the submitted drawings within an appropriate timeframe.

Informative(s):

1. Should issues arise in relation to nuisance, the New Forest District Council will carry out an investigation into the matter and request any necessary actions to be taken in order to mitigate any nuisance caused by the proposed activity.

Therefore, the granting of this planning permission does not in any way indemnify against statutory nuisance action being taken should substantiated complaints within the remit of part III of the Environmental Protection Act 1990 be received



NEW FOREST
NATIONAL PARK

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