

Planning Department  
Chichester District Council  
East Pallant House  
West Sussex  
PO19 1TY

5<sup>th</sup> January 2024

Dear Sir/Madam

**Subject: Variation of Condition of planning permission SB/22/03137/FUL to allow for the substitution of previously approved plans under Condition 2.**

**Address: Paynes Boatyard, Thornham Lane, Southbourne, West Sussex, PO10 8DD**

We are pleased to submit a planning application on behalf of Mrs Victoria Douglas (the applicant) for the proposed development at the above address. The application seeks the variation of condition 2 following the grant of planning permission on 9<sup>th</sup> October 2023 (ref SB/22/03137/FUL) in accordance with Section 73A of the Town and Country Planning Act 1990.

Planning permission was granted for a tied dwelling to serve Paynes Boatyard, including change use of land from commercial to residential. This was subject to conditions listed on the Decision Notice, which is attached to this letter as Appendix 1.

A variation of condition application under S73a of the Act is procedurally appropriate in this instance given that the amendments are consistent with the original description of the proposals; all of the proposed works remain within the same red line as previously submitted; and the applicant remains the same as the extant planning permission.

### **The Proposals**

Condition 2 of the Decision Notice states:

*The development hereby permitted shall be carried out in accordance with the plans listed below under the heading "Decided Plans".*

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

We are seeking to vary the condition to allow for the substitution of amended plans. The plan amendments do not seek to vary the scale or style of the design but instead amend the outlay of certain materials and reduce the extent of glazing. Grey masonry is proposed to replace flintwork and the concrete forming the exposed structural columns is to also be used for constructing ground level walls along the north-west elevation. The extent of timber cladding is to increase

across the habitable level of the north-west elevation. These changes enhance the robustness of the scheme given its marine location and do not impact the overall quality of the proposal.

The extent of glazing is to be rationalised with many elements being reduced in scale whilst some windows have been omitted completely. The roof light on the south-west elevation is now much smaller in size.

### **Conclusion**

The proposed amendments fall within the scope of permissible minor modifications under Section 73a of the Act, and the amended design is in accordance with the development plan with no change to the scale and quality of the previously approved scheme. There are no material considerations that indicate that planning permission should be refused and, subject to conditions, permission should be granted.

We trust that this letter is sufficient in outlining the extent of the proposed amendments. If any further information is required, please do not hesitate to contact us.

Sincerely,

Daniel Masterman  
For and on behalf of Helyer Davies Architects

**Appendix 1:**  
SB/22/03137/FUL Decision Notice

CHICHESTER DISTRICT COUNCIL

TOWN AND COUNTRY PLANNING ACT 1990  
TOWN AND COUNTRY PLANNING (DEVELOPMENT MANAGEMENT PROCEDURE  
ORDER) 2015 (as amended)

Applicant Details:

Mrs Victoria Douglas  
Cranleigh  
Manor Road  
Wantage OX12 8DW  
United Kingdom

In pursuance of their powers under the above mentioned Act and Orders, the Council hereby notifies you that they **PERMIT** the following development, that is to say:

**Tied dwelling to serve Paynes Boatyard, including change use of land from commercial to residential.**

**Paynes Boatyard Thornham Lane Southbourne West Sussex PO10 8DD**

to be carried out in accordance with your application SB/22/03137/FUL submitted to the Council on 14 December 2022 and as modified by any relevant under mentioned conditions and subject to compliance with all conditions specified hereunder:

**Time limits and implementations conditions:**

1. The development hereby permitted shall be begun before the expiration of three years from the date of this permission.

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

2. The development hereby permitted shall be carried out in accordance with the plans listed below under the heading "Decided Plans"

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

**Conditions requiring Local Planning Authority written approval or to be complied with prior to commencement of development:**

3. **No development shall commence** unless the Council has received the Notice of Purchase in accordance with the requirements of the legal agreement between CDC, SDNPA and John Holt dated 21.12.2022 in respect of the Credits Linked Land identified in the Nutrient Neutrality Management Plan (19.04.2023) submitted with the application.

Reason: To demonstrate that suitable mitigation has been secured in relation to the effect that nitrates from the development has on protected sites.

4. **No development shall commence**, including any works of demolition or site clearance, until a Construction and Environmental Management Plan (CEMP) has been submitted to and approved in writing by the Local Planning Authority. Thereafter the approved CEMP shall be implemented and adhered to throughout the entire construction period unless any alternative is agreed in writing by the Local Planning Authority. The CEMP shall provide details of the following:

- (a) the anticipated number, frequency and types of vehicles used during construction,
- (b) the provision made for the parking of vehicles by contractors, site operatives and visitors,
- (c) the loading and unloading of plant, materials and waste,
- (d) the storage of plant and materials used in construction of the development,
- (e) the erection and maintenance of security hoarding,
- (f) the provision of road sweepers and/or wheel washing facilities to mitigate the impact of construction upon the public highway
- (g) measures to control the emission of dust and dirt during construction, to include where relevant sheeting of loads, covering and dampening down stockpiles
- (h) measures to control the emission of noise during construction,
- (i) details of all proposed external lighting to be used during construction and measures used to limit the disturbance of any lighting required. Lighting shall be used only for security and safety,
- (j) appropriate storage of fuel and chemicals, in bunded tanks or suitably paved areas, and
- (k) waste management including litter and prohibiting burning of materials/waste.

Reason: These details are necessary pre-commencement to ensure the development proceeds in the interests of highway safety and in the interests of protecting nearby residents from nuisance during all stages of development and to ensure the use of the site does not have a harmful environmental effect.

5. No development shall commence until a scheme to deal with contamination of land and/or controlled waters has been submitted to and approved in writing by the Local Planning Authority (LPA). Unless the local planning authority dispenses with any such requirement specifically in writing the scheme shall include the following, a Phase 1 report carried out by a competent person to include a desk study, site walkover, production of a site conceptual model and human health and environmental risk assessment, undertaken in accordance with national guidance as set out in DEFRA and the Environment Agency's Model Procedures for the Management of Land Contamination CLR11.

Reason: In the interests of amenity and to protect the health of future occupiers of the site from any possible effects of land contamination in accordance with local and national planning policy.

**Conditions requiring Local Planning Authority written approval or to be complied with prior to specific construction works take place:**

6. If the Phase 1 report submitted pursuant to condition 5 identifies potential contaminant linkages that require further investigation then no development shall commence} until a Phase 2 intrusive investigation report has been submitted to and approved in writing by the LPA detailing all investigative works and sampling on site, together with the results of the analysis, undertaken in accordance with BS 10175:2011+A1:2013 - Investigation of Potentially Contaminated Sites - Code of Practice. The findings shall include a risk assessment for any identified contaminants in line with relevant guidance.

Reason: In the interests of amenity and to protect the health of future occupiers of the site from any possible effects of land contamination in accordance with local and national planning policy.

7. If the Phase 2 report submitted pursuant to condition 6; identifies that site remediation is required then no development shall commence until a Remediation Scheme has been submitted to and approved in writing to the Local Planning Authority detailing how the remediation will be undertaken, what methods will be used and what is to be achieved. Any ongoing monitoring shall also be specified. A competent person shall be nominated by the developer to oversee the implementation of the Remediation Scheme. The report shall be undertaken in accordance with national guidance as set out in DEFRA and the Environment Agency's Model Procedures for the Management of Land Contamination CLR11. Thereafter the approved remediation scheme shall be fully implemented in accordance with the approved details.

Reason: In the interests of amenity and to protect the health of future occupiers of the site from any possible effects of contaminated land in accordance with local and national planning policy.

8. Notwithstanding any details submitted no development/works above slab level shall commence until a full schedule of all materials and finishes and samples of such materials and finishes to be used for external walls and roofs of the building(s) have been submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved schedule of materials and finishes unless otherwise agreed in writing by the Local Planning Authority.

Reason: To enable the Local Planning Authority to control the development in detail in the interest of amenity and to ensure a development of visual quality. It is considered necessary for this to be a pre-commencement condition as such details need to be taken into account in the construction of the development and thus go to the heart of the planning permission.

**Conditions requiring Local Planning Authority written approval or to be complied with by developer before occupation:**

9. No part of the development hereby permitted shall be first occupied until covered and secure cycle parking spaces have been provided in accordance with plans and details that shall first have been submitted to and approved by the Local Planning Authority. Thereafter the cycle parking shall be retained for that purpose in perpetuity.

Reason: To provide alternative travel options to the use of the car in accordance with current sustainable transport policies.

10. No part of the development hereby permitted shall be first occupied until the car parking has been constructed and laid out in accordance with the approved site plan and the details specified within the application form. These spaces shall thereafter be retained at all times for their designated purpose.

Reason: In the interests of ensuring sufficient car parking on-site to meet the needs of the development.

11. Prior to occupation or the dwelling or completion of the works hereby permitted, whichever the earlier, the following ecological enhancements shall be provided:

- a) A hedgehog nesting box should be installed within the site to provide future nesting areas for hedgehogs
- b) A bird box shall be installed on the building and or tree within the garden of the property
- c) A bat box shall be installed on the buildings onsite facing south/south westerly positioned 3-5m above ground.

Thereafter the ecological enhancements shall be retained in perpetuity.

Reason: To ensure that the protection of ecology and/or biodiversity is fully taken into account during the construction process in order to ensure the development will not be detrimental to the maintenance of the species.

12. **The development hereby permitted shall not be first occupied** until a verification report for the approved contaminated land remediation has been submitted in writing to the Local Planning Authority. The report should be undertaken in accordance with national guidance as set out in DEFRA and the Environment Agency's Model Procedures for the Management of Land Contamination CLR11.

Reason: In the interests of amenity and to protect the health of future occupiers of the site from any possible effects of land contamination in accordance with local and national planning policy.

13. **The development hereby permitted shall not be first brought into use** until a scheme detailing hard and soft landscape works have been submitted to and approved in writing by the Local Planning Authority. The scheme shall include the use of native species and plans showing the proposed finished levels or contours; means of enclosure; car parking layouts; other vehicles and pedestrian access and circulation areas; details and samples of the hard surfacing materials; and a planting plan and schedule of plants noting species, plant sizes and proposed numbers/densities and the infrastructure and regime for watering and maintaining the planting. Thereafter the scheme shall be carried out in accordance with the approved details and once provided, the works shall be retained in perpetuity. Any planting that is damaged or dies shall be replaced with like for like planting within the next planting season.

Reason: In the interests of amenity and of the environment of the development.



14. Prior to first occupation of the dwelling hereby permitted an emergency evacuation plan shall be submitted to and approved in writing by the Local Planning Authority. The plan shall include an on-going requirement for all occupants to register with the Environment Agency Flood Alert System. The emergency plan shall be fully implemented prior to first occupation and thereafter it shall be reviewed annually, after a change in circumstances, or after a flood event. The emergency plan shall be kept up to date, maintained in perpetuity, and made available for inspection if requested by the Local Planning Authority at all reasonable hours in perpetuity.

Reason: In the interests of managing flood risk effectively.

**Conditions to be complied with at all times during construction:**

15. Any works to the trees or vegetation clearance on the site should only be undertaken outside of the bird breeding season which takes place between 1st March - 1st October. If works are required within this time an ecologist will need to check the site before any works take place (within 24 hours of any work).

Reason: To ensure that the protection of ecology and/or biodiversity is fully taken into account during the construction process in order to ensure the development will not be detrimental to the maintenance of the species.

16. Any brush piles, compost and debris piles on site could provide shelter areas and hibernation potential for hedgehogs. These piles must be removed outside of the hibernation period mid-October to mid-March inclusive. The piles must undergo soft demolition.

Reason: In the interests of protecting biodiversity.

17. The development shall be carried out in accordance with the submitted flood risk assessment and the following mitigation measures it details:

- Finished floor levels shall be set no lower than 5.57 metres above Ordnance Datum (AOD) These mitigation measures shall be fully implemented prior to occupation and subsequently in accordance with the scheme's timing/phasing arrangements.

The measures detailed above shall be retained and maintained thereafter throughout the lifetime of the development.

Reason: In the interests of managing flood risk effectively.

**Conditions to be complied with at all times following completion of the development:**

- 18 The occupation of the dwelling hereby permitted shall be limited to only a person solely or mainly working or last working at the onsite boatyard, currently known as Paynes Boatyard, or a widow or widower of such a person, and to any resident dependants.

Note: i) "Last Working" covers the case both of a person who is temporarily unemployed or of a person who from old age, or illness, is no longer able to work. Nor need the words necessarily exclude a person who is engaged in other part-time or temporary employment, if that person could still be regarded as a boatyard worker or retired boatyard worker, or a worker in one of the other specific categories. A person who last worked on the boatyard but who now works on a permanent basis mainly outside of the boatyard employment would not satisfy this condition.

ii) "Dependants" means persons linking in family with the person defined and dependant on him (or her) in whole or in part for their subsistence and support.

Reason: The site lies in designated countryside where in accordance with the policies of the Local Plan development unrelated to the essential needs of the boatyard would not normally be permitted.

- 19 Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015 (or any order revoking, re-enacting or modifying that Order) no external illumination shall be provided on the site other than in accordance with a scheme that shall first have been submitted to and approved in writing by the Local Planning Authority. The scheme shall include details of the proposed location, level of luminance and design of the light including measures proposed to reduce light spill. Thereafter the lighting shall be maintained in accordance with the approved lighting scheme in perpetuity.

Reason: In the interests of protecting wildlife and the character of the area.

- 20 Notwithstanding the provisions of Article 3 of the Town and Country Planning (General Permitted Development) Order 2015 (or any order revoking, re-enacting or modifying that Order) no building, structure or other alteration permitted by Class **B or C** of Part 1 Schedule 2 shall be erected or made on the application site without a grant of planning permission.

Reason: In the interests of protecting the amenity of the surrounding area.

21 Notwithstanding the provisions of Part 2 Schedule 2 of the Town and Country Planning (General Permitted Development) (England) Order, 2015 (or any Order revoking, re-enacting or modifying that Order) no fence, wall or other means of enclosure shall be erected, constructed or established on any of the Open Space or Amenity Areas shown on the approved plans.

Reason: To secure the long term retention of the open/amenity areas

## Decided Plans

The application has been assessed and the decision is made on the basis of the following plans and documents submitted:

| Details  | Reference | Version | Date Received | Status   |
|--|-----------|---------|---------------|----------|
| PLAN - BLOCK AND LOCATION PLAN                                       | 21117-00  | REV A   | 14.12.2022    | Approved |
| PLAN - PROPOSED SITE PLAN  | 21117-02  | REV C   | 14.12.2022    | Approved |
| PLAN - PROPOSED SOUTH WEST AND NORTH WEST ELEVATIONS                 | 21117-05  | REV A   | 14.12.2022    | Approved |
| PLAN - PROPOSED NORTH EAST AND SOUTH EAST ELEVATIONS WITH SECTION AA | 21117-07  | REV A   | 14.12.2022    | Approved |
| PLAN - PROPOSED SUB AND GROUND FLOOR PLANS                           | 2117-03   | REV C   | 14.12.2022    | Approved |

## Informative(s)

**1) The Local Planning Authority has acted positively and proactively in determining this application by identifying matters of concern with the proposal and discussing those with the Applicant. However, it has not been possible to resolve them. The Local Planning Authority is willing to provide pre-application advice in respect of any future application for a revised development.**

**2) This decision relates to the following plans: 21117-00A, 21117-02C, 21117-05A, 21117-07A, 21117-03C**

## CIL Informative

This development is considered chargeable development for the purposes of the Community Infrastructure Regulations 2010 (as amended).

Failure to adhere to the Regulations and commencing work without notifying the Council could forfeit any rights you have to exemptions, payment by instalments and you may also incur fines/surcharges.

Any amendments and variations to this permission may impact on your CIL charge which could result in the loss of your CIL exemption/relief and increase the CIL charge especially if the new permission is retrospective.

Further details can be found on the Council's website:

<http://www.chichester.gov.uk/article/27023/CIL-administration-and-collection>

**Please Note:** The headings to the Conditions are inserted for ease of reference only and shall not affect the interpretation of the Condition(s).

The applicant is reminded that the Council operate a formal procedure for the discharge of conditions. Details of this procedure can be found on the Council's website (<http://www.chichester.gov.uk/planningadvice#planningapplications>) or by telephone (01243 534734).

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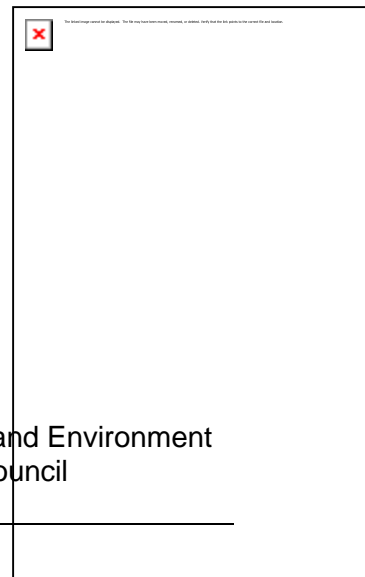
The plans the subject of this decision can be viewed on the Council's website [www.chichester.gov.uk](http://www.chichester.gov.uk) quoting the reference number of the application or alternatively by scanning the QR code. For all applications after May 2003, the relevant plans are listed as "Plans-Decided".

Decision Date : 9 October 2023

Signed:



Andrew Frost  
Director of Planning and Environment  
Chichester District Council



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## Are you CIL Liable?

If so, please complete Form 6 using the link below and return to [CIL@chichester.gov.uk](mailto:CIL@chichester.gov.uk) as soon as possible.

[https://ecab.planningportal.co.uk/uploads/1app/forms/form\\_6\\_commencement\\_notice.pdf](https://ecab.planningportal.co.uk/uploads/1app/forms/form_6_commencement_notice.pdf)

## NOTES

### Town and Country Planning Act 1990 Town and Country Planning (Control of Advertisements) Regulations 1992 Town and Country Planning (Trees) Regulations 1999

Your attention is directed to the following notes. They are for information only and do not pretend to set out the whole of the law on the subject. It would be well for you to consult your solicitor if you are in any doubt.

1. If the applicant is aggrieved by the decision of the District Planning Authority to refuse permission for the development, or is aggrieved by a condition imposed on a planning permission, he may appeal to the Secretary of State in accordance with Section 78 of the Town and Country Planning Act 1990 within six months\* from the date of notice or determination giving rise to the appeal. (All appeals must be made on a form which is obtainable from The Planning Inspectorate, Room 3/04A Kite Wing, Temple Quay House, 2 The Square, Temple Quay, Bristol BS1 6PN. <https://www.gov.uk/planning-inspectorate>. Advertisements and ELD/PLD appeal forms are available from County House, Portland Square, Bristol; Tree Preservation Order appeals forms are available from Government Office from The Planning Inspectorate, The Environment Appeals Team, Trees and Hedges, Room 3/25 Hawk Wing, Temple Quay House, 2 The Square, Temple Quay, Bristol, BS1 6PN. Email – [environment.appeals@pins.gsi.gov.uk](mailto:environment.appeals@pins.gsi.gov.uk) Telephone – 0303 444 5584. One copy of the appeal form must be submitted to the Director of Planning and the Environment, Chichester District Council, East Pallant House, Chichester, West Sussex PO19 1TY).

The Secretary of State has power to allow a longer period for the giving of a notice of appeal but he will not normally be prepared to exercise this power unless there are special circumstances which excuse the delay in giving notice of appeal. The Secretary of State is not required to entertain an appeal if it appears to him that permission for the proposed development could not have been granted by the District Planning Authority, or could not have been so granted otherwise than subject to the conditions imposed by them, having regard to the statutory requirements to the provisions of the development order, and to any directions given under the order.

**\* APPLICANTS SHOULD NOTE THAT THE PERIOD FOR MAKING AN APPEAL IN RESPECT OF HOUSEHOLDER APPLICATIONS (SUFFIX /DOM) IS 12 WEEKS FROM THE DATE OF THIS NOTICE; FOR ADVERTISEMENT APPLICATIONS (SUFFIX /ADV) IT IS 8 WEEKS; AND FOR TREE APPLICATIONS (SUFFIX /TPA) IT IS 28 DAYS.**

2. If permission to develop land is refused or granted subject to conditions, whether by the District Planning Authority or by the Secretary of State, and the owner of the land claims that the land has become incapable of reasonably beneficial use by the carrying out of any development which has been or would be permitted, he may serve on the Council of the County District in which the land is situated a purchase notice requiring that Council to purchase his interest in the land in accordance with the provisions of Part V of the Town and Country Planning Act 1990.
3. In certain circumstances a claim may be made against the District Planning Authority for compensation where permission is refused or granted subject to conditions by the Secretary of State on appeal or on a reference of the application to him. The circumstances in which such compensation is payable are set out in the Town and Country Planning Act 1990.
4. By Section 195 of the Town and Country Planning Act 1990 where an application is made to a District Planning Authority for a Certificate of Lawful Use or Development and is refused in part, the applicant may by notice under this sub-section appeal to the Secretary of State and on any such appeal the Secretary of State shall:
  - (a) if and so far as he is satisfied that the Authority's refusal is not well-founded, grant to the appellant a Certificate of Lawful Use or Development accordingly or, as the case may be, modify the certificate granted by the Authority on the application, and:
  - (b) if and so far as he is satisfied that the Authority's refusal is well-founded, dismiss the appeal.
5. Applicants are advised to consult Regulation (15) of the Advertisements Regulations 1992 regarding appeals in respect of advertisements.
6. Where this notice conveys approval or permission, conditional or unconditional please note that the decision given does not purport to convey any consent or approval which may be required under the

Public Health Acts and Building Regulations. Additionally applicants are advised to check the need for notice to be given under the Party Wall etc. Act 1996.

7. Where this notice conveys approval or permission subject to conditions, applicants are reminded that the onus is on them to ensure the conditions have been complied with. Under some circumstances a failure to comply with a condition may result in the whole development being unauthorised.

Just received permission for a new property or development? Please register below for a Royal Mail postal address:-

<https://eforms.chichester.gov.uk/officeforms/application-for-a-new-single-dwelling-or-development.ofml>