

Application No: 15/00767/FULL Full Application

Site: Shirley Holms Farm, Shirley Holms, Sway, Lymington, SO41 8NH

Proposal: New Commoner's dwelling; new agricultural barn; new stables

Applicant: Mr J Moore

Case Officer: Clare Ings

Parish: SWAY

1. REASON FOR COMMITTEE CONSIDERATION

Application for commoner's dwelling requiring committee determination

2. DEVELOPMENT PLAN DESIGNATION

Special Area of Conservation
Special Protection Area
Site of Special Scientific Interest
Ramsar Site

3. PRINCIPAL DEVELOPMENT PLAN POLICIES

CP1 Nature Conservation Sites of International Importance
CP2 The Natural Environment
CP7 The Built Environment
CP11 Affordable Housing
DP1 General Development Principles
DP20 Agricultural and Forestry Buildings

4. SUPPLEMENTARY PLANNING GUIDANCE

Sway Village Design Statement

5. NATIONAL PLANNING POLICY FRAMEWORK

Sec 6 - Delivering a wide choice of high quality homes
Sec 7 - Requiring good design
Sec 11 - Conserving and enhancing the natural environment

6. MEMBER COMMENTS

None received

7. PARISH COUNCIL COMMENTS

Sway Parish Council: Recommend permission for the reason below:

- Sway residents thoroughly support commoning
- the approval of the NFNPA Commoners Dwelling Scheme Panel and the two close neighbours is noted
- the design and style of the commoners dwelling is appropriate
- that there is assurance that this development - including the barn and any other outbuildings - could only ever be used for commoners
- the current screening to be maintained and further screening from Jealous Lane would be welcomed

8. CONSULTEES

- 8.1 Ecologist: Support subject to conditions relating to development being carried out in accordance with the submitted ecology report (including securing S106 contributions for mitigation)
- 8.2 Landscape Officer: No objection subject to conditions for landscaping and restricting lighting.
- 8.3 Tree Officer: No objection, subject to conditions relating to the protection of trees/hedges during all aspects of clearance and construction.
- 8.4 Land Drainage (NFDC): No objection subject to condition relating to the surface water drainage.
- 8.5 Natural England: awaiting further comments on the need for s106 contributions, to be reported orally at the meeting.

9. REPRESENTATIONS

- 9.1 Five letters of support - the proposal would allow the applicant to continue commoning.

10. RELEVANT HISTORY

- 10.1 None relevant.

11. ASSESSMENT

- 11.1 Shirley Holms Farm lies to the north of Shirley Holms Road and comprises a farm house and barns with paddocks to the north and west of the buildings. It is run by the applicant's mother as an equestrian centre, and is accessed from the road via two accesses, one directly adjacent to the dwelling and the other further along the road to the west. The application site is accessed via the latter of these two entrances and is approached via a track which turns west at right angles around a paddock in separate ownership. Currently the site is a single field, moderately level at its southern end, but then dropping down into a valley. The eastern and northern boundaries are formed by post and wire fencing, and the west boundary comprises trees,

including a small copse of mixed Oak and Pine in the south-west corner. Beyond that boundary is the open forest.

- 11.2 To the south of the site is a semi-detached pair of dwellings, whilst to the east is St Dominic's Priory. There is sporadic residential development at Jealous Holding to the north and woodland to the south.
- 11.3 The application is for a commoner's dwelling and associated barns. The dwelling would be located within the site to take advantage of the limited level part of the site, with a barn and stables completing a courtyard arrangement. Access to the site would use the existing gravel track, and the remainder of the land would be left as paddock. The dwelling would be a two storey red brick building under a slate roof with a single storey timber lean-to element to the rear, and would have a total internal floorspace of just under 120m². The barn would measure approximately 18m by 9m with a roof height of just under 4m and would be constructed of plastic coated steel cladding and box profile sheeting. The stable would provide accommodation for three horses/tack room and open store and would measure just over 3.5m by 18m with a height of approximately 4m.

Policy background and Commoners Dwelling Scheme

- 11.4 New residential development is very strictly controlled within the National Park under policy CP12, the exceptions being for agricultural or forestry workers, or for affordable housing, which encompasses commoners' dwellings. Specifically, there is a concern that the lack of suitable accommodation for commoners could threaten the sustainability of commoning in the future. The Commoner's Dwelling Scheme (CDS) was set up in 1992. Its purpose was to enable commoners, who met certain criteria and were prepared to enter into appropriate legal obligations, to obtain planning permission to build dwellings outside the defined villages from which they could common. The occupation of dwellings permitted under the CDS would be strictly controlled.
- 11.5 The Authority took over the CDS in 2006 and a Review of the CDS was undertaken in 2011 to consider the robustness of the legal framework, the eligibility criteria and the scale of holdings developed. A further report setting out the background to the CDS and wider concerns raised about the administration of the CDS was considered at a meeting of the Authority on 28 March 2013.
- 11.6 Applications for commoners' dwellings are considered under Policy CP11 (affordable housing) and follow a three stage process. Stage One is the consideration of an applicant's eligibility by the Commoner's Dwelling Scheme Panel (CDSP) who provide an initial recommendation as to whether an applicant should be considered as an appropriate person to apply for

planning permission under the CDS. Stage Two is the determination of the planning application by the Authority, all elements for planning application being considered in the usual way, and Stage Three is the completion of various legal agreements, obligations, transfers and leasing arrangements.

Stage One - satisfying the eligibility criteria

- 11.7 As part of this Stage One process, an applicant must demonstrate that they are a genuine commoner with an established recent history of commoning in terms of the number of stock depastured (a minimum of five ponies and/or cattle for at least seven years in their own right, or the same number of stock in their own right for at least five years, plus two years with their family), their needs for housing, demonstrating that commoning cannot be carried out from their current address and that they do not have access to another property from which to common. In addition, the land must have common rights of pasture, be a minimum of two acres and be owned by the applicant.
- 11.8 The commoning history relates to stock (payment of marking fees), animal welfare and agister's references. The applicant also has to be financially capable of building the dwelling. The information relating to the commoning history is checked by the Verderers, and the Commoners Defence Association is consulted. This is the information that the CDSP considers and upon which it makes a recommendation on the eligibility, or otherwise, of an applicant, as a candidate for the CDS. In these respects, the criteria of the CDS have been met, and the CDSP were therefore supportive of the proposed arrangements subject to safeguards being in place through legal agreements.
- 11.9 The applicant, who currently resides at Shirley Holms Farm, has been running some stock (11 ponies) from this current address and also his cattle from his father's stock at Honeypot Farm in Wootton for convenience. It is a requirement of the Scheme that an applicant has to have been actively commoning for some time, albeit in less than ideal circumstances. Shirley Holms Farm is an equestrian centre with a number of horses at livery. It is understood that these horses and the wild and unpredictable Forest ponies do not mix well, and that moving this stock away from the livery horses with direct access onto the open Forest would be hugely beneficial for both "breeds". The cattle, currently housed away from the applicant's main residence, could then be supervised much more conveniently and allow the herd to be built up.
- 11.10 In respect of the requirements for the applicant, as stated above he currently lives at Shirley Holms Farm with his mother, who is not actively involved in commoning. The applicant is currently commoning from that property, but it is important to help young commoners establish their independence. Whilst the applicant's

father benefited from the scheme several years ago with a property built at Wootton, he still actively commons and is likely to do so well into the future, thus that property is not available to the applicant. The applicant is seeking to establish his own independence and allow his commoning stock to be managed separately from that of his father's stock. Whilst there are a number of properties in the parish of Sway which benefit from an agricultural occupancy condition, none are in the immediate vicinity where the applicant runs his stock and none are available to him. The applicant has also previously advised (through his application for inclusion on the Scheme) that other properties that do come up for sale in the vicinity are well beyond his price range.

- 11.11 In this regard, officers are satisfied that there is a local need for the applicant to live close to his commoning activity in this location.
- 11.12 Commoners' dwellings differ from other forms of affordable housing in so far that they are financed and built by the applicant (rather than a housing provider) and for this reason, an applicant has to demonstrate how they propose to meet the costs of building the dwelling as part of the Stage One process. Furthermore, it is not always practical to locate new commoners' dwellings on sites in or adjoining villages. There are also other criteria which have to be met such as the applicant having to own the land and having access to sufficient back-up grazing for use in association with the commoning enterprise.
- 11.13 The commoning credentials of the applicant were considered by the CDSP whose advice is that the applicant meets the relevant criteria. Officers agree with this assessment but it is open to Members to consider the applicants eligibility as part of the wider planning application process.

Stage Two - planning considerations

- 11.14 The appearance and size of the proposed dwelling is very similar to other recently approved commoners' dwellings, and in that respect is considered satisfactory. It would have a traditional "New Forest cottage" appearance, be built of red brick under a slate roof, with a single storey timber outshut. The dwelling would also have an internal floorspace limited to 120m² which is considered appropriate for a dwelling of this type. It would be appropriately located, sufficient distance from Kestrel Cottage and Harlequin, the two properties to the south, so as not to cause any undue overlooking or impact on the private amenities of the occupiers.
- 11.15 As set out in para 11.3 above, two additional buildings are proposed: a stable block and a barn. The applicant has not provided any specific information to demonstrate why these particular buildings are required, but it is usual for commoners to

have other buildings for the storage of machinery, and also to allow sick stock to be removed from the forest when required. The holding as a whole has to be capable of supporting a commoner. In terms of scale, the proposed barns are fairly modest and not dissimilar in size from barns required by other commoners. The height of the buildings, not exceeding 4m, would ensure that their impact would be limited. In distant views (from the north and Jealous Holding) the whole complex would be seen as an adjunct to the existing barns at Shirley Holms Farm and also against the backdrop of trees along the boundary. A condition is also recommended that the barns would have to be constructed prior to the dwelling.

- 11.16 Natural England are supportive of commoning as a means of preserving the ecological habitat of the New Forest, provided that there is a direct link between the commoning activities at the proposed dwelling and management of activities of a European site. Although the applicant has advised that he would be prepared to make a contribution towards mitigation of the adjoining New Forest SPA, to date none have been sought from other similar schemes. For these reasons, it is not considered necessary to require a separate financial contribution to mitigate the effects of the proposed dwelling (such a contribution would ordinarily be required for new dwellings within 400m of the New Forest SPA).
- 11.17 A Phase 1 Ecological Survey was carried out and identified the potential for nearby trees to support roosting bats. There is no proposal to fell any of these trees and therefore no bats should be unduly affected. There is little evidence of other protected species within the site, such as reptiles and badger setts, but it is proposed to include owl boxes within the barns and trees to ensure that these populations would have valuable nesting sites.
- 11.18 Contributions have not historically been sought in relation to open space provision or off-site transport works for commoners' dwellings, due to the specific nature of the applications and that the applicant would already be providing a significant investment into the scheme, in any event, for the benefit of the wider National Park and commoning. Whilst the Development Standards SPD does confirm that such contributions would ordinarily be required, it is not considered reasonable to seek this on the current application, for the same reasons as above.

Stage Three - legal agreements

- 11.19 Should the Authority be minded to approve the application, the third stage of the process requires the completion of a detailed legal agreement to ensure that the dwelling and the grazing land remains available for commoning in perpetuity. The applicant has accepted the terms of the agreement.

12. RECOMMENDATION

Subject to the further views of Natural England and the prior completion of a section 106 agreement to address the details raised in 11.19 above, the Executive Director of Strategy & Planning be authorised to grant planning permission subject to the following 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 as amended by Section 51 of the Planning and Compulsory Purchase Act 2004.

- 2 Development shall only be carried in accordance with Drwg nos STA/316/001, STA/316/002, STA/316/003, STA/316/004, STA/316/005, STA/316/006 and STA/316/007.

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 buildings in accordance with policies CP7, CP8, DP6 and DP1 of the New Forest National Park Core Strategy and Development Management Policies (DPD) December 2010.

- 3 No development shall take place until samples or exact details of the facing and roofing materials for all elements of the scheme have been submitted to and approved in writing by the New Forest National Park Authority.

Development shall only be carried out in accordance with the details approved.

Reason: To ensure an acceptable appearance of the building in accordance with Policy DP1 of the New Forest National Park Core Strategy and Development Management Policies (DPD) (December 2010).

- 4 The dwelling hereby permitted shall not be occupied until the barns hatched green on the approved plan have been completed.

Reason: The dwelling and barns together are only justified on the basis that they are necessary to provide accommodation for a commoner and to enable the practice of commoning to be successfully undertaken in accordance with Policies CP11 and DP20 of the New Forest National Park Core Strategy and Development Management Policies (DPD) (December 2010).

- 5 The occupation of the dwelling shall be limited solely to a commoner eligible under the Commoner's Dwelling Scheme, and to any resident dependants.

Reason: The dwelling is only justified on the basis that it is necessary to provide accommodation for a commoner in accordance with Policy CP11 of the New Forest National Park Core Strategy and Development Management Policies (DPD) (December 2010). The proposal would otherwise be contrary to Policy CP12 of the New Forest National Park Core Strategy and Development Management Policies (DPD) (December 2010).

- 6 The buildings hatched green and the subject of this permission shall only be used for agricultural/commoning purposes and for no other commercial, business or storage purposes whatsoever.

Reason: The buildings are only justified on the basis that they are necessary for agriculture/commoning and in accordance with Policy DP20 of the New Forest National Park Core Strategy and Development Management Policies (DPD) (December 2010).

- 7 Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any re-enactment of that Order) no extension (or alterations) otherwise approved by Classes A, B or C of Part 1 of Schedule 2 to the Order, garage or other outbuilding otherwise approved by Class E of Part 1 of Schedule 2 to the Order, or means of enclosure otherwise approved by Class A of Part 2 of Schedule 2 to the Order shall be erected or carried out without express planning permission first having been granted.

Reason: In view of the physical characteristics of the plot, the New Forest National Park Authority would wish to ensure that any future development proposals do not adversely affect the visual amenities of the area and the amenities of neighbouring properties, contrary to Policy DP1 of the New Forest National Park Core Strategy and Development Management Policies (DPD) (December 2010).

- 8 No development shall take place until a scheme of landscaping of the site shall be submitted to and approved in writing by the New Forest National Park Authority. This scheme shall include :

- (a) the existing trees which have been agreed to be retained;
- (b) a specification for new planting (species, size, spacing and location);
- (c) areas for hard surfacing and the materials to be used;
- (d) other means of enclosure;
- (e) a method and programme for its implementation and the means to provide for its future maintenance.

No development shall take place unless these details have been approved and then only in accordance with those details.

Reason: To ensure that the development takes place in an appropriate way and to comply with Policy DP1 of the New Forest National Park Core Strategy and Development Management Policies (DPD) (December 2010).

- 9 Unless otherwise agreed in writing by the National Park Authority, development shall only take place in accordance with the recommendations for ecological mitigation and enhancement which are set out in the ecological report (Lindsay Carrington Ecological Services Ltd Ecology Appraisal September 2015) hereby approved. The specified measures shall be implemented and retained at the site in perpetuity.

Reason: To safeguard protected species in accordance with Policies DP1 and CP2 of the New Forest National Park Core Strategy and Development Management Policies (DPD) (December 2010).

- 10 The trees/hedges on the site which are shown to be retained on the approved plans shall be protected during all site clearance, demolition and building works in accordance with the measures set out in the submitted arboricultural statement (John Shutler Tree Services Arboricultural Report dated 21/09/2015).

Reason: To safeguard trees and natural features which are important to the visual amenities of the area, in accordance with Policies DP1 and CP2 of the New Forest National Park Core Strategy and Development Management Policies (DPD) (December 2010).

- 11 No development shall take place until details of the means of disposal of surface water from the site have been submitted to and approved in writing by the New Forest National Park Authority.

Development shall only take place in accordance with the approved details.

Reason: In order to ensure that the drainage arrangements are appropriate and in accordance with Policy DP1 of the New Forest National Park Core Strategy and Development Management Policies (DPD) (December 2010).

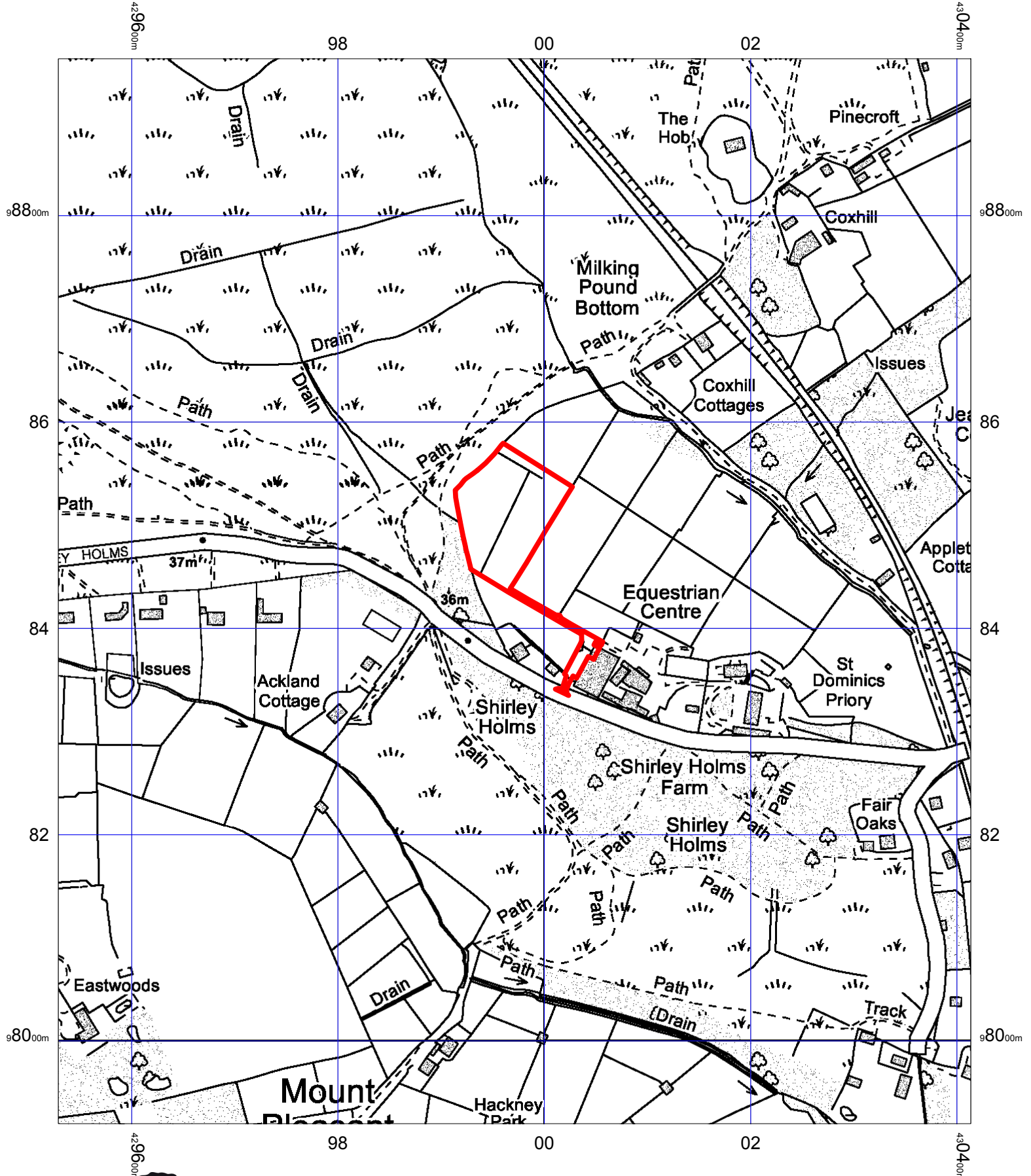
- 12 No external lighting shall be installed on the site unless details of such proposals have been submitted to and approved in writing by the New Forest National Park Authority.

Reason: To protect the amenities of the area in accordance with

Policies DP1 and CP6 of the New Forest National Park Core Strategy and Development Management Policies (DPD) (December 2010).

- 13 All materials and machinery to be used in the carrying out of the development hereby approved shall be stored within the red line application site unless otherwise agreed in writing by the local planning authority.

Reason: In the interests of protecting the New Forest Site of Special Scientific Interest in accordance with Policy CP2 of the New Forest National Park Core Strategy and Development Management Policies (DPD) (December 2010).



New Forest National Park Authority
 Lymington Town Hall, Avenue Road,
 Lymington, SO41 9ZG

Tel: 01590 646600 Fax: 01590 646666
 Date: 03/02/2016

Ref: 15/00767/FULL

Scale: 1:5000

© Crown copyright and database rights 2016 Ordnance Survey 1000114703

