

NOTICE OF MEETING

Meeting: PLANNING DEVELOPMENT CONTROL COMMITTEE

Date and Time: WEDNESDAY, 10 AUGUST 2016, AT 9.00 AM*

Place: THE COUNCIL CHAMBER, APPLETREE COURT,
LYNDHURST

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PUBLIC PARTICIPATION:

*Members of the public are entitled to speak on individual items on the public agenda in accordance with the Council's public participation scheme. To register to speak please contact Development Control Administration on Tel: 02380 285345 or E-mail: DCAdministration@nfdc.gov.uk

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Chief Executive

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This Agenda is also available on audio tape, in Braille, large print and digital format

AGENDA

Apologies

1. MINUTES

To confirm the minutes of the meeting held on 13 July 2016 as a correct record.

2. DECLARATIONS OF INTEREST

To note any declarations of interest made by members in connection with an agenda item. The nature of the interest must also be specified.

Members are asked to discuss any possible interests with Democratic Services prior to the meeting.

3. PLANNING APPLICATIONS FOR COMMITTEE DECISION

To determine the applications set out below:

(a) **Land South of Lymington Road, New Milton (Application 13/11276) (Pages 1 - 16)**

4 houses; site of alternative natural green space; access (Outline Application with details only of access)

RECOMMENDED:

Refuse

(b) **Merryfield Park, Derritt Lane, Sopley (Application 13/11408) (Pages 17 - 22)**

Proposed amendments to the Section 106 Agreement regarding the type of Affordable Housing and the removal of Code Level Four requirements

Approved Scheme: The erection of up to 80 dwellings with the retention of up to 11 existing buildings with a total floor area of no more than 1,309 sqm for B1 uses and a museum all with associated access point, the provision of SANGS and open space, the provision of a footpath along Derritt Lane and the demolition of all buildings and structures on the site with the exception of those retained for the B1 or museum uses (Outline application with all matters reserved)

RECOMMENDED:

That the Section 106 Agreement be varied in accordance with the details set out in paragraph 9 of the report.

(c) **59 Station Road, New Milton (Application 15/10032) (Pages 23 - 36)**

Second and three-storey extensions to create 10 flats; parking

RECOMMENDED:

Planning consent subject to conditions

(d) **Land adjacent 1 Dukeswood Drive, Dibden Purlieu, Hythe (Application 15/10039) (Pages 37 - 48)**

Detached house

RECOMMENDED:

Planning consent subject to conditions

(e) **40 Hobart Drive, New Milton (Application 15/11264) (Pages 49 - 58)**

Two-storey dwelling; parking

RECOMMENDED:

Planning consent subject to conditions

- (f) **Land of 115 Eastfield Lane, Ringwood (Application 15/11276) (Pages 59 - 68)**
Bungalow; access and parking alterations; demolition of existing garage
RECOMMENDED:
Planning consent subject to conditions
- (g) **Land of 46 & 48 Hammonds Green, Totton (Application 15/11590) (Pages 69 - 78)**
Bungalow; parking; access off Brackley Way
RECOMMENDED:
Planning consent subject to conditions
- (h) **Police Station, 68-74 Old Milton Road, New Milton (Application 15/11765) (Pages 79 - 90)**
Variation of condition 2 of Planning Permission 14/11441 to allow amended plan no's for variation to plot 3
RECOMMENDED:
Grant the variation of condition
- (i) **Land North of Loperwood Lane, Calmore, Totton (Application 15/11797) (Pages 91 - 106)**
Up to 80 dwellings; open space; drainage (Outline Application with all matters reserved)
RECOMMENDED:
Refuse
- (j) **Ringwood Social Club, 19 West Street, Ringwood (Application 15/11824) (Pages 107 - 124)**
Office building; 1 pair of semi-detached houses; 1 terrace of 3 houses; demolition of existing club extension and single-storey rear extension; external window and door alterations; parking; access; landscaping
RECOMMENDED:
Planning consent subject to conditions

- (k) **29 Fairview Drive, Hythe (Application 16/10022) (Pages 125 - 136)**
Single-storey rear extension; raised decking; fenestration alterations and handrail to side elevation; access alterations to No. 29; two bungalows; access; parking
- RECOMMENDED:**
- Planning consent subject to conditions
- (l) **Site of 14 Salisbury Road, Totton (Application 16/10337) (Pages 137 - 146)**
One three-storey block of 4 flats; bin and cycle store; demolition of existing (part retrospective)
- RECOMMENDED:**
- Planning consent subject to conditions
- (m) **35 Shaftesbury Street, Fordingbridge (Application 16/10460) (Pages 147 - 164)**
Use as 30 seat cinema; 8 flats; bar; terrace; fenestration alterations; external refurbishment
- RECOMMENDED:**
- Planning consent subject to conditions
- (n) **Four Acres Farm, Salisbury Road, Calmore, Netley Marsh (Application 16/10508) (Pages 165 - 176)**
Temporary siting of agricultural workers' mobile dwelling with ancillary agricultural storage sheds (retrospective) and container
- RECOMMENDED:**
- Refuse
- (o) **35-37 Hampton Lane, Blackfield, Fawley (Application 16/10524) (Pages 177 - 188)**
Use of ground floor as 2 flats; single-storey front and rear extensions; associated alterations; cycle store
- RECOMMENDED:**
- Planning consent subject to conditions

- (p) **Land rear of the Compass Inn, High Street, East End, Damerham (Application 16/10579) (Pages 189 - 198)**
Conversion of barn to dwelling; associated external alterations; office/cartshed; use of stables as workshop
RECOMMENDED:
Planning consent subject to conditions
- (q) **Chance, Hare Lane, Hordle (Application 16/10583) (Pages 199 - 206)**
Single-storey rear extension, raise ridge height; front and rear dormers in association with new first floor; detached double garage
RECOMMENDED:
Planning consent subject to conditions
- (r) **9 Hurst Road, Milford-on-Sea (Application 16/10621) (Pages 207 - 218)**
2 pairs of semi-detached houses; parking; access; demolition of existing
RECOMMENDED:
Executive Head of Economy, Housing and Planning authorised to grant planning consent
- (s) **49 Old Milton Road, New Milton (Application 16/10626) (Pages 219 - 224)**
Display illuminated fascia sign and non-illuminated window and door signs (Application for Advertisement Consent)
RECOMMENDED:
Grant advertisement consent subject to conditions.
- (t) **11 St Johns Street, Hythe (Application 16/10658) (Pages 225 - 230)**
2 outbuildings (retrospective)
RECOMMENDED:
Refuse
- (u) **Land at Flaxfields End, Fordingbridge (Application 16/10681) (Pages 231 - 240)**
2 pairs of link-attached houses; bike stores; associated parking
RECOMMENDED:
Refuse

- (v) **Land adjacent 30 Barrs Wood Road, New Milton (Application 16/10748) (Pages 241 - 250)**
Bungalow with associated parking; access; landscaping
RECOMMENDED:
Planning consent subject to conditions
- (w) **1 Knowland Drive, Milford-on-Sea (Application 16/10753) (Pages 251 - 258)**
2 detached houses; demolition of existing
RECOMMENDED:
Refuse
- (x) **45 Barton Court Avenue, Barton-on-Sea, New Milton (Application 16/10758) (Pages 259 - 268)**
2 two-storey detached houses; detached garage; access; parking; fencing; landscaping; demolition of existing
RECOMMENDED:
Planning consent subject to conditions
- (y) **Church, Fordingbridge Road, Whitsbury (Application 16/10759) (Pages 269 - 282)**
Use as 1 residential dwelling; windows; rooflights; minor external alterations; partial demolition
RECOMMENDED:
Planning consent subject to conditions
- (z) **52 Doe Copse Way, New Milton (Application 16/10767) (Pages 283 - 288)**
Fence (Retrospective)
RECOMMENDED:
Planning consent subject to conditions
- (aa) **13b Junction Road, Totton (Application 16/10792) (Pages 289 - 296)**
Use as dwelling; associated external alterations (retrospective)
RECOMMENDED:
Executive Head of Economy, Housing and Planning authorised to grant planning consent

(bb) **4 Forest Gate Gardens, Pennington, Lymington (Application 16/10820)
(Pages 297 - 304)**

Use of garage as ancillary living accommodation; fenestration alterations, extend driveway

RECOMMENDED:

Planning consent subject to conditions

(cc) **Harleys, 1 Shaftesbury Street, Fordingbridge (Application 16/10332)
(Pages 305 - 310)**

Ancillary smoking area and temporary parasols

RECOMMENDED:

Planning consent subject to conditions

(dd) **Land of 8 Malthouse Gardens, Marchwood (Application 16/10833) (Pages 311 - 318)**

Two-storey extension to form dwelling

RECOMMENDED:

Refuse

(ee) **Rear of 117 Christchurch Road, Ringwood (Application 16/10854) (Pages 319 - 332)**

House; parking; shed

RECOMMENDED:

Planning consent subject to conditions

4. ANY OTHER ITEMS WHICH THE CHAIRMAN DECIDES ARE URGENT

To:

Councillors:

Mrs D E Andrews (Chairman)
P J Armstrong
Mrs S M Bennison
Mrs F Carpenter
A H G Davis
R L Frampton
L E Harris
D Harrison
Mrs A J Hoare
Mrs M D Holding

Councillors:

J M Olliff-Cooper
A K Penson
W S Rippon-Swaine
Mrs A M Rostand
Miss A Sevier
M H Thierry
R A Wappet
Mrs C V Ward (Vice-Chairman)
M L White
Mrs P A Wyeth

STATUTORY TESTS

Introduction

In making a decision to approve or refuse planning applications, or applications for listed building consent, conservation area consent and other types of consent, the decision maker is required by law to have regard to certain matters.

The most commonly used statutory tests are set out below. The list is not exhaustive. In reaching its decisions on the applications in this agenda, the Committee is obliged to take account of the relevant statutory tests.

The Development Plan

The Development Plan Section 38

The Development Plan comprises the local development plan documents (taken as a whole) which have been adopted or approved in relation to that area.

If regard is to be had to the Development Plan for the purpose of any determination to be made the determination must be made in accordance with the plan unless material considerations indicate otherwise.

Listed Buildings

Section 66 General duty as respects listed buildings in exercise of planning functions. Planning (Listed Buildings and Conservation Areas) Act 1990

In considering whether to grant planning permission for development which affects a listed building or its setting, the local planning authority or, as the case may be, the Secretary of State shall have special regard to the desirability of preserving the building or its setting or any features or special architectural or historic interest which it possesses.

Conservation Areas

Section 72 General duty as respects conservation areas in exercise of planning functions Planning (Listed Buildings and Conservation Areas) Act 1990

(1) In the exercise, with respect to any buildings or other land in a conservation area, of any powers under any of the provisions mentioned in subsection (2), special attention shall be paid to the desirability of preserving or enhancing the character or appearance of that area.

(2) The provisions referred to in subsection (1) are the Planning Acts and Part 1 of the Historic Buildings and Ancient Monuments Act 1953.

Areas of Outstanding Natural Beauty (AONB's)

Section 85. General duty as respects AONB's in exercise of any function Countryside and Rights of Way Act 2000

In exercising or performing any functions in relation to, or so as to affect, land in an area of outstanding natural beauty, a relevant authority shall have regard to the purpose of conserving and enhancing the natural beauty of the area of outstanding natural beauty.

Trees

Section 197. Trees Town and Country Planning Act 1990

It shall be the duty of the local planning authority (a) to ensure, whenever it is appropriate, that in granting planning permission for any development adequate provision is made, by the imposition of conditions, for the preservation or planting of trees; and (b) to make such orders under section 198 as appear to the authority to be necessary in connection with the grant of such permission, whether for giving effect to such conditions or otherwise.

Biodiversity

Section 40. Duty to conserve biodiversity Natural Environment and Rural Communities Act 2006

Every public authority must, in exercising its functions, have regard, so far as is consistent with the proper exercise of those functions, to the purpose of conserving biodiversity.

Conserving biodiversity includes, in relation to a living organism or type of habitat, restoring or enhancing a population or habitat.

Conservation of Habitats and Species Regulations 2010

Under the provisions of the Conservation of Habitats and Species Regulations 2010, the Council has to ensure that development proposals will not have an adverse impact on the integrity of a designated or candidate Special Area of Conservation (SAC), classified or potential Special Protection Area (SPA), or listed Ramsar site and mitigation will be required.

Any development involving the creation of new residential units within the District will have such an impact because of the resulting cumulative recreational pressure on these sensitive sites. Under Policy DM3 of the adopted Local Plan Part 2, the Council's general approach is to recognise that the impact is adequately mitigated through the payment of contributions for the provision of alternative recreational facilities, management measures and monitoring.

Equality

The Equality Act 2010 provides protection from discrimination in respect of certain protected characteristics, namely: age, disability, gender reassignment, pregnancy and maternity, race, religion or beliefs and sex and sexual orientation. It places the Council under a legal duty to have due regard to the advancement of equality in the exercise of its powers including planning powers. The Committee must be mindful of this duty *inter alia* when determining all planning applications. In particular the Committee must pay due regard to the need to:

- (1) eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under the Act;
- (2) advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it; and
- (3) foster good relations between persons who share a relevant protected characteristic and persons who do not share it.

Financial Considerations in Planning

Section 70 of the Town and Country Planning Act 1990 as amended by the Localism Act 2011 requires all reports dealing with the determination of planning applications to set out how "local financial considerations" where they are material to the decision have been dealt with. These are by definition only Community Infrastructure Levy (CIL) payments and government grant in the form of the New Homes Bonus.

New Forest District Council adopted a CIL charging schedule on 14 April 2014. The implementation date for the charging schedule is 6 April 2015. The New Homes Bonus Grant is paid to the Council by the Government for each net additional dwelling built in the District. The amount paid depends on the Council tax banding of the new dwellings and ranges between £798 and £2,304 per annum for a six year period. For the purposes of any report it is assumed that all new dwellings are banded D (as we don't actually know their band at planning application stage) which gives rise to grant of £1152 per dwelling or £6,912 over six years.

Application Number: 13/11276 Outline Planning Permission

Site: Land south of, LYMINGTON ROAD, NEW MILTON BH25 6PR

Development: 4 houses; site of alternative natural green space; access
(Outline Application with details only of access)

Applicant: Mr Chappell

Target Date: 06/12/2013

Extension Date: 30/06/2016

1 REASON FOR COMMITTEE CONSIDERATION

Previous Committee consideration and contrary to policy and to allow additional considerations that have come about following the initial resolution to be taken on board.

2 DEVELOPMENT PLAN AND OTHER CONSTRAINTS

Built-up area
Landscape Feature
Protected trees

3 DEVELOPMENT PLAN, OBJECTIVES AND POLICIES

Core Strategy

Objectives

1. Special qualities, local distinctiveness and a high quality living environment
3. Housing
6. Towns, villages and built environment quality

Policies

- CS1: Sustainable development principles
- CS2: Design quality
- CS4: Energy and resource use
- CS7: Open spaces, sport and recreation
- CS10: The spatial strategy
- CS15: Affordable housing contribution requirements from developments
- CS24: Transport considerations
- CS25: Developers contributions

Sites and Development Management Development Plan Document

- DM2: Nature conservation, biodiversity and geodiversity
- DM3: Mitigation of impacts on European nature conservation sites
- NMT12: New public open space south of Lymington Road, north of Chestnut Avenue

4 RELEVANT LEGISLATION AND GOVERNMENT ADVICE

Section 38 Development Plan
Planning and Compulsory Purchase Act 2004
National Planning Policy Framework

5 RELEVANT SUPPLEMENTARY PLANNING GUIDANCE AND DOCUMENTS

SPD - New Milton Local Distinctiveness
SPD - Design of Waste Management Facilities in New Development
SPD - Parking Standards
SPD - Mitigation Strategy for European Sites
SPD - Housing Design, Density and Character

6 RELEVANT PLANNING HISTORY

- 6.1 Erection of 6 houses and construct new access (54869) Refused on the 1st September 1994
- 6.2 Erection of 5 houses and construct new access (55862) Refused on the 6th Feb 1995. Appeal dismissed.

7 PARISH / TOWN COUNCIL COMMENTS

New Milton Town Council: recommend refusal - While the principle of enabling development on the open space and Site of Alternative Natural Green Space is accepted

1. The policy objective of providing at least 0.3 hectares of accessible public open space and SANGS is not met; the extension of the road and turning head into the western half of the site urbanises around two thirds of the site such that the area available for delivering open space and natural green space is too small. Further delivery of a pedestrian through route for access is uncertain because the indicative footpaths terminate in private land at the site boundary.
2. Unsafe access onto the A337: there is a lack of confidence in the recorded wet weather speeds used to determine the appropriate easterly visibility splay and uncertainty in delivering a suitable visibility splay due to a lack of control over the necessary land.
3. Protected trees will not be adequately protected; given the absence of an arboricultural method statement there is a lack of confidence that the numerous protected trees on the site will be adequately protected; it is noted that the indicative layout (which could become subject to condition to implement) sites a garage underneath a protected tree making that tree vulnerable to future applications for management to safeguard the building only.

8 COUNCILLOR COMMENTS

None

9 CONSULTEE COMMENTS

- 9.1 Hampshire County Council Highway Engineer: No highway objections

- 9.2 Tree Officer: No objection
- 9.3 Environmental Design (Urban Design): No objection
- 9.4 Policy: No objection
- 9.5 Ecologist: Recommend refusal (revised comment since previous consideration of this application)
- 9.6 Land Drainage: No objection subject to condition
- 9.7 Councils Valuer - The submitted viability assessment is not acceptable

10 REPRESENTATIONS RECEIVED

- 10.1 10 letters of objection concerned that the application only covers half the site and it should be detailed as to what is happening on the other half of the land. There should be restrictions on the land for future plans. There are restrictive covenants on the land. There should be no vehicular access to this site through our private road. The road is too narrow. There is no need for two pathways to be marked onto the plan leading to the existing right of way. Concerns have been expressed about boundary ownership. Concerns over impact on residential amenity including noise and disturbance and overlooking There is a pipeline running through the site.

11 CRIME & DISORDER IMPLICATIONS

No relevant considerations

12 LOCAL FINANCE CONSIDERATIONS

If this development is granted permission and the dwellings built, the Council will receive £4608 in each of the following six years from the dwellings' completion, and as a result, a total of £27,648 in government grant under the New Homes Bonus will be received.

13 WORKING WITH THE APPLICANT/AGENT

In accordance with paragraphs 186 and 187 of the National Planning Policy Framework and Article 31 of Town and Country Planning (Development Management Procedure) (England) Order 2010, New Forest District Council take a positive and proactive approach, seeking solutions to any problems arising in the handling of development proposals so as to achieve, whenever possible, a positive outcome.

This is achieved by

- Strongly encouraging those proposing development to use the very thorough pre application advice service the Council provides.
- Working together with applicants/agents to ensure planning applications are registered as expeditiously as possible.
- Advising agents/applicants early on in the processing of an application (through the release of a Parish Briefing Note) as to the key issues relevant to the application.
- Updating applicants/agents of issues that arise in the processing of their applications through the availability of comments received on the web or by direct contact when relevant.

- Working together with applicants/agents to closely manage the planning application process to allow an opportunity to negotiate and accept amendments on applications (particularly those that best support the Core Strategy Objectives) when this can be done without compromising government performance requirements.
- Advising applicants/agents as soon as possible as to concerns that cannot be dealt with during the processing of an application allowing for a timely withdrawal and re-submission or decision based on the scheme as originally submitted if this is what the applicant/agent requires.
- When necessary discussing with applicants/agents proposed conditions especially those that would restrict the use of commercial properties or land when this can be done without compromising government performance requirements.

In this case the concerns raised are significant and are not capable of resolution through negotiation.

14 ASSESSMENT

14.1 Introduction

14.1.1 Members may recall considering this application for the erection of four dwellings and two garages together with the provision of an informal area of open space in the form of a Site of Alternative Natural Green Space (SANGS) on the 8th October 2014. The Committee's decision was that the Head of Planning and Transportation was authorised to grant planning consent subject to the completion of a Section 106 Agreement by the 30th March 2015 to secure a financial contribution for off-site affordable housing, transportation contributions and a minimum of 0.3 hectares of land to be used as SANGS/ Open space. The Section 106 Agreement would have required all of the SANGS/ Open space to be transferred to New Forest District Council.

14.1.2 The Section 106 Agreement was not completed within time and the Committee's resolution has now expired.

14.1.3 The applicant has continuously maintained the view that the affordable housing contribution would render the scheme unviable and he submitted several viability assessments to demonstrate this. However, the case put forward has not been supported by the Council's Valuer. The applicants' concern over viability has resulted in significant delays in reaching a decision. The application is brought back to Committee in order to reach a conclusion. However, it should be noted that there have been three significant changes in policy and circumstances at the site, which are set out below:

- Firstly, on the 6th April 2015, the Community Infrastructure Levy (CIL) was formally adopted by the Council.
- Secondly, the site is now understood to comprise high quality, unimproved grassland and the site has been put forward to be designated as a local wildlife site (Site of Important for Nature Conservation -SINC).

- Thirdly on 19th May 2016 the Government issued planning guidance setting out the specific circumstances in which contributions for affordable housing and tariff style planning obligations (section 106 agreements) should not be sought from small scale and self-build development.
- 14.1.4 This text below describes how the three changes now affect the application. Firstly, the adoption of the Community Infrastructure Levy has implications for how the proposed development can be implemented through Policy NM12 of the adopted Local Plan Part 2 Sites and Development Plan Document.
- 14.1.5 Policy NM12 states that the site in question is proposed as a new public open space to be managed as Suitable Alternative Natural Green Space (SANGS). The policy seeks to mitigate the impact of recreational impacts from residential development on the European Nature Conservation designations and to secure long term public access to this area. However, in order for this area of open space to be implemented, the Council may consider a very limited amount of 'enabling development' on the site provided a minimum of 0.3 hectares of accessible public open space in the form of natural green space is provided. The application site is allocated and identified in the adopted Habitat Mitigation Strategy Document as a SANGS defined as a relevant infrastructure project.
- 14.1.6 When the application was originally submitted pre CIL, the proposed housing was to be provided with the on site public open space and SANGS and all this land (apart from the housing) would have been secured on site and subsequently transferred to New Forest District Council. At the time the application was first considered by this Committee this would have been secured through a Section 106 Agreement. This is why the proposed development was previously recommended for approval at the October 2014 Committee as set out in the Officer's report below (14.2).
- 14.1.7 However, following the adoption of CIL in April 2015, the regulations have affected what can actually be secured or provided through a Section 106 Agreement. CIL regulations prohibit relevant infrastructure (this relates to all habitat mitigation measures and projects) which is set out on the CIL schedule from being funded by a Section 106 Agreement. The application site is allocated and identified in the adopted Habitat Mitigation Strategy Document as a SANGS defined as a relevant infrastructure project for the purposes of CIL and that is why this cannot be collected or secured through a Section 106 Agreement. Accordingly, this would mean that the planning application can no longer legally secure (through a Section 106 Agreement) the on site SANGS as required by policy. The proposed housing was only considered acceptable on the site as enabling development to provide and secure the on site SANGS and the inability to secure such on site provision would fail to comply with policy.
- 14.1.8 Secondly, in relation to the nature conservation issues, the Ecologist previously raised no objection to the application when it was considered in 2014. However, subsequent surveys have been undertaken on the site by Hampshire Biodiversity Information Centre (HBIC) as part of the alternative open space study and the site has now been assessed as

comprising high quality, unimproved grassland. The Ecologist has stated that such sites are increasingly rare in Hampshire and the UK, they are identified as priority habitats within Government legislation and policy which highlight the need for planning authorities to further their conservation (e.g. National Environment and Rural Communities (NERC) Act 2006 Section 40). The site would meet criteria to allow it to be considered a local wildlife site (SINC) and the Hampshire Biodiversity Information Centre (HBIC) have proposed the site as a SINC. Currently there is not much variation across the site that would allow lower quality areas to be identified and enable an area for development to be identified. The type of habitat present and the information gained by HBIC demonstrates the land has intrinsic value that has been present for many years.

14.1.9 Policy DM2 does say development that would damage SINC's or habitats or species of principal importance will not be permitted unless the benefits outweigh the harm. There are no overriding benefits that would outweigh the harm to the nature conservation interests of the site. While it is accepted that when the application was considered in 2014 no ecological concerns were raised, the Ecologist now provides advice that overall the habitat is of regional nature conservation value and comprises a habitat that is recognised in national legislation as something public bodies have duties to show due regard. It would be best maintained as a coherent site, and any partial development would result in impacts on its integrity and loss that would be harmful.

14.1.10 Thirdly in relation to affordable housing contributions, on 19 May 2016 the Government issued planning guidance setting out the specific circumstances in which contributions for affordable housing and tariff style planning obligations (section 106 agreements) should not be sought from small scale and self-build development. This guidance has been reissued following the order of the Court of Appeal dated 13th May 2016 (*West Berkshire District Council and Another v The Secretary of State for Communities and Local Government*). The planning guidance specifies the circumstances in which contributions should not be sought as follows:

“Contributions should not be sought from developments of 10 units or less and which have a maximum combined gross floorspace of no more than 1,000 sqm;

In designated rural areas, local planning authorities may choose to apply a lower threshold of 5 units or less...;

Affordable housing and tariff style contributions should not be sought from any development consisting only of the construction of a residential annex or extension to an existing house”

This national guidance is at odds with Policy CS15 of the Council's Core Strategy. The presumption in favour of the development plan remains, in that the decision should be taken in accordance with the plan unless material considerations indicate otherwise. The new guidance is a material consideration which post-dates the application. However, the Secretary of State, through his Inspectors can be anticipated to give greater weight to the Government's national guidance unless there are reasons to make an exception

- .14.1.11 Whilst the need for affordable housing in this District is pressing, this in itself is unlikely to be considered by the Secretary of State as sufficient reason for the Council to apply its own development plan policy rather than applying national policy. Therefore it is recommended that no affordable housing or tariff style contributions are sought from this development, in accordance with National Planning Practice Guidance, contrary to the provisions of Policy CS15 of the Core Strategy
- 14.1.12 Whilst the need for affordable housing in this District is pressing, this in itself does not give rise to the sort of circumstances that can be considered exceptional. Therefore it is recommended that no affordable housing or tariff style contributions are sought from this development, in accordance with national Planning Practice Guidance, contrary to the provisions of Policy CS15 of the Core Strategy.
- 14.1.13 In conclusion, while the application was previously recommended to be approved, this was subject to the completion of a legal agreement by the end of March 2015. The legal agreement was not completed in time, and because of the adoption of CIL, the proposed on site SANGS can no longer be secured through a Section 106 Agreement. The main objective of the policy is to secure and provide the on site SANGS and due to the lack of a legal ability for this to be secured, the proposal fails to comply with policy. Moreover, while the proposed development no longer requires an affordable housing contribution, the delay in determining the application has led to the nature conservation issues on the site being re-assessed and it is now considered that the site benefits from a much higher degree of nature interest on the site which now prohibits partial housing development.
- 14.2 Officers previous report (8th October 2014)
- 14.2.1 The application site is a rectangular shaped open piece of grassland within the built up area of New Milton to the south of Lymington Road. There are no buildings on the land and currently the site is not used for any purposes and has the appearance of a paddock. There is currently a single access into the site from Lymington Road provided by a metal gate. There are numerous mostly mature trees around the northern, western and southern boundaries which are protected by a Tree Preservation Order, with a small woodland to the east. The site lies to the north of the rear gardens to properties in Chestnut Avenue, which consist of substantial detached dwellings in generous plots. Smaller terraced and semi detached properties in Oxey Close abut parts of the northern site boundary. On the western boundary of the site are detached properties in Farm Lane North with a public footpath running parallel to part of the site.
- 14.2.2 This planning application proposes the erection of four dwellings and two garages together with the provision of an informal area of open space in the form of a Site of Alternative Natural Green Space (SANGS). The application has been made in outline with details only of access to be considered at this stage. All other matters are reserved. The planning application has been accompanied by an illustrative site layout plan showing the positioning of the four dwellings and internal access road and the area of open space. A minimum of 0.3 hectares of land on the site will form the area of open space to be used as SANGS.

- 14.2.3 The proposed layout of the site shows an internal access road from Lymington Road running through the site with two dwellings sited on the eastern part of the site, and the area of open space to be used as a SANGS is situated on the western part of the site. The internal access road leads onto the area of open space and would effectively be connected to an internal footpath providing a link through the whole site from Lymington Road to the existing footpath to the west of the site. It should be noted that whilst the submitted site layout plan is an illustrative drawing, it does show a possible layout of the site for both the dwellings and area of open space and the full details of the area of open space and housing layout would be assessed as part of a reserved matters application.
- 14.2.4 There have been previous applications on this site back in 1994 and 1995, which were refused permission and dismissed on appeal. The application dismissed on appeal involved a development of five large detached dwellings on the whole of this site with the access to be provided between two existing residential properties in Chestnut Avenue. In dismissing the appeal, the Inspector did not raise any concerns relating to the effect on the character of the area or trees, however, he was concerned with the impact of the proposed access road on the living conditions of the adjoining residents at 30 and 32 Chestnut Avenue. In the decision letter, the Inspector stated that it might be possible to gain access to the site from Lymington Road but it is a relatively busy principle traffic route and in the absence of any detailed evidence on this matter, he was not satisfied that such an access could be provided without prejudicing highway safety.
- 14.2.5 In assessing this proposal, it is important to start with the policy position. In the past, this piece of land was identified in the local plan as a Landscape feature, which is defined as undeveloped areas such as a small amenity space, gaps between parts of settlements, woodlands etc, which are areas of visual amenity value and help create a particular local character. The aim of the policy was to protect the area from developments which would detract from the contribution they make to the quality and character of the local environment. Whilst this policy is still a saved policy, the application site has been removed from its designation as a landscape feature and has been re- allocated in the Local Plan Part 2. .
- 14.2.6 The relevant policy in this case is Policy NM12 of the adopted Local Plan Part 2 Sites and Development Plan Document, which has superseded the saved policies in the local plan. Policy NM12 states that the site in question is proposed as a new public open space to be managed as Suitable Alternative Natural Green Space (SANGS). The policy seeks to mitigate the impact of recreational impacts from residential development on the European Nature Conservation designations and to secure long term public access to this area. However, in order for this area of open space to happen and be implemented, the Council may consider a very limited amount of 'enabling development' on the site provided a minimum of 0.3 hectares of accessible public open space in the form of natural green space is provided. The details of the creation of this area of open space which would be managed as a SANGS is set out in the Councils adopted Mitigation Strategy. It states that provision of the area of natural green space is linked to the public right of way to the west of the site.

- 14.2.7 The proposed illustrative layout of the site shows that an area of open space in the western part of the site which equates to over 0.3 hectares in size would be provided. The area of open space would be an informal grassed area with scattered trees with a footpath link through the site connecting to the existing public footpath to the west in Farm Lane North to Lymington Road. This would enable people to access and utilise this area from the surrounding areas and provide a pedestrian connection through the site. This area of open space would need to be transferred to the District Council for ownership and control so that it can be managed as a SANG, together with the land being laid out in accordance with an approved scheme prior to occupation of the first dwelling on the site and for public access to this area in perpetuity. These matters would be secured through the completion of an acceptably worded legal agreement. It is considered that the provision of four dwellings on this site together with the internal access road from Lymington Road enables the implementation of the area of open space to be accessible to the public and on this basis, it is considered that the proposal would comply with Policy NM12.
- 14.2.8 While concerns have been expressed that the proposed internal access road with its turning head reduces the extent and usable area of open space, the actual level of open space to be provided for the development exceeds the policy requirement which is 0.3 hectares. Accordingly an objection on this basis would not be reasonable and it should be noted that the length of the turning head has been reduced further to maximise the level of open space in this area.
- 14.2.9 Concerns have also been expressed that the proposed internal footpath links onto a private garden area and does not connect to the existing public footpath to the west. This is an important point given the need to provide public access into the site from the existing public right of way to the west of the site. However, the red line extends up to the boundary of the footpath and the illustrative plan showing the internal footpath has now been amended to show a connection and link to the existing footpath, this would ensure that the open space is accessible to the public. It should be noted that the proposal is to create a pedestrian access point onto the existing footpath network.
- 14.2.10 In terms of visual impact, the actual layout of the site, design of the buildings, and the layout of the area of open space will be provided in full in a reserved matters application. The submitted illustrative drawing demonstrates that the proposed number of houses can be acceptably accommodated on the site enabling the required area of open space and also shows a spacious layout with the proposed dwellings benefiting from good sized gardens and space between the buildings together with a housing layout that invites the public into the site to use the area of open space. It should be noted that the proposed area of open space will require modest improvement for such purposes as informal amenity, including some bulb planting, a few additional trees, and some facility for sitting to enjoy the space, but it is not intended to create formal play areas with its associated equipment.
- 14.2.11 Accordingly on the basis that the basic concepts, layout and design principles are followed in the illustrative plans, there is no reason why a high quality development should not result and if planning permission were to be granted, there should be a condition which ensures that the development should reflect the design principles on the illustrative plans.

- 14.2.12 In terms of residential amenity, it is considered that four dwellings could be provided on this site without causing significant impact on the privacy, light and outlook of the adjoining and nearby residents and this has been demonstrated on the submitted illustrative drawing. Overlooking would be a matter to be considered in any reserved matters application when the appearance of the buildings would also be considered. However, the dwellings are sited and orientated away from the residents to the south in Chestnut Avenue in which two dwellings are sited more than 20 metres away from the rear boundary with the residents. One of the proposed dwellings in the south east part of the site is closer at a distance of 8 metres which would be acceptable. The proposed dwellings would be located closer to the residents at Nos. 1 and 2 Oxey Close, however, the distances from the rear elevation of the proposed dwellings to the rear elevation of the neighbours measures more than 22 metres which is acceptable.
- 14.2.13 In terms of tree matters, there are many substantial trees on and adjacent to the site which are protected by a Tree Preservation Order and are mainly located around the perimeter of the site. The Tree Officer considers that there is scope for development of the site which could include the long term retention of the important trees and the submitted illustrative layout shows that the distances to the trees and the level of garden spaces would be acceptable without effecting these trees. The proposed detached garage would be sited under the canopy of the tree located on the southern boundary, however, the Tree Officer considers that the tree is in poor condition and the loss of the tree is acceptable. Accordingly, the Tree Officer is satisfied that the site could accommodate 4 dwellings with access from Lymington Road without undue risk to the protected trees from either construction works or longer term pressure from occupiers.
- 14.2.14 With regard to highway safety matters, it is proposed to provide access onto Lymington Road, which is a classified Road. The applicant commissioned a speed survey which provided an 85%ile wet weather speed of 31mph for vehicles travelling in a westerly direction. The necessary visibility splay required to accommodate this 85%ile speed is indicated to incorporate the splay, however, it should be noted that the part of the splay passes over land in the ownership of a third party.
- 14.2.15 The Highway Authority have raise an objections to the proposal and considers that on the basis that part of the visibility splays (in the eastern direction) passes over unregistered land (a small part of the visibility splay is outside highway land and the applicants land) the provision/ retention of the splays cannot be guaranteed by the imposition of condition.
- 14.2.16 In response, whilst Officers understand the comments made by the Highway Authority, a reason for refusal on the grounds that part of the visibility splay is located on unregistered land would not be reasonable. Planning permission can still be granted with a condition for the visibility splays to be provided and it will be the responsibility of the applicant to ensure that the condition is and can be adhered to. The applicant has enquired to find out who the owner of this piece of land is, however, they have had no success. On other highway matters, the proposed internal access shows a turning head within the layout to ensure refuse and emergency vehicles can enter and leave the site in a forward gear. Matters of car parking spaces and provision would be considered as part of any reserved matters application.

- 14.2.17 The site does have potential for protected species and an ecological report has been submitted in support of the application. It is considered that further survey work is required and this has been requested and will be the subject of an update before Committee.
- 14.18 In terms of contributions, the proposed development would provide an area of 0.3 hectares of land to be used as a SANG and area of informal open space and this would accord with the policy requirement for habitat mitigation and open space for the site. The SANGS on the site will have to be provided and laid out in accordance with an approved scheme as detailed in any reserved matters application and the land must be transferred to the District Council together with a financial contribution towards future maintenance and monitoring (a total of £16,800 and £50 per dwelling). Access to the SANGS through the housing development for the public to use will have to be secured as part of the Section 106 Agreement.
- 14.2.19 The proposed development would also require an off site affordable housing contribution, in which the final payment figure will be dependant on the number of bedrooms in the reserved matters application. The proposed development would also require a contribution towards transport improvements.
- 14.2.20 Concerns have been expressed that there are restrictive covenants on the land, however, this is not a planning matter. Concerns have been expressed that the red line boundary is not correct in terms of land ownership. However the applicant in response has confirmed that the red line boundary is correct. Matters of boundary disputes and ownership are not planning matters.
- 14.2.21 In conclusion, the proposal to develop part of the site for four dwellings would enable the remainder of the site, which equates to 0.3 hectares in size to be used as an area of informal open space to be used as SANGS. The illustrative layout shows how the site could be developed in this context together with a useable area of open space which connects Lymington Road with the existing public footpath at Farm Lane North. Whilst concerns have been expressed from the Highway Authority that part of the visibility splays would be located on unregistered land, this is a matter for the applicant to resolve and ensure that the proposed development can achieve acceptable visibility splays. The applicant has agreed to enter into a Section 106 Agreement to provide contributions towards affordable housing and transportation improvements, together with the provision of on site public open space and its maintenance and monitoring contributions.

14.2.22 Heads of Terms of the Proposed Section 106 Agreement

The transportation contribution would be based on the following as detailed in the reserved matters application:

For a one bedroom dwelling: £1980

For a two/ three bedroom dwelling: £3745

For a four bedroom dwelling: £5457

The affordable housing contribution would be based upon the following as detailed in the reserved matters application:

For a one bedroom dwelling: £13,750

For a 2 bedroom dwelling: £25,540

For a three bedroom dwelling: £36,720

For a four bedroom dwelling: £38,940

The **open space/ SANGS** contribution would be based on the following:

A minimum of 0.3 hectares of land to be used as SANGS/ Open space to be provided within the identified area (to be shown as hatched on a plan) and all of the SANGS/ Open space must be transferred to New Forest District Council and laid out in accordance with an agreed scheme submitted as part of the Reserved Matters Application. The area of open space/ SANGS must be accessible to the public (right of way through the site) from Lymington Road through the proposed housing development and connect to the existing public right of way to the west in Farm Lane North. The SANGS/ open space maintenance contribution based on the calculation of £56,000 for every hectare (a total of £16,800) will be required, the payments payable on the Transfer of land. The SANGS/ open space will have to be made available for use prior to first occupation of any Dwelling on the land. SANGS monitoring sum of £50 per dwelling to be payable to NFDC when the land is transferred.

- 14.2.23 In coming to this recommendation, consideration has been given to the rights set out in Article 8 (Right to respect for private and family life) and Article 1 of the First Protocol (Right to peaceful enjoyment of possessions) of the European Convention on Human Rights. Whilst it is recognised that this recommendation, if agreed, may interfere with the rights and freedoms of the applicant to develop the land in the way proposed, the objections to the planning application are serious ones and cannot be overcome by the imposition of conditions. The public interest and the rights and freedoms of neighbouring property owners can only be safeguarded by the refusal of permission.

15. RECOMMENDATION

Refuse

Reason(s) for Refusal:

1. Policy NM12 of the adopted Local Plan Part 2 Sites and Development Plan Document allocates the site as new public open space to be managed as Suitable Alternative Green Space (SANGS) and the site is also identified as a specific mitigation project in the Adopted Mitigation Strategy for European Sites Supplementary Planning Document. The proposed development fails to secure the on site public open space to be managed as a SANGS and in the absence of which the recreational impacts of the proposed development on the New Forest Special Area of Conservation, the New Forest Special Protection Area, the New Forest Ramsar site, the Solent and Southampton Water Special Protection Area, the Solent and Southampton Water Ramsar site, and the Solent Maritime Special Area of Conservation would not be adequately mitigated and the proposed development would therefore be likely to unacceptably increase recreational pressures on these sensitive European nature conservation sites. Moreover, the proposed development fails to secure to make any contribution to on site provision of informal public open space to meet the needs of the occupants of the development for public open space. For these reason, the proposal is contrary to Core Strategy to Policies CS7 and CS25 of the Core Strategy for the New Forest District outside the National Park and Policies NM12 and DM3 of the New Forest District Local Plan Part 2: Sites and Development Management and adopted Mitigation Strategy for European Sites Supplementary Planning Document.
2. The site has been assessed as comprising high quality, unimproved grassland, which is a type of habitat that has intrinsic value that would meet criteria to allow it to be considered a local wildlife site (Site of Importance for Nature Conservation). Local Plan Policy DM2 of the New Forest District Local Plan Part 2: Sites and Development Management states that development that would damage SINC or habitats of species of principle importance will not be permitted unless the benefits outweigh the harm. The proposed development would result in the loss of and unacceptably impact on the integrity, habitat and values of the nature conservation interest of the site, for which there are no overriding benefits that would outweigh the harm to the nature conservation interest of the site. For this reason, the proposal is to Policy CS3 of the Core Strategy for the New Forest District outside the National Park and Policy DM2 of the New Forest District Local Plan Part 2: Sites and Development Management Plan and adopted Mitigation Strategy for European Sites Supplementary Planning Document.

Notes for inclusion on certificate:

1. In accordance with paragraphs 186 and 187 of the National Planning Policy Framework and Article 31 of the Town and Country Planning (Development Management Procedure) (England) Order 2010, New Forest District Council takes a positive and proactive approach, seeking solutions to any problems arising in the handling of development proposals so as to achieve, whenever possible, a positive outcome by giving clear advice to applicants.

In this case the concerns raised one significant and are not capable of resolution through negotiation.

2. This decision relates to amended plans received by the Local Planning Authority on the 20th March 2014 and the 12th June 2014.

Further Information:

Major Team

Telephone: 023 8028 5345 (Option 1)



New Forest
DISTRICT COUNCIL

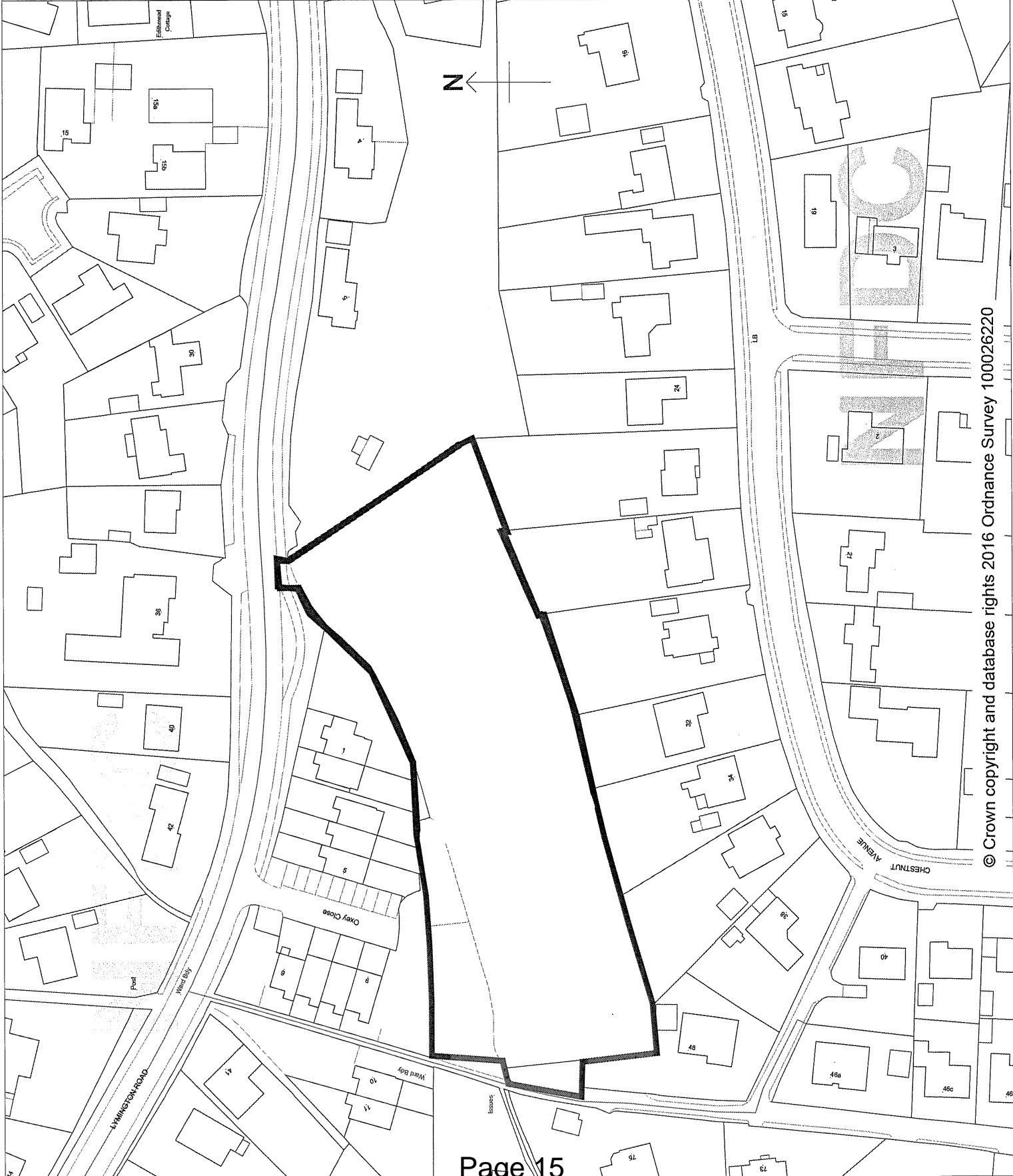
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David Groom
Service Manager
Planning and Building Control
New Forest District Council
Appletree Court
Lynchurst
SO43 7PA

**Planning Development
Control Committee
August 2016**

Item No: 3a
Land South of
Lymington Road
New Milton
13/11276
SZZ494

Scale 1:1250
N.B. If printing this plan from
the internet, it will not be to
scale.



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Application Number: 13/11408 Modification or Discharge of Planning Obligation

Site: MERRYFIELD PARK, DERRITT LANE, SOPLEY BH23 8AU

Development: **Proposed amendments to the Section 106 Agreement regarding the type of Affordable Housing and the removal of Code Level Four requirements.**

Approved Scheme: The erection of up to 80 dwellings with the retention of up to 11 existing buildings with a total floor area of no more than 1,309 sqm for B1 uses and a museum all with associated access point, the provision of SANGS and open space, the provision of a footpath along Derritt Lane and the demolition of all buildings and structures on the site with the exception of those retained for the B1 or museum uses (Outline application with all matters reserved)

Applicant: Merryfield Park

1 REASON FOR COMMITTEE CONSIDERATION

Discretion of Executive Head of Economy, Housing and Planning and Contrary to Local Plan Policy

2 DEVELOPMENT PLAN AND OTHER CONSTRAINTS

Green Belt
Countryside outside the New Forest
River Valley
Site Special Policies Apply
Archaeological Site
Flood Zone 1, adjacent to Flood zone 2 and 3
HSE Pipeline Cons Zones
Adjacent to New Forest National Park

3 DEVELOPMENT PLAN, OBJECTIVES AND POLICIES

Objectives

1. Special qualities, local distinctiveness and a high quality living environment
2. Climate change and environmental sustainability
3. Housing
4. Economy
7. The countryside
8. Biodiversity and landscape

Policies

Core Strategy

CS1: Sustainable development principles
CS2: Design quality
CS3: Protecting and enhancing our special environment (Heritage and Nature Conservation)
CS4: Energy and resource use
CS7: Open spaces, sport and recreation
CS10: The spatial strategy
CS12: Possible additional housing development to meet a local housing need
CS13: Housing types, sizes and tenure
CS14: Affordable housing provision
CS15: Affordable housing contribution requirements from developments
CS17: Employment and economic development
CS24: Transport considerations
CS25: Developers contributions

Local Plan Part 2 Sites and Development Management Plan Document

DM3: Mitigation of impacts on European nature conservation sites
DM2: Nature conservation, biodiversity and geodiversity
DM4: Contaminated land
DM21: Residential development in the countryside
DM23: Employment development in the countryside

4 RELEVANT LEGISLATION AND GOVERNMENT ADVICE

Section 38 Development Plan
Planning and Compulsory Purchase Act 2004

5 RELEVANT PLANNING HISTORY

5.1 The erection of up to 80 dwellings with the retention of up to 11 existing buildings with a total floor area of no more than 1,309 square metres for B1 use and a museum all with associated access point, the provision of SANGS and open space, the provision of a footpath along Derritt Lane and the demolition of all buildings and structures on the site with the exception of those retained for the B1 or museum uses - Outline application all matters reserved (11408) Granted with conditions on the 15th December 2014.

5.2 Development of 80 houses, public open space, SANGS, footpaths, allotments, access roads, landscaping, boundary treatments, demolition of existing buildings, street lighting - Details of appearance, landscaping, layout, scale and access to outline planning permission granted under 11408 (10914) GRanted with conditions on the 28th October 2015.

6 PARISH / TOWN COUNCIL COMMENTS

Brangsgore Parish Council: raise no objections to the provision of starter homes and affordable property to rent as well as the shared ownership dwelling.

Sopley Parish Council: No comments received to date

7 COUNCILLOR COMMENTS

None

8 REPRESENTATIONS

None

9 ASSESSMENT

9.1 Introduction

- 9.1.1 Firstly, it is important to note that this is an application only to modify a Section 106 Agreement, and not a planning application.
- 9.1.2 The applicants, who are also the Freehold owner of the site, Bellway Homes Ltd, have applied to modify the (completed) Section 106 Agreement completed in respect of outline planning approval 13/11408 regarding the type of affordable housing provision and Code Level 4 requirements.
- 9.1.3 Outline planning permission was granted on the 15th December 2014, under reference 13/11408, for the development of the site for up to 80 dwellings with the retention of up to 11 existing buildings and a museum all with associated access point, the provision of SANGS and open space, the provision of a footpath along Derritt Lane and the demolition of all buildings and structures on the site with the exception of those retained for the B1 or museum uses. The application was made in outline, with all matters reserved.
- 9.1.4 An integral part of the outline planning permission was an Agreement under Section 106 of the Town and County Planning Act 1990, which was completed on the 15th December 2014. The Agreement secured a number of obligations and financial contributions which include affordable housing, on site Public Open Space, SANGS, Allotments, the provision of commercial floor space to be provided on the site through the retention of existing buildings and a footpath link to the village.
- 9.1.5 A subsequent Reserved Matters Application was granted in 2015, under planning reference 15/ 10914. Construction works are currently under way on the site to implement the planning permission and although a number of the approved houses have been constructed, none are occupied.
- 9.1.6 In relation to the affordable housing, the Section 106 Agreement required 50% of the total number of dwellings to be constructed on the land to be provided for affordable housing, of which 60% of the affordable housing dwellings should be Social Rented Housing and 40% Intermediate Housing, which could either be Intermediate Rented Housing and/or Shared Ownership units.
- ### 9.2 The proposal
- 9.2.1 The applicants propose that certain provisions of the Planning Agreement are varied solely in relation to the type of affordable housing on the site and the removal of any reference to Code Level 4 requirements. The effect of the proposed variations will allow for the introduction of Starter Homes on the site as part of the mix of Affordable Housing. Technical adjustments to the provisions dealing with the ability of a mortgagee of a Registered Provider to deal with land forming part of their security have also been incorporated. It is also proposed to remove any references to Code 4 for Sustainable Homes.

9.2.2 Other than the affordable housing provision and the removal of any reference to Code 4 for sustainable homes, all other obligations and financial contributions within the S106 agreement regarding the provision and future maintenance of on-site open space and a SANGS, a footpath linking the site to the village and the provision of allotments will remain unchanged.

9.2.3 The proposed variations to the Agreement would provide for the Affordable Housing as follows:

50% of the Dwellings provided on Site (40 Dwellings) would comprise Affordable Housing Dwellings of a type as defined below.

- a) 20 of the Dwellings would be Starter Homes
- b) 14 of the Dwellings would be Shared Ownership Dwellings and
- c) 6 of the Dwellings would be Affordable Rented Dwellings

The Affordable Rent Dwellings (c) are to be made available for rent to a Registered Provider first approved by the Council at a rent set out in accordance with the National Rent Regulatory Framework. The Shared Ownership/Affordable Housing (b) will be either Affordable Rented Housing or Shared Ownership Housing where a party can purchase part or subsequently all of the equity in the Property.

9.3 Assessment

9.3.1 Firstly, in relation to the removal of any references to Level 4 of the Code for Sustainable Homes, this would be acceptable. While this is technically contrary to adopted planning policy CS4 this has now been superseded by new government policy in which Code Levels are dealt with by Building Regulations.

9.3.2 In relation to the modification to Affordable Housing provision, in determining outline application 13/11408, the proposed development was required to make an Affordable Housing contribution of 50% of the total number of units in accordance with Core Strategy CS15. Although Policy CS15 seeks 70% of the affordable dwellings to be social rented and 30% intermediate, it was determined that the tenure split proposed of 60% affordable rented and 40% shared ownership would be acceptable and was supported by the Councils Strategic Housing Officer. Of the 40 dwellings, 24 units (60%) would be for social rented and 16 units (40%) for intermediate housing.

9.3.3 The main reason for the change of approach in this revised Section 106 agreement is to accommodate the Government's new initiative to promote the provision of Starter Homes. The Government see Starter Homes as a means to provide low cost homes for qualifying first time buyers and the Government's main objective is for at least 20% of dwellings on major sites to be built as Starter Homes. Starter Homes are a new form of Affordable Housing, and will be offered for sale to qualifying first time buyers between the ages of 23 and 40 at no more than 80% of open market value, capped at £250,000.

9.3.4 The Housing and Planning Act 2016 was enacted on 12 May 2016, which is now law. The secondary legislation (meaning Regulations) are needed to bring into force the provisions of the Act. The first set of Regulations came out on 25 May 2016 (The Housing and Planning Act 2016 (Commencement No.1) Regulations 2016) and the second set of Regulations came out on 11 July 2016 (The Housing and Planning Act 2016 (Commencement No.2, Transitional Provisions and Savings) Regulations 2016).

- 9.3.5 The Part of the Act that defines Starter Homes as affordable housing (section 159) has not yet come into force, and accordingly, the Government's current definition of affordable housing does not include Starter Homes. It is the intention that Starter Homes will fall within the definition of Affordable Housing and therefore Starter Homes will count 'as' or 'towards' the overall affordable housing provision. Moreover, under the terms of section 4 of the Act, there is a general duty for Councils to promote the supply of Starter Homes and that will come into force on 1 October 2016 as a result of the second set of commencement regulations. Accordingly, the Government's stance on Starter Homes should be given significant weight.
- 9.3.6 For this reason it is considered that New Forest District Council should support the provision of a substantial proportion of Starter Homes on this site. Whilst technically this does not accord with our adopted Core Strategy policy CS15, which does not include Starter Homes, it will become a duty of all Councils to promote this form of development from 1st October 2016. This is therefore an ideal opportunity for this Council to welcome the new Government initiative even though it is not technically in force for another 6 weeks. A proportion of shared equity and rented homes are still retained under this new approach.
- 9.3.7 The new legal agreement makes provision for 20 of the houses to be marketed as Starter Homes to qualifying first time buyers as described in paragraph 9.3.3 above. If a Starter Home cannot be sold as a Starter Home to a qualifying first time buyer within 9 months of being completed, it will be sold as a shared ownership property to a Registered Provider and so will remain within the definition of affordable housing. Starter Homes must be occupied by the first time buyer as their sole home and cannot be rented out. If the first time buyer sells the Starter Home within 5 years then some or all of the discount must be repaid. The developer will also provide 14 shared ownership units and 6 affordable rented units in the scheme.
- 9.3.8 In balancing out the issues, and in anticipation of the change to the definition of affordable housing, reflecting the Governments general direction of travel on Starter Homes, it is recommended that this Committee agree to officers negotiating a Deed of Variation to the s106 agreement to planning permission 13/11408.

9.4 Conclusion

- 9.4.1 In summary, whilst the proposal to modify the s106 Agreement is not strictly in accordance with current local plan policy, Officers consider that the proposal to provide Starter Homes as part of the Affordable Housing mix would accord with the Governments objectives to provide Starter Homes, and in anticipation of the definition of Affordable Housing being amended to include Starter Homes.

RECOMMENDATION

10

- 10.1 That the Section 106 agreement be varied in accordance with the details set out in the preceding paragraphs.

Further Information:

Major Team
Telephone: 023 8028 5345 (Option1)



New Forest
DISTRICT COUNCIL

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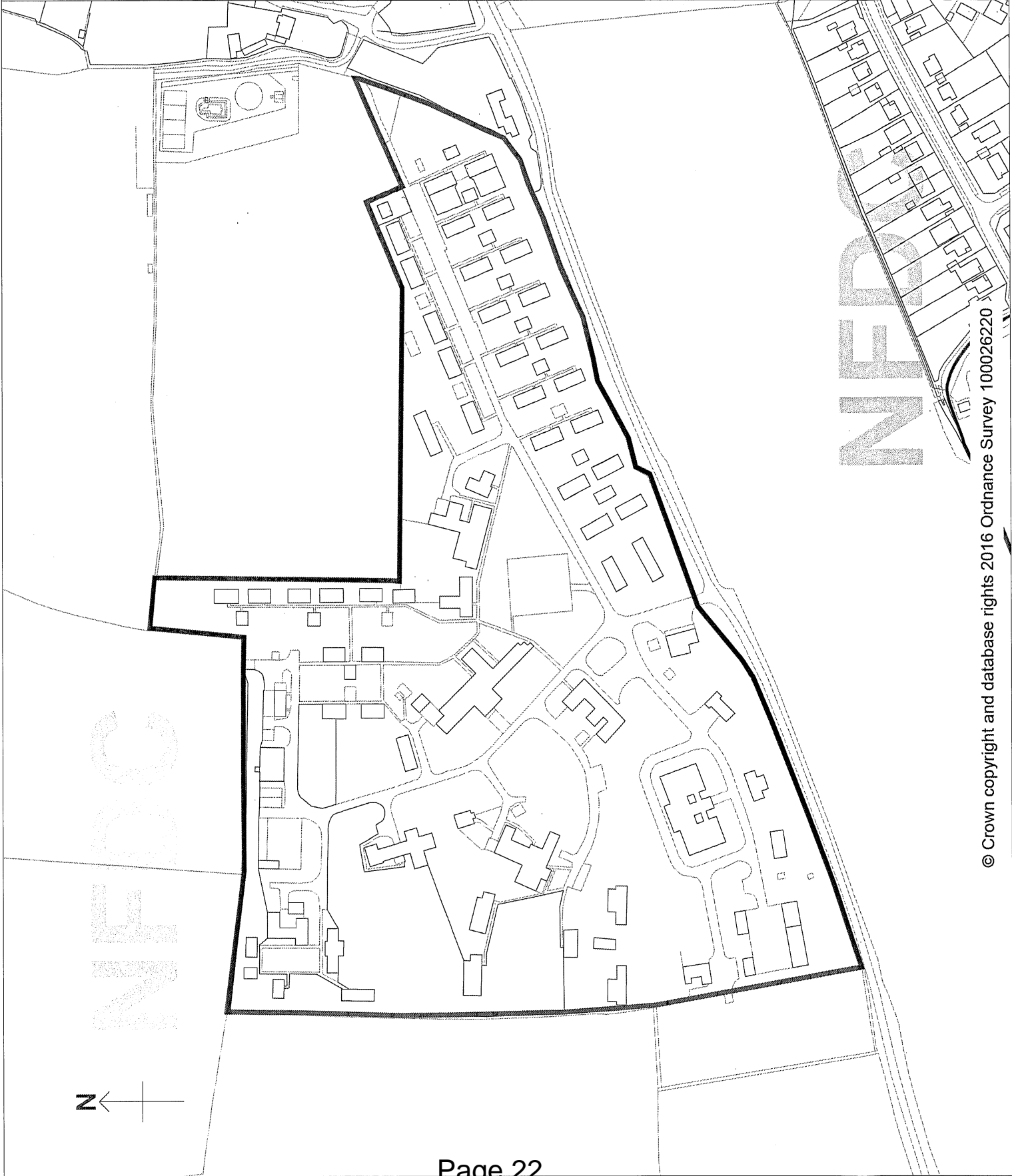
David Groom
Service Manager
Planning and Building Control
New Forest District Council
Appletree Court
Lyndhurst
SO43 7PA

**Planning Development
Control Committee
August 2016**

Item No: 3b
Merryfield Park
Derritt Lane
Sopley
13/11408
SZ1797

Scale 1:3000

N.B. If printing this plan from
the internet, it will not be to
scale.



Application Number: 15/10032 Full Planning Permission

Site: 59 STATION ROAD, NEW MILTON BH25 6JA

Development: Second & three-storey extensions to create 10 flats; parking

Applicant: Sheet Anchor Evolve Ltd

Target Date: 13/05/2015

Target Date: 11/08/2015

1 REASON FOR COMMITTEE CONSIDERATION

Contrary to policy and previous committee consideration (19th June 2015 and 9th March 2016)

2 DEVELOPMENT PLAN AND OTHER CONSTRAINTS

Town Centre
Built up area
Primary Shopping Area
Adjacent protected trees

3 DEVELOPMENT PLAN, OBJECTIVES AND POLICIES

Core Strategy

Objectives

1. Special qualities, local distinctiveness and a high quality living environment
3. Housing
6. Towns, villages and built environment quality

Policies

CS2: Design quality
CS7: Open spaces, sport and recreation
CS8: Community services and infrastructure
CS10: The spatial strategy
CS15: Affordable housing contribution requirements from developments
CS17: Employment and economic development
CS20: Town, district, village and local centres
CS24: Transport considerations
CS25: Developers contributions

Local Plan Part 2

DM3: Mitigation of impacts on European nature conservation sites
DM14: Primary shopping frontages

4 RELEVANT LEGISLATION AND GOVERNMENT ADVICE

Section 38 Development Plan
Planning and Compulsory Purchase Act 2004
National Planning Policy Framework

5 RELEVANT SUPPLEMENTARY PLANNING GUIDANCE AND DOCUMENTS

SPD - Parking Standards
SPD - New Milton Local Distinctiveness
SPD - Mitigation Strategy for European Sites
SPD - Housing Design, Density and Character

6 RELEVANT PLANNING HISTORY

None of direct relevance

7 PARISH / TOWN COUNCIL COMMENTS

New Milton Town Council: recommend refusal

- (1) Inappropriate design, use of metal cladding and balconies at this important central site, therefore considered out of character as the building would become incongruous on the street scene;
- (2) Could create the persistent pressure to prune the protected Oak tree.

Members support the principle of having one bedroom homes at this location (including affordable housing) but require a more aesthetically pleasing design and more traditional material usage.

8 COUNCILLOR COMMENTS

None

9 CONSULTEE COMMENTS

- 9.1 Hampshire County Council Highway Engineer: No highway objections subject to condition
- 9.2 Tree Officer: No objection subject to condition
- 9.3 Land Drainage Engineer: No objection subject to condition
- 9.4 Strategic Housing Officer: The proposed development would require 40% for affordable housing which would equate to 4 units on site to be affordable
- 9.5 Urban Design Officer: The proposal is acceptable
- 9.6 Environmental Health (historic land use): No objection
- 9.7 Southern Water Authority: No objection subject to condition
- 9.8 Environment Agency: No objection
- 9.9 Councils Valuer: Accepts the viability appraisal

REPRESENTATIONS RECEIVED

1 letter of objection concerned that New Milton is built on a sand foundation and already the centre of town is crowded with buildings with poor access for emergency services. Examining the site there does not seem any available space for any more building and there is already a car park for the use of shop owners/lessees.

11 CRIME & DISORDER IMPLICATIONS

No relevant considerations

12 LOCAL FINANCE CONSIDERATIONS

If this development is granted permission and the dwellings built, the Council will receive £11520 in each of the following six years from the dwellings' completion, and as a result, a total of £69120 in government grant under the New Homes Bonus will be received.

From the 6 April 2015 New Forest District Council began charging the Community Infrastructure Levy (CIL) on new residential developments. Based on the information provided at the time of this report this development has a CIL liability of £61,371.08.

13 WORKING WITH THE APPLICANT/AGENT

In accordance with paragraphs 186 and 187 of the National Planning Policy Framework and Article 35 of Town and Country Planning (Development Management Procedure) (England) Order 2015, New Forest District Council take a positive and proactive approach, seeking solutions to any problems arising in the handling of development proposals so as to achieve, whenever possible, a positive outcome.

This is achieved by

- Strongly encouraging those proposing development to use the very thorough pre application advice service the Council provides.
- Working together with applicants/agents to ensure planning applications are registered as expeditiously as possible.
- Advising agents/applicants early on in the processing of an application (through the release of a Parish Briefing Note) as to the key issues relevant to the application.
- Updating applicants/agents of issues that arise in the processing of their applications through the availability of comments received on the web or by direct contact when relevant.
- Working together with applicants/agents to closely manage the planning application process to allow an opportunity to negotiate and accept amendments on applications (particularly those that best support the Core Strategy Objectives) when this can be done without compromising government performance requirements.
- Advising applicants/agents as soon as possible as to concerns that cannot be dealt with during the processing of an application allowing for a timely withdrawal and re-submission or decision based on the scheme as originally submitted if this is what the applicant/agent requires.
- When necessary discussing with applicants/agents proposed conditions especially those that would restrict the use of commercial properties or land when this can be done without compromising government performance requirements.

Following discussions with the applicants, revised and additional plans have been submitted to address design concerns and issues raised by the highway authority which have enabled a positive recommendation to be made.

14 ASSESSMENT

14.1 Introduction

14.1.1 This planning application was considered by this Committee on the 9th March 2016 when the Executive Head of Planning and Transportation was authorised to grant planning consent subject to the completion of the requisite Section 106 Agreement by the 30th October 2016 to secure an offsite financial contribution towards affordable housing of £74,621 and habitat mitigation and monitoring contributions of £5550. Unfortunately the legal agreement has not been completed and this application is now brought back to the Committee following changes to the government's policy as set out below.

14.1.2 On 19th May 2016 the Government issued planning guidance setting out the specific circumstances in which contributions for affordable housing and tariff style planning obligations (section 106 agreements) should not be sought from small scale and self-build development. This guidance has been reissued following the order of the Court of Appeal dated 13th May 2016 (*West Berkshire District Council and Another v The Secretary of State for Communities and Local Government*). The planning guidance specifies the circumstances in which contributions should not be sought as follows:

"Contributions should not be sought from developments of 10 units or less and which have a maximum combined gross floorspace of no more than 1,000 sqm;

In designated rural areas, local planning authorities may choose to apply a lower threshold of 5 units or less;

14.1.3 Affordable housing and tariff style contributions should not be sought from any development consisting only of the construction of a residential annex or extension to an existing house", This national guidance is at odds with Policy CS15 of the Council's Core Strategy which requires many small scale housing developments including the current application proposals to make affordable housing provision.

14.1.4 The presumption in favour of the development plan remains, in that the decision should be taken in accordance with the plan unless material considerations indicate otherwise. The new guidance is a material consideration which post-dates the adoption of the Local Plan. It is for the Council to decide which should prevail in the determination of a planning application. However, the Secretary of State, through his Inspectors can be anticipated to give greater weight to the Government's national guidance unless there are reasons to make an exception.

14.1.5 While the need for affordable housing in this District is pressing, this in itself is unlikely to be considered by the Secretary of State as sufficient reason for the Council to apply its own development plan policy rather than applying national policy. Therefore it is recommended that no affordable housing or tariff style contributions are sought from this development, in accordance with national Planning Practice Guidance, contrary to the provisions of Policy CS15 of the Core Strategy.

14.2 Officers report as set out on the 10th June 2015

- 14.2.1 The site lies within the built up area of New Milton in the Primary Shopping Area of the Town Centre. The western part of the site contains a part single part two storey brick building with flat roof currently in use as a bank with separate uses including an estate agent offices and a vacant retail unit with offices on the first floor. Other than a landscape strip to the front of the site, the rest of it is hard surfaced and in use as a car park accessed from Ashley Road although the exit is onto Station Road.
- 14.2.2 The proposal seeks to create ten residential flats by constructing a second floor on the existing building and a new three storey extension to the rear on part of the existing car park. The proposal would create 9 one bedroom flats and a 1 two bedroom flat. It is proposed to retain the existing retail and office uses on the ground and first floor of the building. The proposed second floor would be constructed over the existing first floor and would be set slightly back from the edge of the building to enable a outside terrace to be created. The new three storey extension would rise to the same scale linking into the second floor addition with its main elevation facing onto Ashley Road.
- 14.2.3 Visually the proposed structure would be a contemporary flat roof design constructed predominately with grey metal vertical cladding with part horizontal timber cladding. A glazed balustrade would be provided around the perimeter of the terrace facing the two roads. The proposed extension would be constructed on concrete support columns so that car and cycle parking can be provided beneath and the extension would be built over approximately half the car park. Alterations are proposed to the car parking layout with new tree and soft landscaping provided.
- 14.2.4 In terms of policy matters, the site lies within the town centre and the Primary Shopping Frontage. Within this defined area, policies in the local plan and the National Planning Policy Framework support new residential uses providing that there is no loss of existing commercial uses and residential uses are not provided on the ground floor. The proposal seeks to retain the existing retail, commercial and offices spaces within the building although there would be some loss of car parking spaces to these units.
- 14.2.5 In assessing the proposal against these policies, on the basis that the existing employment and retail activity is retained, it is considered that this is supported under Core Strategy Policy CS20 and Local Plan Part 2 Policy DM14. Indeed, the site lies within a town centre location comprising a large car parking area and the proposal to create additional residential units would make good use of the site and there are no policies that prohibit such a proposal. While there would be a loss of existing car parking spaces that serve the existing retail and commercial uses, it is considered that the proposed residential development would provide overriding benefits and that the small loss of spaces would not be unreasonable on a town centre site nor would it compromise the attractiveness or viability of these commercial units.
- 14.2.6 In terms of the effect on the character and appearance of the area, the site lies within Character Area 1 'Town Centre' of the New Milton Local Distinctiveness Document. The Local Distinctiveness SPD described one of the key defining features that characterise the town centre as the: *"Rhythms of built form and features along Station Road"*. The guidance

seeks that: *“Rhythm should be retained through window and facade patterns, articulation and detail that run vertically through the whole building and articulation of sky line”.*

- 14.2.7 The existing building occupies a very prominent position on the corner of two roads and along the main high street in the town centre. The building is slightly set back from Station Road compared to other buildings in the street, and is constructed from brick under a flat roof rising to two storeys. Along Station Road building types, materials and designs vary throughout ranging between two and three storeys. Opposite the site along the west side of Ashley Road, there is a predominant two storey scale with additional accommodation in the roof space. The building comprises a single terrace located close to the road frontage with its ridge running parallel with the road, and the shop fronts and window patterns are very similar. On the corner of Ashley Road, the building rises to three storeys where the building makes a statement on this corner junction and adds interest into the street scene.
- 14.2.8 Along the east side of Station Road, to the north of the site, the buildings tend to be more modern developments with residential flats above shops rising to three storeys with hipped roofs, and glazed canopy's over the shop units. Some of these modern developments do not positively contribute to the character of the high street in terms of the design, massing, scale and appearance. In particular the scale, design and massing of the building immediately to the north known as Bursledon House is poor, which extends at three storey level deep into the rear of the site.
- 14.2.9 Generally the scale of the buildings along Station Road are two and three storeys, some with further accommodation in the roof space. There are also some four storey buildings along Station Road, but building heights vary throughout. Along Ashley Road there are large three storey residential flatted buildings. Accordingly, it is considered that there is no objection to a three storey building in this location subject to design and respect for the rhythms of built form and features along Station Road. Moreover, it is considered that the proposal to create a second floor and a building over the existing car park would make good use of the site in this town centre location.
- 14.2.10 The proposed second floor would be constructed over the majority of the existing building but recessed back from the front elevation to provide an outside terrace which helps break up the massing of the building. The extension in the car park would be set back from the road and linked to the appearance of the second floor extension which is considered to be the correct design approach. The balconies would provide some outdoor space for the residents and enables the massing of the building to be recessive. Using glazed balconies at a low height as shown would be appropriate in this context. The design of the second floor with its vertical cladding and fenestration in line with the first floor windows of the existing building picks up the rhythms in the street and this would accord with the principles of the New Milton Local Distinctiveness Document. The proposed use of a darkish metal clad finish would contrast with the existing brick building, but this is felt to create a contemporary design approach which would add character and presence to the existing building that would be acceptable in this location. If the building was designed with brick materials to match the existing building, this is likely to exacerbate the scale and massing of the overall building which would

be inappropriate in this context. Accordingly, the design approach and use of materials which link in with the three storey building in the car park would not unacceptably detract from the character of the area and would be viewed as an innovative design solution to extend and alter the building so that it appears as an extension to the original building.

- 14.2.11 The proposal has very limited private amenity space for the proposed dwellings, but the residential flats would have outside terraced areas and balconies which would broadly accord with the councils Supplementary Planning Document Housing Design Density and Character. New tree and soft landscaping in the existing car parking area would help soften the views and outlook from these residential properties.
- 14.2.12 With regard to residential amenity, the proposed residential properties that are most likely to be effected are to the north at Bursledon House and to the rear at Shannock House, 1 Ashley Road.
- 14.2.13 The building to the north at Bursledon House comprises several residential flats and has a number of windows on the side elevation at first, second and third floor level facing the application site. The proposed second floor to be added to the existing frontage building would have some impact on the outlook from the residential flats at Bursledon Home. There is currently a third storey dormer and second floor window nearest to the proposed extension and both these windows serve bedrooms which face the existing two storey building. The view from those windows would be onto the side elevation of the new extension which would extend approximately 3.7 metres above the existing two storey building. The distances from the existing windows at Bursledon House to the side elevation of the proposed second floor building would range from approximately 5.5 metres to 7 metres. Because of this close relationship and the design of the building with dark cladding, it is considered that there would be some loss of outlook from these windows, however the effect would not be so severe to refuse planning permission. The windows serve bedrooms and are not main living rooms such as a lounge and the residential flats have their main windows facing Station Road or to the rear of the site. It is also considered that a minimum distance in excess of 5 metres would be reasonable not to result in a level of impact that would warrant a refusal of planning permission in a densely developed Town Centre location such as this.
- 14.2.14 In terms of the three storey extension in the car park, the rear elevation of the building would have first and second floor windows together with balconies facing the side elevation to Bursledon House, which has first, second and third level windows which serve bedrooms, bathrooms and kitchens facing the application site. The distance from the proposed windows on the rear elevation would be approximately 11 metres but the views from the windows would be slightly oblique given that the building at Bursledon House is set further back from the proposed building in the car park. There is a high leylandii hedgerow along the boundary which provides some screening but this landscape feature is very unattractive and in a poor condition and it is proposed to replace this with some new trees and hedgerow. Given the distances involved between the properties and the oblique angled views, it is not considered to result in unacceptable overlooking. It should also be noted that overlooking is more apparent in town centre locations where buildings and residential properties tend to be at a higher density and located closer together.

- 14.2.15 Concerning Shannock House, 1 Ashley Road, there are several first and second floor windows proposed facing in the direction of these neighbouring residential flats, although part of the building incorporates angled windows which predominately face to the front and rear of the site. In total, there would be eight windows facing east serving bedrooms and lounge areas. It is considered that there would be an element of overlooking to the neighbouring residential flats at Shannock House, but the impact would not be so severe as to justify refusal of planning permission. The existing windows comprise small kitchen windows rather than main living or lounge areas. The proposed building would be approximately 12 metres away from these windows, which is considered to be an acceptable distance not to result in any loss of light or look in this Town Centre location.
- 14.2.16 In terms of public highway safety matters, the proposal would result in the provision of 10 apartments, (9 x one-bed and 1 x two-bed) together with 26 car parking spaces and a number of secure cycle spaces. Parking within the New Forest District (outside the National Park) is sought in accordance with the NFDC document 'Parking Standards Supplementary Planning Document (SPD)' which sets a recommended average provision for residential car parking provision and recommended car parking provisions for all non-residential use classes. For one-bed dwellings the recommended provision is 1.4 per unit where shared/communal rising to 2 spaces where allocated, for two-bed dwellings the shared/communal recommended provision is 1.5 with the allocated provision the same as for a one-bed dwelling.
- 14.2.17 However, given the close proximity of the site to local amenities, including public transport, together with the fact that the parking SPD provides a recommended average provision and does not seek to set minimum or maximum standards, the highway authority consider that an objection based upon an under provision of car parking for the proposed residential development would be neither appropriate nor sustainable. The transport statement indicates that the level of off-street parking would increase by 2 spaces, with 1 space allocated to each dwelling with the remainder allocated to the ground floor commercial units, which represent a loss of 8 spaces for the existing users, i.e. an approximate reduction of 33% in capacity. In order to substantiate this reduction in car parking capacity the applicant should provide secure and covered cycle parking for the existing commercial units, in order to encourage alternative modes of transport to the private car. The parking SPD provides minimum standards for both long and short stay cycle parking, for long stay this 1 space & 1 loop/hoop per one-bed unit whilst the long stay provision rises to 2 spaces.
- 14.2.18 Due to the restricted widths of the existing vehicular access the car park operates under a one-way system with vehicular access being achieved from Ashley Road and egress onto Station Road. Given that both Ashley Road and Station Road are classified, together with the close proximity to the signalised crossroads, the highway authority consider that the continuation of this one-way system is necessary in highway safety terms and will need to be controlled and self policing. The plans show spring loaded recessed plates in the road to self police the one way system.
- 14.2.19 In terms of tree matters, situated to the east of the car parks entrance on the sites southern boundary is a large, mature Oak tree that provides a

good level of public amenity. The tree is protected by TPO: 0033/13 and is considered as a constraint to the development of this site. The Tree Officer does not raise any objections subject to imposition of a condition.

- 14.2.20 The proposed development would require contributions towards affordable housing under Policy CS15. The target minimum would be 40% of all dwellings to be for affordable housing which would equate to 4 of the 10 dwellings on site to be affordable. The applicant has proposed 2 units on site for affordable housing and an off site contribution of £22,750. Whilst it is considered 4 units should be on site affordable, on the basis that the applicant is meeting the policy provision which includes both on site and a financial payment, it is considered that this approach would be acceptable. In addition a contribution towards habitats mitigation would be required as set out in the Contributions table. The other contributions would be dealt with under CIL. The Section 106 Agreement has not been completed and is currently being progressed.
- 14.2.21 On the 28th November 2014 National Planning Practice Guidance was updated with regard to the charging of contributions for affordable housing. The changes are not strictly new national policy but they are “material considerations” when determining a planning application. As such when determining an application they have to be weighed against all other material considerations notably locally adopted policies in the Development Plan. The changes do not apply to Habitat Mitigation measures or site-specific requirements eg. an improved access on highway land that will continue to be applied in full. This is a complex issue. However, New Forest District Council’s evidence shows that small sites contributions are being varied when appropriate in response to site specific viability considerations (in accordance with our Local Plan policy). The loss of affordable housing provision from all small site developments would result in a reduced supply of affordable housing as small sites make a major contribution to our housing supply in this area. Developers not wishing to make a financial contribution do have the option of making provision on-site for affordable housing, to comply with the policies in the adopted Local Plan.
- 14.2.22 In these circumstances, and with an up-to-date Local Plan, it will generally be appropriate to conclude that the material consideration of the Government’s recent announcement does not outweigh the presumption in favour of following the Development Plan.
- 14.2.23 In conclusion, it is considered that the proposed development would be acceptable subject to the completion of a Section 106 Agreement for the required contributions.
- 14.2.24 In coming to this recommendation, consideration has been given to the rights set out in Article 8 (Right to respect for private and family life) and Article 1 of the First Protocol (Right to peaceful enjoyment of possessions) of the European Convention on Human Rights. Whilst it is recognised that there may be an interference with these rights and the rights of other third parties, such interference has to be balanced with the like rights of the applicant to develop the land in the way proposed. In this case it is considered that the protection of the rights and freedoms of the applicant outweigh any possible interference that may result to any third party.

Developers Contributions Summary Table

Proposal:			
Type of Contribution	NFDC Policy Requirement	Developer Proposed Provision	Difference
Affordable Housing			
No. of Affordable dwellings	4	0	
Financial Contribution	0	£0	0
Financial Contribution	£0	£0	0

CIL Contribution Summary Table

Description of Class	GIA New	GIA Existing	GIA Net Increase	CIL Liability
Dwelling houses	1530	0	1530	£122,400.00

15. RECOMMENDATION

Grant Subject to Conditions

Proposed 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. The development permitted shall be carried out in accordance with the following approved plans: 947/12 rev j, 947/10 rev i, 947/20 rev g, 947/21 rev h, 947/23 rev h, 947/22 rev h, 947/20 rev c.

Reason: To ensure satisfactory provision of the development.

3. Before development commences, samples or exact details of the facing and roofing materials to be used to include the colour finishes to be applied and the details of the windows, doors and balconies shall be submitted to and approved in writing by the Local Planning Authority. The development shall only be implemented in accordance with the approved details.

Reason: To ensure an acceptable appearance of the building in accordance with policy CS2 of the Core Strategy for the New Forest District outside the National Park.

4. The development hereby permitted shall not be occupied until the arrangements for parking within its curtilage have been implemented. These areas shall be kept available for their intended purposes at all times.

Reason: To ensure adequate parking provision is made in the interest of highway safety.

5. Prior to commencement of works (including site clearance and any other preparatory works) a scheme for the protection of trees in accordance with BS5837:2012 'Trees in relation to design, demolition and construction – Recommendations shall be submitted to the Local Planning Authority for approval. Once approved, the scheme shall be implemented and at least 3 working days notice shall be given to the Local Planning Authority that it has been installed. Information is required on the:

- a) Location of site compound and mixing areas,
- b) Routes of underground services,
- c) Tree work specification,
- d) Position of tree protective fencing/ground protection. The protective fencing shall be as specified in Chapter 6 and detailed in figures 2 or 3 of BS5837:2012 unless otherwise agreed in writing with the Local Planning Authority.
- e) The submission of further details of the spring loaded recessed plates proposed at the entrance to the site from Ashley Road to show the implications for the protected oak tree

Reason: To safeguard trees and natural features which are important to the visual amenities of the area, in accordance with policy CS2 of the Core Strategy for the New Forest outside the National Park.

6. In accordance with the submitted strategic landscape details on Drawing No 947/10 Rev 1, the following additional details shall be submitted to and approved by the Local Planning Authority:

- a) a specification for new planting (species, size, spacing, location, tree pits, irrigation tubes, cellular systems and root barriers);
- b) areas for hard surfacing and the materials to be used;
- c) other means of enclosure, including the external free standing wall/grill structure which screens the undercroft parking area from Ashley Road;
- d) 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 all planting, seeding or turfing comprised in the approved details of landscaping shall be carried out in the first planting and seeding seasons following the occupation of the buildings or the completion of the development whichever is the sooner. Any trees or plants which within a period of 5 years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of a similar size or species, unless the Local Planning Authority gives written consent to any variation.

Reason: To ensure that the development takes place in an appropriate way and to prevent inappropriate car parking to comply with Policy CS2 of the Core Strategy for the New Forest District outside the National Park.

7. Before first occupation of the development hereby approved the applicant must design and install a surface water sustainable system to cater for the new impermeable areas (i.e. roofs) on the proposed development such that no additional or increased rate of flow of surface water will drain to any water body or adjacent land for storms up to 1 in 100 years including climate change.

Reason: In order to ensure that the drainage arrangements are appropriate and in accordance with Policy CS2 of the Local Plan for the New Forest District outside the National Park (Core Strategy) and the New Forest District Council and New Forest National Park Authority Strategic Flood Risk Assessment for Local Development Frameworks.

8. Prior to commencement of work a trial trench shall be dug in the area proposed for the foundations of the brick piered wall, in order to establish the presence and direction of any significant tree roots. The trial trench shall be hand dug to a depth of no less than 600mm without severing any roots of more than 20mm in diameter. The applicant shall give the Local Planning Authority notice of the completion of the trial trench and will allow reasonable access to the trench by the Council's Tree Officer for a period of 7 days following notification. Details of the design and construction of the foundations shall then be submitted to the Local Planning Authority having regard to the presence and orientation of any structural roots and development shall not proceed until the details have been approved by the Local Planning Authority. Work shall only take place in accordance with the approved details.

Reason: To safeguard trees and natural features which are important to the visual amenities of the area, in accordance with policy CS2 of the Core Strategy for the New Forest outside the National Park.

9. No development shall be carried out until proposals for the mitigation of the impact of the development on the New Forest and Solent Coast European Nature Conservation Sites have been submitted to and approved in writing by the local planning authority, and the local planning authority has confirmed in writing that the provision of the proposed mitigation has been secured. Such proposals must:
- a) Provide for mitigation in accordance with the New Forest District Council Mitigation Strategy for European Sites SPD, adopted in June 2014 (or any amendment to or replacement for this document in force at the time), or for mitigation to at least an equivalent effect;
 - b) Provide details of the manner in which the proposed mitigation is to be secured. Details to be submitted shall include arrangements for the ongoing maintenance and monitoring of any Suitable Alternative Natural Green Spaces which form part of the proposed mitigation measures together with arrangements for permanent public access thereto.

- c) The development shall be carried out in accordance with and subject to the approved proposals.

Reason: The impacts of the proposed development must be mitigated before any development is carried out in order to ensure that there will be no adverse impacts on the New Forest and Solent Coast Nature Conservation Sites in accordance with Policy DM3 of the Local Plan Part 2 and the New Forest District Council Mitigation Strategy for European Sites Supplementary Planning Document.

Notes for inclusion on certificate:

1. This decision relates to amended / additional plans received by the Local Planning Authority on the 13th May 2015
2. In accordance with paragraphs 186 and 187 of the National Planning Policy Framework and Article 35 of the Town and Country Planning (Development Management Procedure) (England) Order 2015, New Forest District Council takes a positive and proactive approach, seeking solutions to any problems arising in the handling of development proposals so as to achieve, whenever possible, a positive outcome by giving clear advice to applicants.

Following discussions with the applicants, revised and additional plans have been submitted to address design concerns and issues raised by the highway authority which have enabled a positive recommendation to be made.

3. In discharging condition No. 9 above the Applicant is advised that appropriate mitigation is required before the development is commenced, either by agreeing to fund the Council's Mitigation Projects or otherwise providing mitigation to an equivalent standard. Further information about how this can be achieved can be found here <http://www.newforest.gov.uk/article/16478/>

Further Information:

Major Team
Telephone: 023 8028 5345 (Option 1)



New Forest
DISTRICT COUNCIL

Tel: 023 8028 5000
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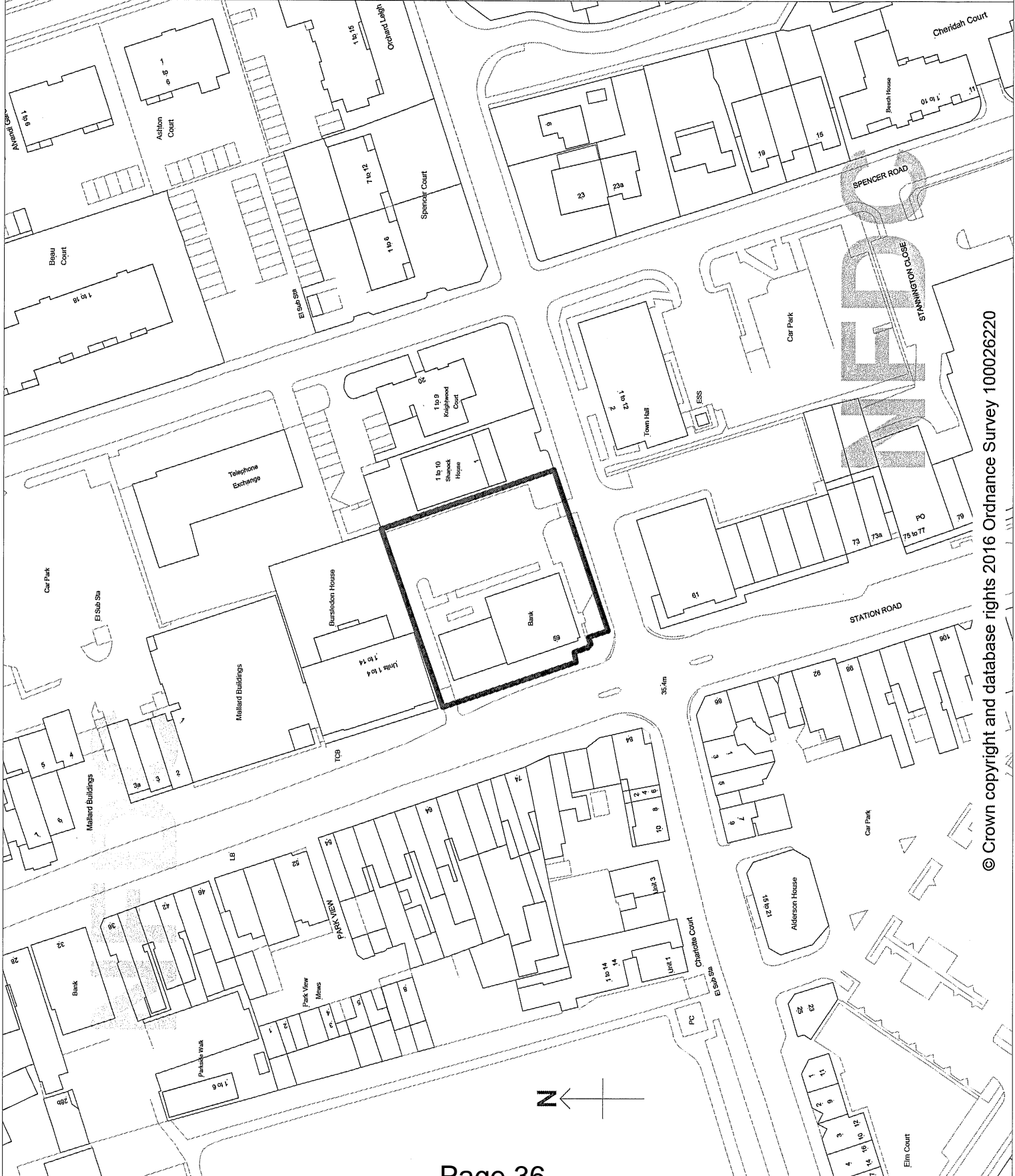
**Planning Development
Control Committee
August 2016**

Item No: 3c

59
Station Road
New Milton
15/10032
SZ2495

Scale 1:1250

N.B. If printing this plan from
the internet, it will not be to
scale.



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Application Number: 15/10039 Full Planning Permission

Site: Land adjacent 1 DUKESWOOD DRIVE, DIBDEN PURLIEU,
HYTHE SO45 4NH

Development: Detached house

Applicant: BSP Projects Ltd

Target Date: 27/03/2015

Extension Date: 30/09/2016

1 REASON FOR COMMITTEE CONSIDERATION

Previous Committee consideration and contrary to Policy

2 DEVELOPMENT PLAN AND OTHER CONSTRAINTS

Landscape Feature
Public Open Space Existing
Built up area
Flood Zone 1/2/3

3 DEVELOPMENT PLAN, OBJECTIVES AND POLICIES

Core Strategy

Objectives

1. Special qualities, local distinctiveness and a high quality living environment
2. Climate change and environmental sustainability
3. Housing
6. Towns, villages and built environment quality
8. Biodiversity and landscape

Policies

Adopted Local Plan First Alteration

Saved Policy DW-E12: Protection of Landscape Features

Core Strategy

CS2: Design quality
CS4: Energy and resource use
CS6: Flood risk
CS7: Open spaces, sport and recreation
CS10: The spatial strategy
CS15: Affordable housing contribution requirements from developments
CS24: Transport considerations
CS25: Developers contributions

Local Plan Part 2

DM3: Mitigation of impacts on European nature conservation sites

4 RELEVANT LEGISLATION AND GOVERNMENT ADVICE

Section 38 Development Plan
Planning and Compulsory Purchase Act 2004
National Planning Policy Framework

5 RELEVANT SUPPLEMENTARY PLANNING GUIDANCE AND DOCUMENTS

SPD - Mitigation Strategy for European Sites
SPD - Parking Standards

6 RELEVANT PLANNING HISTORY

- 6.1 House, access (91624) Granted with conditions on the 6th March 2008
- 6.2 Erection of a house with integral garage (06811) Refused on the 20th January 1977

7 PARISH / TOWN COUNCIL COMMENTS

Hythe Parish Council: Recommend permission but would support a delegated decision

8 COUNCILLOR COMMENTS

None

9 CONSULTED COMMENTS

- 9.1 Land Drainage: No objection subject to condition
- 9.2 Environment Agency: No objection subject to condition
- 9.3 Hampshire County Council Highway Engineer: No comment received to date
- 9.4 Tree Officer: No objection subject to condition
- 9.5 Open Space Officer: Objection. The proposal would result in the loss of an existing landscape feature and area of public open space.
- 9.6 Council's Valuer: If the target Affordable Homes contribution is included in the appraisal, the residential development land value falls below the current modest Site Value. Therefore it is appropriate to reduce the Affordable Homes contribution in this case. If the Affordable Housing contribution is adjusted to £14,265 the residual development site value is in equilibrium with the threshold Site Value.
- 9.7 Policy: Objection. The proposal would result in the loss of an existing landscape feature and area of public open space.

10 REPRESENTATIONS RECEIVED

None

11 CRIME & DISORDER IMPLICATIONS

No relevant considerations

12 LOCAL FINANCE CONSIDERATIONS

If this development is granted permission and the dwellings built, the Council will receive £1152 in each of the following six years from the dwellings' completion, and as a result, a total of £6912 in government grant under the New Homes Bonus will be received. From the 6 April 2015 New Forest District Council began charging the Community Infrastructure Levy (CIL) on new residential developments. Based on the information provided at the time of this report this development has a CIL liability of £12,048.80

13 WORKING WITH THE APPLICANT/AGENT

In accordance with paragraphs 186 and 187 of the National Planning Policy Framework and Article 31 of Town and Country Planning (Development Management Procedure) (England) Order 2010, New Forest District Council take a positive and proactive approach, seeking solutions to any problems arising in the handling of development proposals so as to achieve, whenever possible, a positive outcome.

This is achieved by

- Strongly encouraging those proposing development to use the very thorough pre application advice service the Council provides.
- Working together with applicants/agents to ensure planning applications are registered as expeditiously as possible.
- Advising agents/applicants early on in the processing of an application (through the release of a Parish Briefing Note) as to the key issues relevant to the application.
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- Working together with applicants/agents to closely manage the planning application process to allow an opportunity to negotiate and accept amendments on applications (particularly those that best support the Core Strategy Objectives) when this can be done without compromising government performance requirements.
- Advising applicants/agents as soon as possible as to concerns that cannot be dealt with during the processing of an application allowing for a timely withdrawal and re-submission or decision based on the scheme as originally submitted if this is what the applicant/agent requires.
- When necessary discussing with applicants/agents proposed conditions especially those that would restrict the use of commercial properties or land when this can be done without compromising government performance requirements.

In this case, the proposal was acceptable as submitted.

14 ASSESSMENT

14.1 Introduction

- 14.1.1 The application was considered by this Committee on the 9th March 2016 and the resolution was for the Executive Head of Economy, Housing and Planning be authorised to Grant Permission subject to the completion by 30th September 2016, of a planning obligation entered into by way of an Agreement pursuant to Section 106 of the Town and Country Planning Act 1990 to secure an affordable housing

contribution of £14,625. The legal agreement has not been completed and this application is now referred to the Committee following changes to government policy as set out below.

- 14.1.2 On 19th May 2016 the Government issued planning guidance setting out the specific circumstances in which contributions for affordable housing and tariff style planning obligations (section 106 agreements) should not be sought from small scale and self-build development. This guidance has been reissued following the order of the Court of Appeal dated 13th May 2016 (*West Berkshire District Council and Another v The Secretary of State for Communities and Local Government*). The planning guidance specifies the circumstances in which contributions should not be sought as follows:
- "Contributions should not be sought from developments of 10 units or less and which have a maximum combined gross floorspace of no more than 1,000 sqm;
In designated rural areas, local planning authorities may choose to apply a lower threshold of 5 units or less;
- 14.1.3 Affordable housing and tariff style contributions should not be sought from any development consisting only of the construction of a residential annex or extension to an existing house", This national guidance is at odds with Policy CS15 of the Council's Core Strategy which requires many small scale housing developments including the current application proposal to make affordable housing provision
- 14.1.4 The presumption in favour of the development plan remains, in that the decision should be taken in accordance with the plan unless material considerations indicate otherwise. The new guidance is a material consideration which post-dates the adoption of the Local Plan. It is for the Council to decide which should prevail in the determination of a planning application. However, the Secretary of State, through his Inspectors, can be anticipated to give greater weight to the Government's national guidance unless there are reasons to make an exception.
- 14.1.5 While the need for affordable housing in this District is pressing, this in itself is unlikely to be considered by the Secretary of State as sufficient reason for the Council to apply its own development plan policy rather than applying national policy. Therefore it is recommended that no affordable housing or tariff style contributions are sought from this development, in accordance with national Planning Practice Guidance, contrary to the provisions of Policy CS15 of the Core Strategy.

14.2 Previous Committee Report

- 14.2.1 The site lies on the corner of Whitewater Rise and Dukeswood Drive within the built up area of Hythe. There are no buildings or structures on the site, which is currently vacant. At one time the site possibly formed part of the residential curtilage to No 1 Dukeswood Drive. The site is a square shaped piece of land with dense vegetation and trees to the west, north and south boundaries. The land is on a much lower level than Dukeswood Drive. To the north of the site is a stream and footpath running through a line of trees and the site lies within a high risk flood zone. Part of the site is located within land identified as a Landscape Feature, existing public open space.

- 14.2.2 The character of the surrounding area is residential and comprises detached, semi-detached and terraced housing (linked by garages). Along Dukeswood Drive, the residential properties range from two storey dwellings to chalet style dwellings. For the most part, the dwellings have their ridge lines running parallel to the road, but some of the properties are designed with front gables. To the front of the properties there are no front boundary walls or enclosures. Rear garden areas are typically small with a dense line of trees lining their rear boundaries.
- 14.2.3 The proposal is to construct a detached dwelling with attached garage on this site with access from Dukeswood Drive. The main elevation of the proposed dwelling would front onto Dukeswood Drive and the proposed layout would incorporate a side and rear garden area. The majority of the existing trees along the site boundary would be removed and new tree planting is proposed around the perimeter of the site. Visually the proposed dwelling would be a conventional two storey dwelling with a pitched roof with part front gable end.
- 14.2.4 Planning permission was granted on this site in 2008 for a detached dwelling, which comprised a building which would have fronted onto Dukeswood Drive. That permission has now expired. That approval involved the dwelling having a front and rear garden and the majority of the land to the west of the site where there is dense tree coverage being retained.
- 14.2.5 In assessing the effect on the character and appearance of the area, the site lies within the built up area and part of the site lies within an area designated as a Landscape feature and existing public open space. The landscape feature and public open space designation extends along the stream to the north of the site and the western half of the site on the corner of Dukeswood Avenue and Whitewater Rise. It should be noted that the site is not in public ownership.
- 14.2.6 Saved Policy DW-E12 of the Local Plan (First Alteration) relates to the protection of landscape features and states that development will not be permitted which would cause the loss of, or irreparable damage to, open areas or other landscape features, which contribute to the character or setting of a defined built-up area and/ or screen development which would otherwise have an unacceptable visual impact. The subtext to the policy states that within and adjoining the defined built-up areas, there are undeveloped areas and landscape features, such as small amenity spaces, gaps between parts of settlements, woodlands, ponds etc, which are of visual amenity value, and help to create a particular local character and identity. This policy seeks to protect them from developments which would detract from the contribution they make to the quality and character of the local environment. Where appropriate the local planning authority will also encourage management initiatives to maintain and enhance them.
- 14.2.7 In terms of the loss of open space, part of the site is allocated in the local plan as existing open space (exactly the same area which is identified as a landscape feature). The land has not been developed as public open space and there is no direct access for the public to use this land. The Council's Open Space Officer is concerned that although the land is not currently used as open space, it is allocated

for such purposes and the loss of this area would affect the Council's overall open space requirements and the proposal would also result in the loss of the landscape feature.

- 14.2.8 In response, the proposed dwelling and rear garden area does not extend into these areas. It is the proposed side garden area which would extend into the designated areas. Given that the land has never been laid out as open space or made available for public use, it is very unlikely that it would ever become available for public open space in the foreseeable future. This is not to say that every piece of land which is designated as a landscape feature or area of public open space which is in private ownership can be developed. However, it is felt that in this case, the extent of the area is very small, and it will not be available for public use in the future. The land to the north of the site along the stream is also defined as public open space, however, in this area there is a footpath and it is available for the public to use.
- 14.2.9 Moreover, it is clear that there are a number of trees and vegetation along the western and northern boundaries of the site, some of which are in a poor condition and over the years it would appear that the density of the vegetation has been reduced. None of these trees are protected. The applicant seeks to create a much improved tree planting proposal with a 6 metre screen around the perimeter of the site and this could include a mixture of field maple, scots pine and birch trees. The final details can be dealt with by a suitably worded planning condition.
- 14.2.10 In assessing this proposal, while some of the proposed side garden encroaches into the land designated as a landscape feature, this is only a small area and the proposal seeks to provide a much enhanced landscaped area with a better tree planting scheme extending to 6 metres deep around the perimeter of the site. It is felt that the 6 metre landscape buffer would ensure that a sufficient area of the landscape feature would be retained and a planning condition can also be imposed to prevent sheds or outbuildings in the side garden without the prior approval of the Local Authority. On balance it is considered that any harm from the removal of some trees and vegetation will be improved by an enhanced planting proposal, which would screen the development and retain the important landscape feature on the entrance to Dukeswood Drive.
- 14.2.11 Visually, the proposed dwelling is a different design to some of the other properties in the street, which predominantly have their ridge lines running parallel to the street. However the proposed dwelling has been designed to a high standard and because of its detached form would add interest to this part of the street and would not have a harmful impact on the character of the area.
- 14.2.12 With regard to residential amenity, the first floor windows on the south elevation would face in the direction of Dukeswood Drive, which would be acceptable and would not have any adverse impact in terms of overlooking. In terms of the effect on the resident at No 87 Highlands Way, there is a dense woodland area that separates the proposed north side elevation from the rear garden of that resident. The distance from the proposed bathroom window to the rear boundary of No 87 measures around 12.5 metres, and given the screening, this is unlikely to unacceptably impact on that resident. Indeed the back to back

distance is 25 metres, which is acceptable. Concerning the resident at No 1 Dukeswood Drive the proposed development is located close to the conservatory and side elevation of that property. The proposed attached garage would be sited adjacent to the conservatory, which would help reduce the impact on this neighbouring property.

- 14.2.13 In terms of highway safety matters and car parking, the site layout shows a car parking space and integral garage, which is sufficient for the size of the dwelling. It is also not anticipated that the proposal would prejudice public highway safety.
- 14.2.14 In terms of flooding matters, the application has been submitted with a Flood Risk Assessment. Based upon the Environment Agency flooding maps, the site is in part located within Flood Zone 2/3, which is defined as a high risk flooding area and to the rear of the site is a stream which is approximately 4 metres below the ground level of the site. The Flood Risk Assessment states that if the building has a suspended ground floor level at 21.60 metres Above Ordnance Datum (AOD), this would be 0.6 metres above the highest predicted level on the site during the 100 year event. This would effectively mean that the proposed dwelling would be sited in Flood Zone 1 which would be outside the high risk flood areas and on this basis, the Sequential Test would not be applicable. The Environment Agency raises no objection to the proposal provided that the building is built to this 21.60 metres AOD.
- 14.2.15 The proposed development requires an affordable housing contribution, which is considered fair and reasonable. In this case, the required affordable housing contribution equates to £25,070. The applicants have submitted a viability appraisal which concludes that if the full affordable housing contribution was made, the proposed development would be unviable.
- 14.2.16 The Council's Valuer has assessed the submitted viability appraisal and states that if the target Affordable Homes contribution is included in the appraisal, the residential development land value falls below the current modest Site Value. Accordingly, it is appropriate to reduce the Affordable Homes contribution to £14,625.
- 14.2.17 In accordance with the Habitat Regulations 2010 an assessment has been carried out of the likely significant effects associated with the recreational impacts of the residential development provided for in the Local Plan on both the New Forest and the Solent European Nature Conservation Sites. It has been concluded that likely significant adverse effects cannot be ruled out without appropriate mitigation projects being secured. In the event that planning permission is granted for the proposed development, a condition is recommended that would prevent the development from proceeding until the applicant has secured appropriate mitigation, either by agreeing to fund the Council's Mitigation Projects or otherwise providing mitigation to an equivalent standard.
- 14.2.18 In conclusion, it is considered that the proposed development would not have an adverse impact on the character of the area or living conditions of the adjoining residents and subject to the completion of a Section 106 Agreement to secure contributions towards affordable housing the proposal would be acceptable.

14.2.19 In coming to this recommendation, consideration has been given to the rights set out in Article 8 (Right to respect for private and family life) and Article 1 of the First Protocol (Right to peaceful enjoyment of possessions) of the European Convention on Human Rights. Whilst it is recognised that there may be an interference with these rights and the rights of other third parties, such interference has to be balanced with the like rights of the applicant to develop the land in the way proposed. In this case it is considered that the protection of the rights and freedoms of the applicant outweigh any possible interference that may result to any third party.

15. RECOMMENDATION

Grant Subject to Conditions

Proposed 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. The development permitted shall be carried out in accordance with the following approved plans: site identification plans Rev A, adp/1424/p/101, adp/1424/p/102 Rev a, ADP/1424/P/100 rev a.

Reason: To ensure satisfactory provision of the development.

3. Before development commences, samples or exact details of the facing and roofing materials to be used shall be submitted to and approved in writing by the Local Planning Authority. The development shall only be implemented in accordance with the approved details.

Reason: To ensure an acceptable appearance of the building in accordance with policy CS2 of the Core Strategy for the New Forest District outside the National Park.

4. The development hereby permitted shall not be occupied until the spaces shown on plan ADP/1424/P/100 A for the parking and garaging of motor vehicles have been provided. The spaces shown on plan ADP/1424/P/100 A for the parking and garaging of motor vehicles shall be retained and kept available for the parking [and garaging] of motor vehicles for the dwellings hereby approved at all times.

Reason: To ensure adequate parking provision is made in the interest of highway safety and in accordance with Policy CS2 and CS24 of the Local Plan for the New Forest outside of the National Park (Core Strategy).

5. Before development commences a scheme of landscaping of the site shall be submitted for approval in writing by the Local Planning Authority. This scheme shall include :
- (a) the existing trees and shrubs 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 all planting, seeding or turfing comprised in the approved details of landscaping shall be carried out in the first planting and seeding seasons following the occupation of the buildings or the completion of the development whichever is the sooner. Any trees or plants which within a period of 10 years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of a similar size or species, unless the Local Planning Authority gives written consent to any variation.

Reason: To ensure that the development takes place in an appropriate way and to prevent inappropriate car parking to comply with Policy CS2 of the Local Plan for the New Forest District outside the National Park (Core Strategy).

6. No buildings, structures, fencing or other hardstanding shall be erected or installed within the landscaped feature as shown on Drawing No ADP/1424/P/100 Rev B unless otherwise agreed by the Local Planning Authority.

Reason: This area of land provides an important landscaped feature and buffer to the entrance to Dukeswood Drive and Partridge Road, and it is important to ensure that the landscaping and tree planting is not further removed and replaced with buildings, hardstanding, and additional garden areas in the future in accordance with Policy DW-E12 of the adopted New Forest District Local Plan First Alteration and CS2 of the Core Strategy for the New Forest outside the National Park.

7. The finished floor levels of the dwelling hereby approved shall be set no lower than 21.60 metres Above Ordnance Datum (AOD) as shown on the submitted plan reference ADP/1424/P/102 A or unless otherwise agreed by the Local Planning Authority.

Reason: To reduce the risk of flooding in accordance with policy CS6 of the Core Strategy for the New Forest District outside the National Park.

8. Before first occupation of the development hereby approved the applicant must design and install a surface water sustainable system to cater for the new impermeable areas (i.e. roofs) on the proposed development such that no additional or increased rate of flow of surface water will drain to any water body or adjacent land for storms up to 1 in 100 years including climate change.

Reason: In order to ensure that the drainage arrangements are appropriate and in accordance with Policy CS2 of the Local Plan for the New Forest District outside the National Park (Core Strategy) and the New Forest District Council and New Forest National Park Authority Strategic Flood Risk Assessment for Local Development Frameworks.

9. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) 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 Local Planning 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 CS2 of the Local Plan for the New Forest District outside the National Park (Core Strategy).

10. No development shall be carried out until proposals for the mitigation of the impact of the development on the New Forest and Solent Coast European Nature Conservation Sites have been submitted to and approved in writing by the local planning authority, and the local planning authority has confirmed in writing that the provision of the proposed mitigation has been secured. Such proposals must:

- (a) Provide for mitigation in accordance with the New Forest District Council Mitigation Strategy for European Sites SPD, adopted in June 2014 (or any amendment to or replacement for this document in force at the time), or for mitigation to at least an equivalent effect;
- (b) Provide details of the manner in which the proposed mitigation is to be secured. Details to be submitted shall include arrangements for the ongoing maintenance and monitoring of any Suitable Alternative Natural Green Spaces which form part of the proposed mitigation measures together with arrangements for permanent public access thereto.
- (c) The development shall be carried out in accordance with and subject to the approved proposals.

Reason: The impacts of the proposed development must be mitigated before any development is carried out in order to ensure that there will be no adverse impacts on the New Forest and Solent Coast Nature Conservation Sites in accordance with Policy DM3 of the Local Plan Part 2 and the New Forest District Council Mitigation Strategy for European Sites Supplementary Planning Document.

Notes for inclusion on certificate:

1. In accordance with paragraphs 186 and 187 of the National Planning Policy Framework and Article 35 of the Town and Country Planning (Development Management Procedure) (England) Order 2015, New Forest District Council takes a positive and proactive approach, seeking solutions to any problems arising in the handling of development proposals so as to achieve, whenever possible, a positive outcome by giving clear advice to applicants.

In this case all the above apply and as the application was acceptable as submitted no specific further actions were required.

2. This decision relates to amended plans received by the Local Planning Authority on the 10th December 2015.
3. In discharging condition No.10 above the Applicant is advised that appropriate mitigation is required before the development is commenced, either by agreeing to fund the Council's Mitigation Projects or otherwise providing mitigation to an equivalent standard. Further information about how this can be achieved can be found here <http://www.newforest.gov.uk/article/16478/>

Further Information:

Major Team

Telephone: 023 8028 5345 (Option 1)



New Forest
DISTRICT COUNCIL

Tel: 023 8028 5000
www.newforest.gov.uk

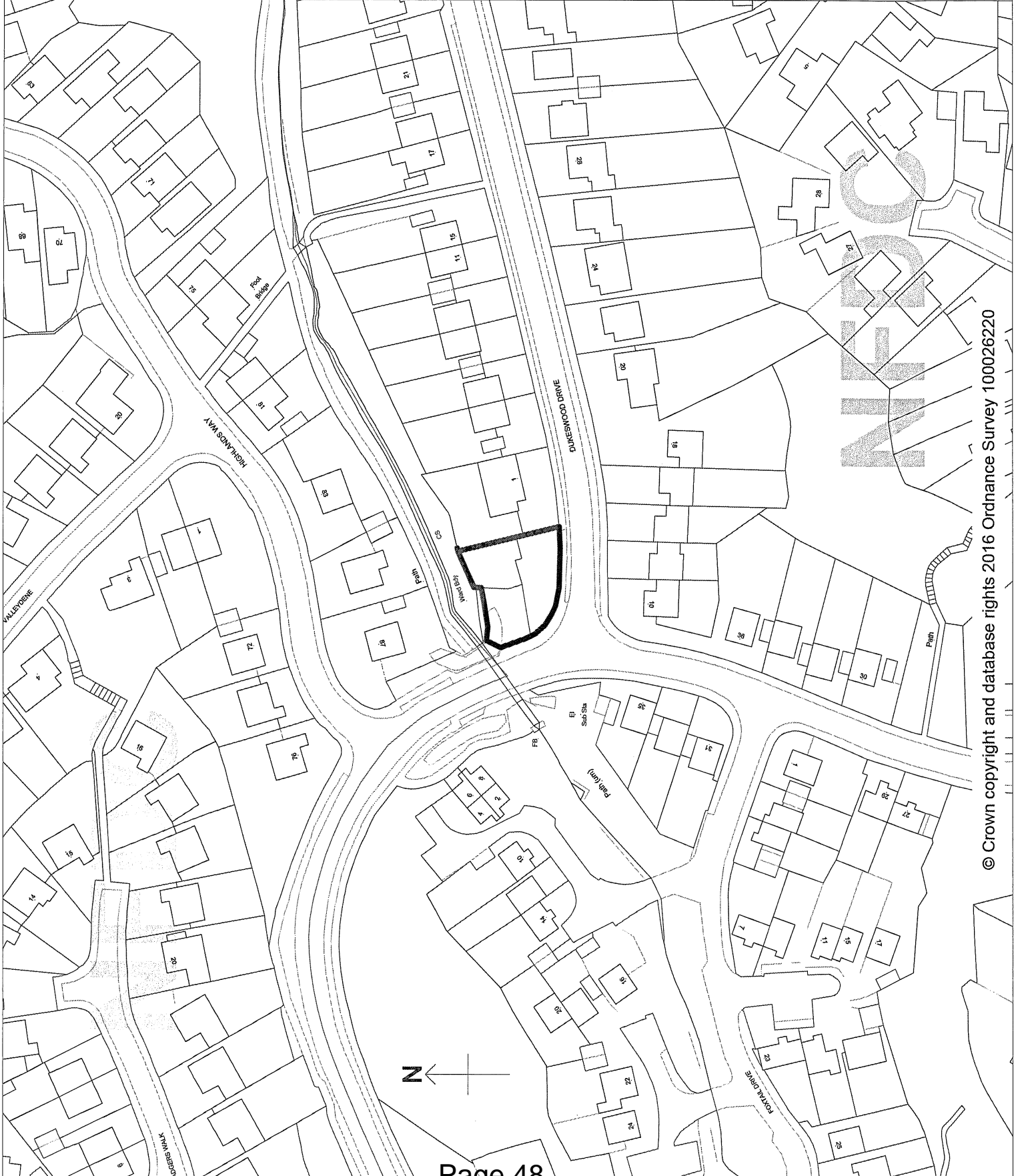
David Groom
Service Manager
Planning and Building Control
New Forest District Council
Appletree Court
Lyndhurst
SO43 7PA

**Planning Development
Control Committee
August 2016**

Item No: 3d
Land Adj 1
Dukeswood Drive
Dibden Purlieu
15/10039
SU4106

Scale 1:1250

N.B. If printing this plan from
the internet, it will not be to
scale.



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Application Number: 15/11264 Full Planning Permission

Site: 40 HOBART ROAD, NEW MILTON BH25 6EG

Development: Two-storey dwelling; parking

Applicant: Murrays (Stationers) Limited

Target Date: 17/11/2015

Extension Date: 30/06/2016

1 REASON FOR COMMITTEE CONSIDERATION

Contrary to Policy

2 DEVELOPMENT PLAN AND OTHER CONSTRAINTS

Built up area

3 DEVELOPMENT PLAN, OBJECTIVES AND POLICIES

Core Strategy

Objectives

1. Special qualities, local distinctiveness and a high quality living environment
3. Housing
6. Towns, villages and built environment quality

Policies

Core Strategy

- CS2: Design quality
- CS4: Energy and resource use
- CS10: The spatial strategy
- CS15: Affordable housing contribution requirements from developments
- CS17: Employment and economic development
- CS24: Transport considerations
- CS25: Developers contributions

Local Plan Part 2

- DM3: Mitigation of impacts on European nature conservation sites

4 RELEVANT LEGISLATION AND GOVERNMENT ADVICE

- Section 38 Development Plan
- Planning and Compulsory Purchase Act 2004
- National Planning Policy Framework

5 RELEVANT SUPPLEMENTARY PLANNING GUIDANCE AND DOCUMENTS

SPD - Parking Standards
SPD - New Milton Local Distinctiveness
SPD - Mitigation Strategy for European Sites

6 RELEVANT PLANNING HISTORY

- 6.1 Erection of garage and store (Lyb 14211) Granted with conditions on the 15th Dec 1972
- 6.2 Erection of additional offices (Lyb 6990) Granted on the 23rd Dec 1960
- 6.3 Erection of office (Lyb 4546) Granted on the 12th March 1958

7 PARISH / TOWN COUNCIL COMMENTS

New Milton Town Council: acceptable

8 COUNCILLOR COMMENTS

None

9 CONSULTEE COMMENTS

- 9.1 Hampshire County Council Highway Engineer: no highway objection subject to condition
- 9.2 Land Drainage: No objection subject to condition

10 REPRESENTATIONS RECEIVED

None

11 CRIME & DISORDER IMPLICATIONS

No relevant considerations

12 LOCAL FINANCE CONSIDERATIONS

If this development is granted permission and the dwellings built, the Council will receive (net increase in dwellings x £1152) in each of the following six years from the dwellings' completion, and as a result, a total of £x (figure above x 6) in government grant under the New Homes Bonus will be received.

From the 6 April 2015 New Forest District Council began charging the Community Infrastructure Levy (CIL) on new residential developments.

Based on the information provided at the time of this report this development has a CIL liability of £6,351.41.

Tables setting out all contributions are at the end of this report.

13 WORKING WITH THE APPLICANT/AGENT

In accordance with paragraphs 186 and 187 of the National Planning Policy Framework and Article 35 of the Town and Country Planning (Development Management Procedure) (England) Order 2015, New Forest District Council take a positive and proactive approach, seeking solutions to any problems arising in the handling of development proposals so as to achieve, whenever possible, a positive outcome.

This is achieved by

- Strongly encouraging those proposing development to use the very thorough pre application advice service the Council provides.
- Working together with applicants/agents to ensure planning applications are registered as expeditiously as possible.
- Advising agents/applicants early on in the processing of an application (through the release of a Parish Briefing Note) as to the key issues relevant to the application.
- Updating applicants/agents of issues that arise in the processing of their applications through the availability of comments received on the web or by direct contact when relevant.
- Working together with applicants/agents to closely manage the planning application process to allow an opportunity to negotiate and accept amendments on applications (particularly those that best support the Core Strategy Objectives) when this can be done without compromising government performance requirements.
- Advising applicants/agents as soon as possible as to concerns that cannot be dealt with during the processing of an application allowing for a timely withdrawal and re-submission or decision based on the scheme as originally submitted if this is what the applicant/agent requires.
- When necessary discussing with applicants/agents proposed conditions especially those that would restrict the use of commercial properties or land when this can be done without compromising government performance requirements.

Revised plans have been submitted which has addressed the concerns previously raised. The proposal is now supported by Officers.

14 ASSESSMENT

- 14.1.1 The application site lies to the rear of a two storey semi detached dwelling at No 42 Hobart Road and currently comprises a collection of single storey buildings (with first floor accommodation in part) which was previously used as a workshop and stores. The buildings occupy a large part of the rear of the site (around 230 square metres) with a small area used in front of the buildings for vehicular access and car parking. The buildings comprise a flat roof structure to the front and a taller building extending to the rear boundary which incorporates a pitched roof. Glimpses of these buildings can be seen from Hobart Road, but the north boundary is bounded by Arnewood School playing fields. To the front of the site is the semi detached dwelling which appears to be two residential properties and this does not form part of the site. Apart from a small front and rear garden, these residential properties do not have any other outside amenity space.

- 14.1.2 The character of the area is predominately residential with detached and semi detached dwellings fronting onto Hobart Road with their rear gardens backing onto the Arnewood School. For the most part, the rear residential properties along Hobart Road have relatively deep rear garden areas with outbuildings and sheds and the car parking spaces are generally provided to the side of the buildings. There are some community facilities opposite and nearby but along the northern side of Hobart Road the context is residential.
- 14.1.3 This proposal seeks to demolish the existing buildings and to construct a detached dwelling. The dwelling has been designed to appear as a 'Coach House' with front and rear gables and the proposed building would occupy a similar siting compared to the existing building, although it would have a smaller footprint. The layout of the site would provide for car parking spaces and front and rear garden areas.
- 14.1.4 In policy terms, the site is not allocated for any purposes and is a site which lies within the built up area. Policy CS17 relates to employment and economic development and the policy seeks to keep all existing employment sites and allocations for employment use. The existing buildings are not currently used for any employment use, and it is the only employment building in this location. When the building was previously in use, it is understood that two to three people were employed. Given the poor condition and unattractive nature of the existing buildings, and its location situated amongst residential properties, it is considered that a residential use would be appropriate and would not undermine the policy to retain employment uses.
- 14.1.5 Indeed, there is a clear opportunity to enhance the character of the area and the living conditions of the neighbouring residential properties and this current proposal would achieve this. The proposed dwelling would be of a traditional design with a simple roof form and although it would be taller than the existing building, the overall ground covered by buildings would be considerably reduced. Moreover, whilst the dwelling would be sited in a backland position, given that there is already a large building in this location, there are no objections to this particular location for a dwelling. Overall it is considered that the proposed development would make a positive enhancement to the character and appearance of the area.
- 14.1.6 With regard to residential amenity, although the proposed dwelling would be taller in scale compared to the existing building, it would have a smaller footprint. Moreover, a single residential property would result in less activity and disturbance compared to an employment use and generally the proposal would create an improved relationship with the neighbouring properties.
- 14.1.7 The proposed rooflights on the side elevation serve bathrooms and secondary windows to bedrooms. In order to mitigate against overlooking these windows will need to be fitted with obscure glass and fixed shut. The first floor window on the front elevation would also require the lower panels to be glazed with obscure glass to maintain a reasonable level of privacy.

- 14.1.8 The car parking is solely to serve the proposed dwelling. The level of car parking accords with the recommended car parking guidance set out in the Council's adopted Supplementary Planning Document. The layout also provides a turning circle to enable cars to leave the site in a forward gear. The Highway Authority does not raise any objections to the proposal.
- 14.9 On 19th May 2016 the Government issued planning guidance setting out the specific circumstances in which contributions for affordable housing and tariff style planning obligations (section 106 agreements) should not be sought from small scale and self-build development. This guidance has been reissued following the order of the Court of Appeal dated 13th May 2016 (West Berkshire District Council and Another v The Secretary of State for Communities and Local Government). The planning guidance specifies the circumstances in which contributions should not be sought as follows:
- "Contributions should not be sought from developments of 10 units or less and which have a maximum combined gross floorspace of no more than 1,000 sqm;
In designated rural areas, local planning authorities may choose to apply a lower threshold of 5 units or less;
- Affordable housing and tariff style contributions should not be sought from any development consisting only of the construction of a residential annex or extension to an existing house", This national guidance is at odds with Policy CS15 of the Council's Core Strategy which requires many small scale housing developments including the current application proposal to make affordable housing provision.
- 14.10 The presumption in favour of the development plan remains, in that the decision should be taken in accordance with the plan unless material considerations indicate otherwise. The new guidance is a material consideration which post-dates the adoption of the Local Plan. It is for the Council to decide which should prevail in the determination of a planning application. However, the Secretary of State, through his Inspectors, can be anticipated to give greater weight to the Government's national guidance unless there are reasons to make an exception.
- 14.11 While the need for affordable housing in this District is pressing, this in itself is unlikely to be considered by the Secretary of State as sufficient reason for the Council to apply its own development plan policy rather than applying national policy. Therefore it is recommended that no affordable housing or tariff style contributions are sought from this development, in accordance with national Planning Practice Guidance, contrary to the provisions of Policy CS15 of the Core Strategy.
- 14.12 In accordance with the Habitat Regulations 2010 an assessment has been carried out of the likely significant effects associated with the recreational impacts of the residential development provided for in the Local Plan on both the New Forest and the Solent European Nature Conservation Sites. It has been concluded that likely significant adverse effects cannot be ruled out without appropriate mitigation projects being secured. In the event that planning permission is

granted for the proposed development, a condition is recommended that would prevent the development from proceeding until the applicant has secured appropriate mitigation, either by agreeing to fund the Council's Mitigation Projects or otherwise providing mitigation to an equivalent standard.

14.13 In conclusion it is considered that the proposal to replace an unattractive employment use to the rear of residential gardens with a new dwelling would be acceptable. Whilst strictly not in accordance with policy that seeks to retain employment uses, given the location of the site and the small loss of employment space, a residential use would be reasonable. The design and layout of the proposal is acceptable and overall the proposal would make improvements to the character of the area and the relationship with neighbouring properties.

14.14 In coming to this recommendation, consideration has been given to the rights set out in Article 8 (Right to respect for private and family life) and Article 1 of the First Protocol (Right to peaceful enjoyment of possessions) of the European Convention on Human Rights. Whilst it is recognised that there may be an interference with these rights and the rights of other third parties, such interference has to be balanced with the like rights of the applicant to develop the land in the way proposed. In this case it is considered that the protection of the rights and freedoms of the applicant outweigh any possible interference that may result to any third party.

CIL Summary Table

Description of Class	GIA New	GIA Existing	GIA Net Increase	CIL Liability
Dwelling houses	76.17		76.17	£6,351.41 *

15. RECOMMENDATION

Grant Subject to Conditions

Proposed 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. The development permitted shall be carried out in accordance with the following approved plans: Drawing 3

Reason: To ensure satisfactory provision of the development.

3. Before development commences, the proposed slab levels in relationship to the existing ground levels set to an agreed datum shall be submitted to and approved in writing by the Local Planning Authority. Development shall only take place in accordance with those details which have been approved.

Reason: To ensure that the development takes place in an appropriate way in accordance with policy CS2 of the Local Plan for the New Forest District outside the National Park (Core Strategy).

4. Before development commences, samples or exact details of the facing and roofing materials to be used shall be submitted to and approved in writing by the Local Planning Authority. The development shall only be implemented in accordance with the approved details.

Reason: To ensure an acceptable appearance of the building in accordance with policy CS2 of the Core Strategy for the New Forest District outside the National Park.

5. The development hereby permitted shall not be occupied until the spaces shown on plan reference 3 for the parking of motor vehicles have been provided. The spaces shown on plan reference 3 for the parking of motor vehicles shall be retained and kept available for the parking of motor vehicles for the dwellings hereby approved at all times.

Reason: To ensure adequate parking provision is made in the interest of highway safety and in accordance with Policy CS2 and CS24 of the Local Plan for the New Forest outside of the National Park (Core Strategy).

6. Before development commences a scheme of landscaping of the site shall be submitted for approval in writing by the Local Planning Authority. This scheme shall include :

- (a) the existing trees and shrubs 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 prevent inappropriate car parking to comply with Policy CS2 of the Local Plan for the New Forest District outside the National Park (Core Strategy).

7. The first floor windows (rooflights) on the side [north and south] elevations of the approved building shall at all times be glazed with obscure glass and fixed shut.

Reason: To safeguard the privacy of the adjoining neighbouring properties in accordance with policy CS2 of the Local Plan for the New Forest District outside the National Park (Core Strategy).

8. The lower window panels on the first floor windows on the front [east] elevation of the approved dwelling shall at all times be glazed with obscure glass and fixed shut.

Reason: To safeguard the privacy of the adjoining neighbouring properties in accordance with policy CS2 of the Core Strategy for the New Forest District outside the National Park.

9. No development shall be carried out until proposals for the mitigation of the impact of the development on the New Forest and Solent Coast European Nature Conservation Sites have been submitted to and approved in writing by the local planning authority, and the local planning authority has confirmed in writing that the provision of the proposed mitigation has been secured. Such proposals must:

- (a) Provide for mitigation in accordance with the New Forest District Council Mitigation Strategy for European Sites SPD, adopted in June 2014 (or any amendment to or replacement for this document in force at the time), or for mitigation to at least an equivalent effect;
- (b) Provide details of the manner in which the proposed mitigation is to be secured. Details to be submitted shall include arrangements for the ongoing maintenance and monitoring of any Suitable Alternative Natural Green Spaces which form part of the proposed mitigation measures together with arrangements for permanent public access thereto.
- (c) The development shall be carried out in accordance with and subject to the approved proposals.

Reason: The impacts of the proposed development must be mitigated before any development is carried out in order to ensure that there will be no adverse impacts on the New Forest and Solent Coast Nature Conservation Sites in accordance with Policy DM3 of the Local Plan Part 2 and the New Forest District Council Mitigation Strategy for European Sites Supplementary Planning Document.

10. Before first occupation of the development hereby approved the applicant must design and install a surface water sustainable system to cater for the new impermeable areas (i.e. roofs) on the proposed development such that no additional or increased rate of flow of surface water will drain to any water body or adjacent land for storms up to 1 in 100 years including climate change.

Reason: In order to ensure that the drainage arrangements are appropriate and in accordance with Policy CS2 of the Local Plan for the New Forest District outside the National Park (Core Strategy) and the New Forest District Council and New Forest National Park Authority Strategic Flood Risk Assessment for Local Development Frameworks.

Notes for inclusion on certificate:

1. In accordance with paragraphs 186 and 187 of the National Planning Policy Framework and Article 35 of the Town and Country Planning (Development Management Procedure) (England) Order 2015, New Forest District Council takes a positive and proactive approach, seeking solutions to any problems arising in the handling of development proposals so as to achieve, whenever possible, a positive outcome by giving clear advice to applicants.

Revised plans have been submitted which has addressed the concerns previously raised. The proposal is now supported by Officers.

2. This decision relates to amended / additional plans received by the Local Planning Authority on the 8th May 2016.
3. In discharging condition No. 9 above the Applicant is advised that appropriate mitigation is required before the development is commenced, either by agreeing to fund the Council's Mitigation Projects or otherwise providing mitigation to an equivalent standard. Further information about how this can be achieved can be found here <http://www.newforest.gov.uk/article/16478/>

Further Information:

Major Team

Telephone: 023 8028 5345 (Option 1)



New Forest
DISTRICT COUNCIL

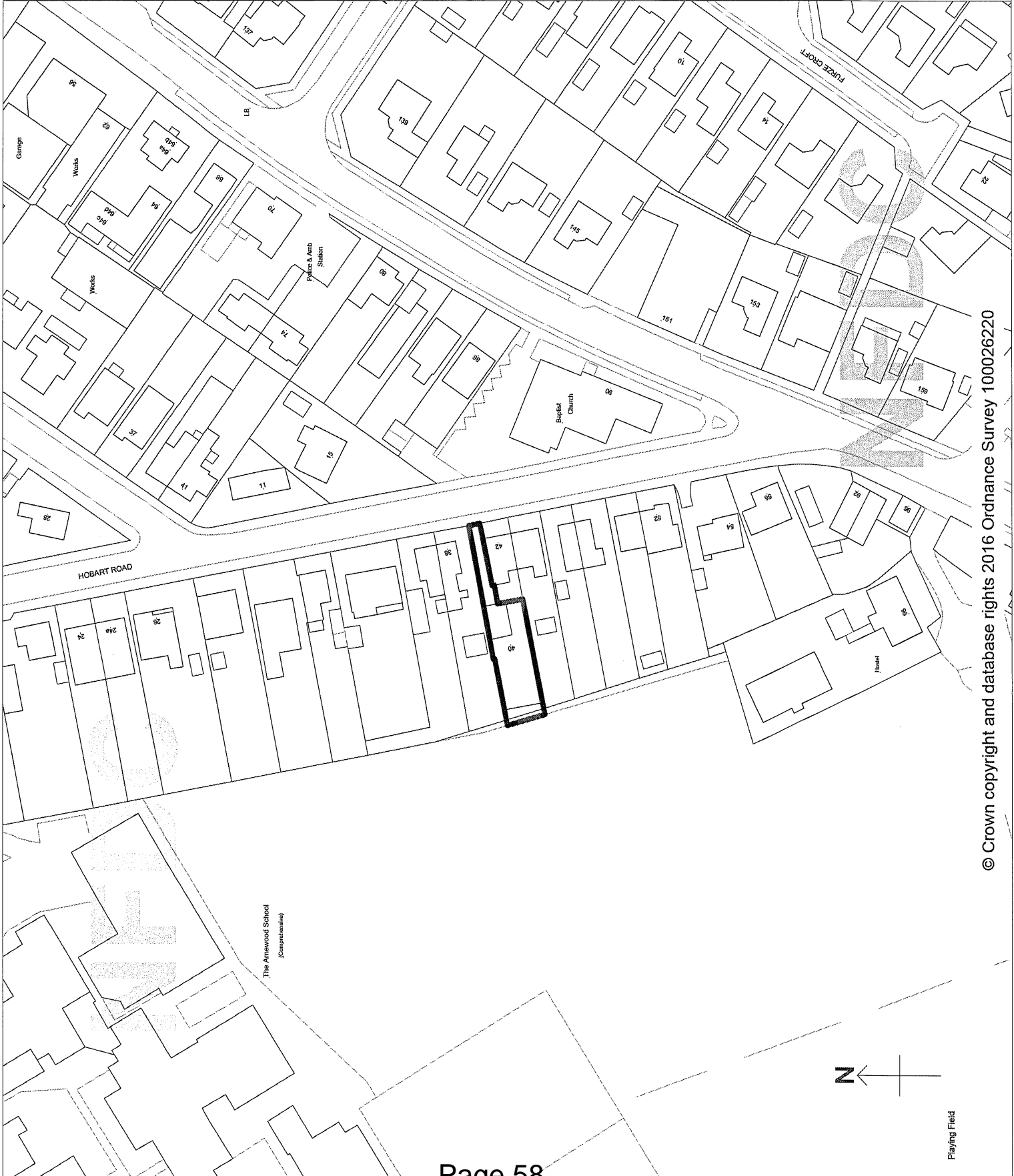
Tel: 023 8028 5000
www.newforest.gov.uk

David Groom
Service Manager
Planning and Building Control
New Forest District Council
Appletree Court
Lyndhurst
SO43 7PA

**Planning Development
Control Committee
August 2016**

Item No: 3e
40
Hobart Road
New Milton
15/11264
SZ2394

Scale 1:1250
N.B. If printing this plan from
the internet, it will not be to
scale.



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Application Number: 15/11276 Full Planning Permission

Site: Land of 115 EASTFIELD LANE, RINGWOOD BH24 1UW

Development: Bungalow; access and parking alterations, demolition of existing garage

Applicant: Mr Man

Target Date: 23/11/2015

Extension Date: 29/07/2015

1 REASON FOR COMMITTEE CONSIDERATION

Contrary to Policy

2 DEVELOPMENT PLAN AND OTHER CONSTRAINTS

Built up area

3 DEVELOPMENT PLAN, OBJECTIVES AND POLICIES

Core Strategy

Objectives

1. Special qualities, local distinctiveness and a high quality living environment
3. Housing
6. Towns, villages and built environment quality

Policies

Core Strategy

- CS2: Design quality
- CS10: The spatial strategy
- CS15: Affordable housing contribution requirements from developments
- CS24: Transport considerations
- CS25: Developers contributions

Local Plan Part 2 Sites and Development Management Development Plan Document

DM3: Mitigation of impacts on European nature conservation sites

4 RELEVANT LEGISLATION AND GOVERNMENT ADVICE

Section 38 Development Plan
Planning and Compulsory Purchase Act 2004
National Planning Policy Framework

5 RELEVANT SUPPLEMENTARY PLANNING GUIDANCE AND DOCUMENTS

SPD - Mitigation Strategy for European Sites
SPD - Parking Standards
SPD - Ringwood Local Distinctiveness

6 RELEVANT PLANNING HISTORY

None

7 PARISH / TOWN COUNCIL COMMENTS

Ringwood Town Council: Recommend permission.

8 COUNCILLOR COMMENTS

None

9 CONSULTEE COMMENTS

- 9.1 Hampshire County Council Highway Engineer: No highway objection subject to conditions
- 9.2 Tree Officer: No objection
- 9.3 Land Drainage: No objection subject to condition
- 9.4 Ecologist: No objection subject to condition

10 REPRESENTATIONS RECEIVED

None

11 CRIME & DISORDER IMPLICATIONS

No relevant considerations

12 LOCAL FINANCE CONSIDERATIONS

If this development is granted permission and the dwellings built, the Council will receive £1152 in each of the following six years from the dwellings' completion, and as a result, a total of £6912 in government grant under the New Homes Bonus will be received.

From the 6 April 2015 New Forest District Council began charging the Community Infrastructure Levy (CIL) on new residential developments.

Based on the information provided at the time of this report this development has a CIL liability of £4,367.20.

13 WORKING WITH THE APPLICANT/AGENT

In accordance with paragraphs 186 and 187 of the National Planning Policy Framework and Article 35 of the Town and Country Planning (Development Management Procedure) (England) Order 2015, New Forest District Council take a positive and proactive approach, seeking solutions to any problems

arising in the handling of development proposals so as to achieve, whenever possible, a positive outcome.

This is achieved by

- Strongly encouraging those proposing development to use the very thorough pre application advice service the Council provides.
- Working together with applicants/agents to ensure planning applications are registered as expeditiously as possible.
- Advising agents/applicants early on in the processing of an application (through the release of a Parish Briefing Note) as to the key issues relevant to the application.
- Updating applicants/agents of issues that arise in the processing of their applications through the availability of comments received on the web or by direct contact when relevant.
- Working together with applicants/agents to closely manage the planning application process to allow an opportunity to negotiate and accept amendments on applications (particularly those that best support the Core Strategy Objectives) when this can be done without compromising government performance requirements.
- Advising applicants/agents as soon as possible as to concerns that cannot be dealt with during the processing of an application allowing for a timely withdrawal and re-submission or decision based on the scheme as originally submitted if this is what the applicant/agent requires.
- When necessary discussing with applicants/agents proposed conditions especially those that would restrict the use of commercial properties or land when this can be done without compromising government performance requirements.

In this case all the above apply and as the application was acceptable as submitted no specific further actions were required.

14 ASSESSMENT

- 14.1 The site is roughly a square shaped open piece of land fronting onto Eastfield Lane, which previously formed part of the rear garden area to a detached bungalow at No 115 Eastfield Lane, however, the land has now been severed and is currently enclosed by timber fencing. The plot is flat and largely overgrown with grass and shrubs. The existing property at No 115 is a detached bungalow and has its access and car parking via Ash Grove. A public footpath runs along the eastern boundary of the site and there is a grass verge adjacent to Eastfield Lane with no pavements or footpaths along this side of the road.
- 14.2 The site lies on the eastern side of Eastfield Lane and is located amongst a comprehensive residential development in Ash Grove consisting of terraced housing and semi-detached housing laid out in a uniform manner. Immediately to the south of the site there is a garage courtyard serving the residential properties in Ash Grove.
- 14.3 On the opposite side of the road, there are predominately bungalows and chalet style bungalows fronting onto Eastfield Lane. Plot sizes along this part of the road vary throughout and some of the dwellings are built close to the road frontage. Further along Eastfield Lane, the character changes to predominately detached bungalows and chalet style bungalows set in large plots with long deep rear garden areas backing onto open fields.

- 14.4 The proposal is to construct a detached bungalow on this site, which would front onto Eastfield Lane. The existing detached garage fronting onto Ash Grove would be demolished and this area would form the car parking spaces for the existing dwelling at No 115 and the proposed dwelling. Visually, the proposed dwelling would be a modest conventional bungalow design with a hipped roof, centrally positioned on the site.
- 14.5 In assessing the effect on the character and appearance of the area, it is apparent that the site could physically accommodate a dwelling, with sufficient garden space which would not appear cramped. A generous front, side and rear garden would be provided and the space between the proposed building and the existing dwelling at No 115 would be sufficient. The existing dwelling at No 115 currently has a much smaller garden area, but it is noted that the land has already been severed and an objection on the size of the garden area to the existing dwelling cannot be sustained.
- 14.6 The proposed dwelling would appropriately front onto Eastfield Lane and would be sited in line with the existing dwelling at No 115. Visually the proposed dwelling would be modest in scale and form which would appear to be acceptable in this location. Overall it is considered that the proposal would be in keeping with the character and appearance of the area and would accord with local plan policies and the Ringwood Local Distinctiveness Document.
- 14.7 With regard to residential amenity, the only neighbouring properties which would be impacted on by the proposal are No 115 Eastfield Lane and No 38 Ash Grove. The neighbouring property at No 115 has windows on the side (south elevation) which would be effected by the proposed building. There is an existing fence which is sited against these windows which already results in some loss of light and outlook to those rooms. The proposed dwelling would be sited over 4 metres away from that neighbouring property and the design of the dwelling would incorporate a hipped roof sloping away from that neighbour. Overall it is considered that the proposal would not have a detrimental impact on the living conditions of that neighbouring property.
- 14.8 In terms of the neighbouring property at No 38 Ash Grove, this property has its side elevation and garden area facing the application site. On the side elevation of the property there is a single first floor window which appears to serve a landing area. Given that the proposed dwelling is a single storey building, and the distance from the building to the boundary of that neighbour would be over 9 metres, the proposal would not have a detrimental impact on the living conditions of that neighbouring property.
- 14.9 Concerning public highway safety matters, the proposal is to enlarge the existing car parking area fronting onto Ash Grove, with a total of 4 car parking spaces to serve the existing dwelling at No 115 and the proposed dwelling. The level of car parking spaces shown to be provided would broadly accord with the recommended car parking standards as set out in the Councils adopted car parking Supplementary Planning Document. The Highway Authority does not raise any objections to the proposal.

- 14.10 In terms of tree matters, situated adjacent to the sites rear, eastern boundary are two mature Ash trees. The Tree Officer considers that these tree are not suitable for protection by a Tree Preservation Order and are not considered as a material constraint to the development of the site.
- 14.11 In terms of ecological matters, an ecological report has been submitted with the application and the Ecologist raises no objection subject to development taken place in accordance with the recommendations in the report.
- 14.12 On 19th May 2016 the Government issued planning guidance setting out the specific circumstances in which contributions for affordable housing and tariff style planning obligations (section 106 agreements) should not be sought from small scale and self-build development. This guidance has been reissued following the order of the Court of Appeal dated 13th May 2016 (West Berkshire District Council and Another v The Secretary of State for Communities and Local Government). The planning guidance specifies the circumstances in which contributions should not be sought as follows:
- "Contributions should not be sought from developments of 10 units or less and which have a maximum combined gross floorspace of no more than 1,000 sqm; In designated rural areas, local planning authorities may choose to apply a lower threshold of 5 units or less;
- 14.13 Affordable housing and tariff style contributions should not be sought from any development consisting only of the construction of a residential annex or extension to an existing house", This national guidance is at odds with Policy CS15 of the Council's Core Strategy which requires many small scale housing development including the current application proposals to make affordable housing provision.
- The presumption in favour of the development plan remains, in that the decision should be taken in accordance with the plan unless material considerations indicate otherwise. The new guidance is a material consideration which post-dates the adoption of the Local Plan. It is for the Council to decide which should prevail in the determination of a planning application. However, the Secretary of State, through his Inspectors, can be anticipated to give greater weight to the Government's national guidance unless there are reasons to make an exception.
- 14.14 While the need for affordable housing in this District is pressing, this in itself is unlikely to be considered by the Secretary of State as sufficient reason for the Council to apply its own development plan policy rather than applying national policy. Therefore it is recommended that no affordable housing or tariff style contributions are sought from this development, in accordance with national Planning Practice Guidance, contrary to the provisions of Policy CS15 of the Core Strategy.
- 14.15 In accordance with the Habitat Regulations 2010 an assessment has been carried out of the likely significant effects associated with the recreational impacts of the residential development provided for in the Local Plan on both the New Forest and the Solent European Nature Conservation Sites. It has been concluded that likely significant adverse effects cannot be ruled out without appropriate mitigation

projects being secured. In the event that planning permission is granted for the proposed development, a condition is recommended that would prevent the development from proceeding until the applicant has secured appropriate mitigation, either by agreeing to fund the Council's Mitigation Projects or otherwise providing mitigation to an equivalent standard.

14.16 In conclusion, it is considered that the site is of sufficient size to accommodate the proposed dwelling which has been designed as a modest bungalow which would be in keeping with the mixed character of the area and would provide an acceptable relationship to the host dwelling at No 115.

14.17 In coming to this recommendation, consideration has been given to the rights set out in Article 8 (Right to respect for private and family life) and Article 1 of the First Protocol (Right to peaceful enjoyment of possessions) of the European Convention on Human Rights. Whilst it is recognised that there may be an interference with these rights and the rights of other third parties, such interference has to be balanced with the like rights of the applicant to develop the land in the way proposed. In this case it is considered that the protection of the rights and freedoms of the applicant outweigh any possible interference that may result to any third party.

Section 106 Contributions Summary Table

Proposal:			
Type of Contribution	NFDC Policy Requirement	Developer Proposed Provision	Difference
No. of Affordable dwellings			
Habitats Mitigation			
Financial Contribution			

CIL Summary Table

Description of Class	GIA New	GIA Existing	GIA Net Increase	CIL Liability
Dwelling houses	54.59	0	54.59	£4,367.20

15. RECOMMENDATION

Grant Subject to Conditions

Proposed 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. The development permitted shall be carried out in accordance with the following approved plans 4275/PL/100 Rev A, 4275/PL/101, 4275/PL/102:

Reason: To ensure satisfactory provision of the development.

3. Before development commences, the proposed slab levels in relationship to the existing ground levels set to an agreed datum shall be submitted to and approved in writing by the Local Planning Authority. Development shall only take place in accordance with those details which have been approved.

Reason: To ensure that the development takes place in an appropriate way in accordance with policy CS2 of the Local Plan for the New Forest District outside the National Park (Core Strategy).

4. Before development commences, samples or exact details of the facing and roofing materials to be used shall be submitted to and approved in writing by the Local Planning Authority. The development shall only be implemented in accordance with the approved details.

Reason: To ensure an acceptable appearance of the building in accordance with policy CS2 of the Core Strategy for the New Forest District outside the National Park.

5. Before development commences a scheme of landscaping of the site shall be submitted for approval in writing by the Local Planning Authority. This scheme shall include :

- (a) the existing trees and shrubs 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 and boundary treatments;
- (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 prevent inappropriate car parking to comply with Policy CS2 of the Local Plan for the New Forest District outside the National Park (Core Strategy).

6. No development shall be carried out until proposals for the mitigation of the impact of the development on the New Forest and Solent Coast European Nature Conservation Sites have been submitted to and approved in writing by the local planning authority, and the local planning authority has confirmed in writing that the provision of the proposed mitigation has been secured. Such proposals must:

- (a) Provide for mitigation in accordance with the New Forest District Council Mitigation Strategy for European Sites SPD, adopted in June 2014 (or any amendment to or replacement for this document in force at the time), or for mitigation to at least an equivalent effect;
- (b) Provide details of the manner in which the proposed mitigation is to be secured. Details to be submitted shall include arrangements for the ongoing maintenance and monitoring of any Suitable Alternative Natural Green Spaces which form part of the proposed mitigation measures together with arrangements for permanent public access thereto.
- (c) The development shall be carried out in accordance with and subject to the approved proposals.

Reason: The impacts of the proposed development must be mitigated before any development is carried out in order to ensure that there will be no adverse impacts on the New Forest and Solent Coast Nature Conservation Sites in accordance with Policy DM3 of the Local Plan Part 2 and the New Forest District Council Mitigation Strategy for European Sites Supplementary Planning Document.

7. Before first occupation of the development hereby approved the applicant must design and install a surface water sustainable system to cater for the new impermeable areas (i.e. roofs) on the proposed development such that no additional or increased rate of flow of surface water will drain to any water body or adjacent land for storms up to 1 in 100 years including climate change.

Reason: In order to ensure that the drainage arrangements are appropriate and in accordance with Policy CS2 of the Local Plan for the New Forest District outside the National Park (Core Strategy) and the New Forest District Council and New Forest National Park Authority Strategic Flood Risk Assessment for Local Development Frameworks.

8. The development hereby permitted shall not be occupied until the spaces shown on plan 4275/PL/100 Rev A for the parking of motor vehicles have been provided. The spaces shown on plan 4275/PL/100 Rev A for the parking of motor vehicles shall be retained and kept available for the parking of motor vehicles for the existing dwelling at No 115 Eastfield Lane and the dwelling hereby approved at all times.

Reason: To ensure adequate parking provision is made in the interest of highway safety and in accordance with Policy CS2 and CS24 of the Local Plan for the New Forest outside of the National Park (Core Strategy).

9. The works hereby approved shall be undertaken in strict accordance with the Ecological Survey methodology, details and mitigation and enhancement measures set out by Lindsay Carrington Ecological Services LTD dated November 2015 unless otherwise first agreed in writing with the Local Planning Authority.

Reason: To safeguard protected species in accordance with Policy CS3 of the Local Plan for the New Forest District outside of the National Park (Core Strategy) and Policy DM2 of the Local Plan for the New Forest District outside the National Park (Part 2 : Sites and Development Management).

10. Before use of the development is commenced the existing second pedestrian access (most southernly) from the site to Eastfield Lane shall be permanently stopped up and effectively closed with the verge reinstated, and until the access, including the footway and/or verge crossing shall be constructed in accordance with details which have been submitted to and approved by the Planning Authority. No development shall start on site shall be constructed in accordance with the approved plans.

Reason: In the interest of highway safety and in accordance with Policy CS2 and CS24 of the Local Plan for the New Forest District outside of the National Park (Core Strategy).

Notes for inclusion on certificate:

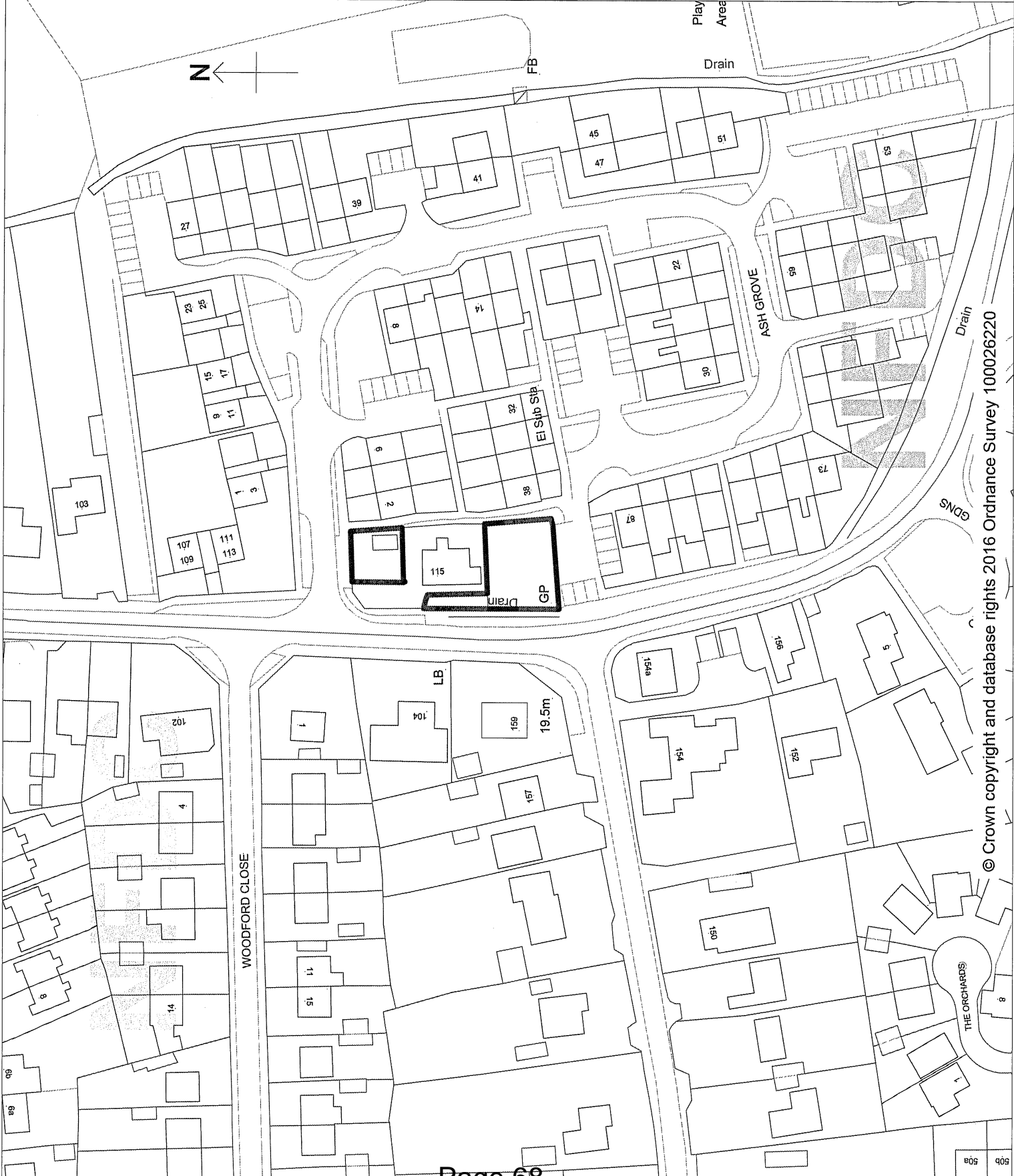
1. In accordance with paragraphs 186 and 187 of the National Planning Policy Framework and Article 35 of the Town and Country Planning (Development Management Procedure) (England) Order 2015, New Forest District Council takes a positive and proactive approach, seeking solutions to any problems arising in the handling of development proposals so as to achieve, whenever possible, a positive outcome by giving clear advice to applicants.

In this case all the above apply and as the application was acceptable as submitted no specific further actions were required.

2. In discharging condition No 6 above the Applicant is advised that appropriate mitigation is required before the development is commenced, either by agreeing to fund the Council's Mitigation Projects or otherwise providing mitigation to an equivalent standard. Further information about how this can be achieved can be found here <http://www.newforest.gov.uk/article/16478/>
3. This decision relates to amended / additional plans received by the Local Planning Authority on the 25th November 2015.
4. The applicant should be aware of the requirement to apply to the highway authority for the appropriate licence in respect of the access and verge reinstatement works within the highway.

Further Information:

Major Team
Telephone: 023 8028 5345 (Option 1)



Application Number: 15/11590 Full Planning Permission

Site: Land of 46 & 48 HAMMONDS GREEN, TOTTON SO40 3HT

Development: Bungalow; parking; access off Brackley Way

Applicant: Ray Hall Building Services Ltd

Target Date: 24/12/2015

Extension Date: 11/08/2015

1 REASON FOR COMMITTEE CONSIDERATION

Contrary to Policy

2 DEVELOPMENT PLAN AND OTHER CONSTRAINTS

Built up area

3 DEVELOPMENT PLAN, OBJECTIVES AND POLICIES

Core Strategy

Objectives

1. Special qualities, local distinctiveness and a high quality living environment
3. Housing
6. Towns, villages and built environment quality

Policies

Core Strategy

- CS2: Design quality
- CS10: The spatial strategy
- CS15: Affordable housing contribution requirements from developments
- CS24: Transport considerations
- CS25: Developers contributions

Local Plan Part 2 Sites and Development Management Development Plan Document

DM3: Mitigation of impacts on European nature conservation sites

4 RELEVANT LEGISLATION AND GOVERNMENT ADVICE

Section 38 Development Plan
Planning and Compulsory Purchase Act 2004
National Planning Policy Framework

5 RELEVANT SUPPLEMENTARY PLANNING GUIDANCE AND DOCUMENTS

SPD - Mitigation Strategy for European Sites
SPD - Parking Standards

6 RELEVANT PLANNING HISTORY

- 6.1 Two houses, access, demolition of existing (99412) Refused on the 4th January 2013. Appeal allowed.

7 PARISH / TOWN COUNCIL COMMENTS

Totton and Eling Town Council: Recommended permission but would accept the decision reached by the District Council's Officers under their delegated powers. Although the plot is rather small, the proposed detached bungalow sits well within its surroundings and is in keeping with the street scene. While the low profile of the roof allows neighbours in close proximity to be largely unaffected

8 COUNCILLOR COMMENTS

None

9 CONSULTEE COMMENTS

- 9.1 Hampshire County Council Highway Engineer: no highway objection subject to conditions

- 9.2 Land Drainage: No objection subject to condition

10 REPRESENTATIONS RECEIVED

- 10.1 1 letter from neighbouring property concerned with the numerous incidents of obstruction and inconvenience by the builders on the recent development at the site. There is no objection to a bungalow of the proposed size and design on the condition that the gravel path which as I've previously said is the sole access to Russell Place is not used to access the site or for deliveries of materials to the site.

11 CRIME & DISORDER IMPLICATIONS

No relevant considerations

12 LOCAL FINANCE CONSIDERATIONS

If this development is granted permission and the dwellings built, the Council will receive £1152 in each of the following six years from the dwellings' completion, and as a result, a total of £6912 in government grant under the New Homes Bonus will be received.

From the 6 April 2015 New Forest District Council began charging the Community Infrastructure Levy (CIL) on new residential developments.

Based on the information provided at the time of this report this development has a CIL liability of £7,203.20.

Tables setting out all contributions are at the end of this report.

13 WORKING WITH THE APPLICANT/AGENT

In accordance with paragraphs 186 and 187 of the National Planning Policy Framework and Article 35 of the Town and Country Planning (Development Management Procedure) (England) Order 2015, New Forest District Council

take a positive and proactive approach, seeking solutions to any problems arising in the handling of development proposals so as to achieve, whenever possible, a positive outcome.

This is achieved by

- Strongly encouraging those proposing development to use the very thorough pre application advice service the Council provides.
- Working together with applicants/agents to ensure planning applications are registered as expeditiously as possible.
- Advising agents/applicants early on in the processing of an application (through the release of a Parish Briefing Note) as to the key issues relevant to the application.
- Updating applicants/agents of issues that arise in the processing of their applications through the availability of comments received on the web or by direct contact when relevant.
- Working together with applicants/agents to closely manage the planning application process to allow an opportunity to negotiate and accept amendments on applications (particularly those that best support the Core Strategy Objectives) when this can be done without compromising government performance requirements.
- Advising applicants/agents as soon as possible as to concerns that cannot be dealt with during the processing of an application allowing for a timely withdrawal and re-submission or decision based on the scheme as originally submitted if this is what the applicant/agent requires.
- When necessary discussing with applicants/agents proposed conditions especially those that would restrict the use of commercial properties or land when this can be done without compromising government performance requirements.

In this case all the above apply and as the application was acceptable as submitted no specific further actions were required.

14 ASSESSMENT

- 14.1 The proposal relates to a corner plot on Hammond's Green within Totton's Built-up Area and is characterised by residential development of single and two-storey construction. The site forms the rear garden of a detached bungalow and the rear garden areas of a pair of semi-detached houses recently constructed at 48 Hammonds Green. The boundary is defined by a high close boarded timber fence to the sides and front.
- 14.2 The proposal is for is a detached bungalow with a hipped roof design, reflecting that of the existing dwelling on the site. Vehicular access and a parking space would be provided to the front and a small garden area to the rear. The proposed building would adhere to the established building line.
- 14.3 Visually the proposed bungalow would have a fully hipped roof which would reflect the types of properties along Brackley Way and would appear in keeping with the character of the area. There would be reasonable space and gaps between the side elevation and No 46 and the recently constructed pair of houses so as to not to appear cramped. The front of the site would have two car parking spaces which would appear rather harsh but there is space for a front grassed

lawn and some soft landscaping, which would help soften the impact of the development from the road. It is also noted that there is an unattractive timber fence running adjacent to the road, which does not contribute to the character and the removal of the section of fencing would be a slight improvement.

- 14.4 The existing dwelling at No 46 and the recently built dwellings at No 48 would have reasonable garden sizes comparable to the surrounding properties. The proposed dwelling would have a reasonable sized rear garden area and the plot size is similar to the other dwellings in Brackley Way. Overall it is considered that there is sufficient space to acceptably accommodate a bungalow and it would not appear out of character with the area.
- 14.5 With regard to residential amenity the proposed dwelling would be single storey and its ground floor windows would be screened by existing and proposed boundary fencing. The bulk of the building would be sited close to No.1 which has a bathroom and kitchen on its side elevation facing the application site. There would be a gap of around 5 metres between the proposed side elevation and No 1 and given the design of the bungalow with its low profile pitched roof, this would help reduce the impact on this neighbouring property. Accordingly it is not considered that the proposal would unacceptably compromise the available light or outlook of that neighbour. The neighbouring properties to the rear at 1 and 2 Russell Place are located a sufficient distance away not to be unacceptably impacted upon by the proposed bungalow.
- 14.6 Two car parking spaces would be provided for the proposed dwelling, which would broadly accord with, the recommended car parking standards set out in the Councils Supplementary Planning Document. The existing dwelling at No 46 would retain car parking to the front of the site. The Highway Authority does not raise any objections to the proposal.
- 14.7 Concerns have been expressed that construction at the recent development at No 48 Hammonds Green, caused numerous incidents of obstruction and inconvenience by the builders and delivery lorries on the only access to the properties in Russell Place. Concerns expressed state that the pathway is rutted and dirty with mud from the site and the sole access to Russell Place should not be used to access the site or for deliveries of materials to the site. In response, while it is appreciated that the construction of approved development can cause disruption, any damage caused by development on highway land such as road verges or footways (in the highway authorities ownership) should be dealt with by the developer. If this occurs on land not in the Highway Authorities ownership, this is a civil matter.
- 14.8 This planning application has only been referred to this Committee because of the following changes to Central Government Policy in respect of affordable housing.

On 19th May 2016 the Government issued planning guidance setting out the specific circumstances in which contributions for affordable housing and tariff style planning obligations (section 106 agreements) should not be sought from small scale and self-build development. This guidance has been reissued following the order of the Court of

Appeal dated 13th May 2016 (West Berkshire District Council and Another v The Secretary of State for Communities and Local Government). The planning guidance specifies the circumstances in which contributions should not be sought as follows:

"Contributions should not be sought from developments of 10 units or less and which have a maximum combined gross floorspace of no more than 1,000 sqm;

In designated rural areas, local planning authorities may choose to apply a lower threshold of 5 units or less...;

- 14.9 Affordable housing and tariff style contributions should not be sought from any development consisting only of the construction of a residential annex or extension to an existing house", This national guidance is at odds with Policy CS15 of the Council's Core Strategy which requires many small scale housing developments including the current application proposal to make affordable housing provision
- 14.10 The presumption in favour of the development plan remains, in that the decision should be taken in accordance with the plan unless material considerations indicate otherwise. The new guidance is a material consideration which post-dates the adoption of the Local Plan. It is for the Council to decide which should prevail in the determination of a planning application. However, the Secretary of State, through his Inspectors can be anticipated to give greater weight to the Government's national guidance unless there are reasons to make an exception.
- 14.11 While the need for affordable housing in this District is pressing, this in itself is unlikely to be considered by the Secretary of State as sufficient reason for the Council to apply its own development plan policy rather than applying national policy. Therefore it is recommended that no affordable housing or tariff style contributions are sought from this development, in accordance with national Planning Practice Guidance, contrary to the provisions of Policy CS15 of the Core Strategy.
- 14.12 In accordance with the Habitat Regulations 2010 an assessment has been carried out of the likely significant effects associated with the recreational impacts of the residential development provided for in the Local Plan on both the New Forest and the Solent European Nature Conservation Sites. It has been concluded that likely significant adverse effects cannot be ruled out without appropriate mitigation projects being secured. In the event that planning permission is granted for the proposed development, a condition is recommended that would prevent the development from proceeding until the applicant has secured appropriate mitigation, either by agreeing to fund the Council's Mitigation Projects or otherwise providing mitigation to an equivalent standard.
- 14.13 In conclusion, the proposed development would be compatible with the character and appearance of the area and would not have any adverse impact on the living conditions of the adjoining neighbouring properties. The Highway Authority does not raise any objections to the proposal.

- 14.14 In coming to this recommendation, consideration has been given to the rights set out in Article 8 (Right to respect for private and family life) and Article 1 of the First Protocol (Right to peaceful enjoyment of possessions) of the European Convention on Human Rights. Whilst it is recognised that there may be an interference with these rights and the rights of other third parties, such interference has to be balanced with the like rights of the applicant to develop the land in the way proposed. In this case it is considered that the protection of the rights and freedoms of the applicant outweigh any possible interference that may result to any third party.

Section 106 Contributions Summary Table

Habitats Mitigation	£4050		
Financial Contribution			

CIL Summary Table

Description of Class	GIA New	GIA Existing	GIA Net Increase	CIL Liability
Dwelling houses	106	15.96	90.04	£7,203.20

15. RECOMMENDATION

Grant Subject to Conditions

Proposed Conditions:

- 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.
- The development permitted shall be carried out in accordance with the following approved plans:1/RH/15 Rev A.

Reason: To ensure satisfactory provision of the development.
- Before development commences, samples or exact details of the facing and roofing materials to be used shall be submitted to and approved in writing by the Local Planning Authority. The development shall only be implemented in accordance with the approved details.

Reason: To ensure an acceptable appearance of the building in accordance with policy CS2 of the Core Strategy for the New Forest District outside the National Park.

4. Before development commences, the proposed slab levels in relationship to the existing ground levels set to an agreed datum shall be submitted to and approved in writing by the Local Planning Authority. Development shall only take place in accordance with those details which have been approved.

Reason: To ensure that the development takes place in an appropriate way in accordance with policy CS2 of the Local Plan for the New Forest District outside the National Park (Core Strategy).

5. Before first occupation of the development hereby approved the applicant must design and install a surface water sustainable system to cater for the new impermeable areas (i.e. roofs) on the proposed development such that no additional or increased rate of flow of surface water will drain to any water body or adjacent land for storms up to 1 in 100 years including climate change.

Reason: In order to ensure that the drainage arrangements are appropriate and in accordance with Policy CS2 of the Local Plan for the New Forest District outside the National Park (Core Strategy) and the New Forest District Council and New Forest National Park Authority Strategic Flood Risk Assessment for Local Development Frameworks.

6. The development hereby permitted shall not be occupied until the spaces shown on plan 1/RH/15 Rev A for the parking of motor vehicles have been provided. The spaces shown on plan 1/RH/15 Rev A for the parking of motor vehicles shall be retained and kept available for the parking of motor vehicles for the dwellings hereby approved at all times.

Reason: To ensure adequate parking provision is made in the interest of highway safety and in accordance with Policy CS2 and CS24 of the Local Plan for the New Forest outside of the National Park (Core Strategy).

7. Before development commences a scheme of landscaping of the site shall be submitted for approval in writing by the Local Planning Authority. This scheme shall include :

- (a) the existing trees and shrubs 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 to include boundary treatments;
- (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 prevent inappropriate car parking to comply with Policy CS2 of the Local Plan for the New Forest District outside the National Park (Core Strategy).

8. No development shall be carried out until proposals for the mitigation of the impact of the development on the New Forest and Solent Coast European Nature Conservation Sites have been submitted to and approved in writing by the local planning authority, and the local planning authority has confirmed in writing that the provision of the proposed mitigation has been secured. Such proposals must:
- (a) Provide for mitigation in accordance with the New Forest District Council Mitigation Strategy for European Sites SPD, adopted in June 2014 (or any amendment to or replacement for this document in force at the time), or for mitigation to at least an equivalent effect;
 - (b) Provide details of the manner in which the proposed mitigation is to be secured. Details to be submitted shall include arrangements for the ongoing maintenance and monitoring of any Suitable Alternative Natural Green Spaces which form part of the proposed mitigation measures together with arrangements for permanent public access thereto.
 - (c) The development shall be carried out in accordance with and subject to the approved proposals.

Reason: The impacts of the proposed development must be mitigated before any development is carried out in order to ensure that there will be no adverse impacts on the New Forest and Solent Coast Nature Conservation Sites in accordance with Policy DM3 of the Local Plan Part 2 and the New Forest District Council Mitigation Strategy for European Sites Supplementary Planning Document.

Notes for inclusion on certificate:

1. In discharging condition No 8 above the Applicant is advised that appropriate mitigation is required before the development is commenced, either by agreeing to fund the Council's Mitigation Projects or otherwise providing mitigation to an equivalent standard. Further information about how this can be achieved can be found here <http://www.newforest.gov.uk/article/16478/>
2. In accordance with paragraphs 186 and 187 of the National Planning Policy Framework and Article 35 of the Town and Country Planning (Development Management Procedure) (England) Order 2015, New Forest District Council takes a positive and proactive approach, seeking solutions to any problems arising in the handling of development proposals so as to achieve, whenever possible, a positive outcome by giving clear advice to applicants.

In this case all the above apply and as the application was acceptable as submitted no specific further actions were required.
3. This decision relates to amended plans received by the Local Planning Authority on 16th December 2015.

Further Information:

Major Team
Telephone: 023 8028 5345 (Option 1)



New Forest
DISTRICT COUNCIL

Tel: 023 8028 5000
www.newforest.gov.uk

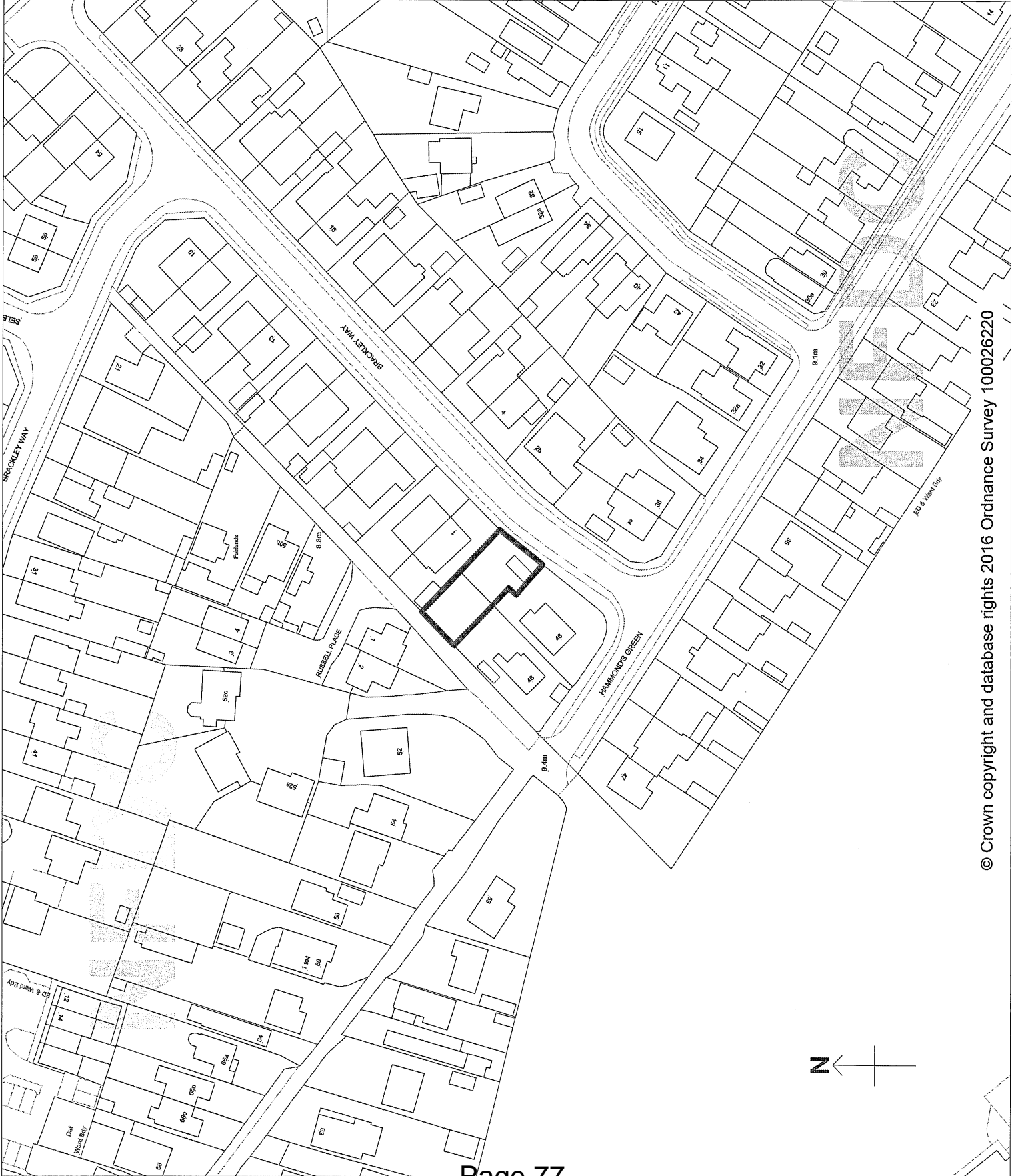
David Groom
Service Manager
Planning and Building Control
New Forest District Council
Appletree Court
Lyndhurst
SO43 7PA

**Planning Development
Control Committee
August 2016**

Item No: 3g
Land of 46 & 48
Hammonds Green
Totton
15/11590
SU3413

Scale 1:1250

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Application Number: 15/11765 Variation / Removal of Condition

Site: POLICE STATION, 68-74 OLD MILTON ROAD,
NEW MILTON BH25 6DX

Development: Variation of condition 2 of Planning Permission 14/11441 to allow amended plan no's for variation to plot 3

Applicant: Perbury (Developments) Ltd

Target Date: 12/02/2016

Extension Date: 11/08/2016

1 REASON FOR COMMITTEE CONSIDERATION

Contrary to Policy and previous Committee consideration.

2 DEVELOPMENT PLAN AND OTHER CONSTRAINTS

Built up area
Town Centre

3 DEVELOPMENT PLAN, OBJECTIVES AND POLICIES

Core Strategy

Objectives

1. Special qualities, local distinctiveness and a high quality living environment
3. Housing
6. Towns, villages and built environment quality

Policies

CS2: Design quality
CS10: The spatial strategy
CS15: Affordable housing contribution requirements from developments
CS24: Transport considerations
CS25: Developers contributions

Local Plan Part 2 Sites and Development Management Development Plan Document

DM3: Mitigation of impacts on European nature conservation sites

4 RELEVANT LEGISLATION AND GOVERNMENT ADVICE

Section 38 Development Plan
Planning and Compulsory Purchase Act 2004
National Planning Policy Framework

5 RELEVANT SUPPLEMENTARY PLANNING GUIDANCE AND DOCUMENTS

SPD - Housing Design, Density and Character
SPD - Parking Standards
SPD - Mitigation Strategy for European Sites
SPD - New Milton Local Distinctiveness

6 RELEVANT PLANNING HISTORY

6.1 Development of 7 dwellings comprised of 1 two storey block of 4 flats, 1 two storey block of 2 flats and 1 detached dwelling, parking and landscaping (11441) Granted with conditions on the 14th October 2015

7 PARISH / TOWN COUNCIL COMMENTS

New Milton Town Council: acceptable

8 COUNCILLOR COMMENTS

None

9 CONSULTEE COMMENTS

None

10 REPRESENTATIONS RECEIVED

None

11 CRIME & DISORDER IMPLICATIONS

No relevant considerations

12 LOCAL FINANCE CONSIDERATIONS

If this development is granted permission and the dwellings built, the Council will receive £8064 in each of the following six years from the dwellings' completion, and as a result, a total of £48384 in government grant under the New Homes Bonus will be received.

From the 6 April 2015 New Forest District Council began charging the Community Infrastructure Levy (CIL) on new residential developments.

Based on the information provided at the time of this report this development has a CIL liability of £7,670.55.

Tables setting out all contributions are at the end of this report.

13 WORKING WITH THE APPLICANT/AGENT

In accordance with paragraphs 186 and 187 of the National Planning Policy Framework and Article 35 of the Town and Country Planning (Development Management Procedure) (England) Order 2015, New Forest District Council take a positive and proactive approach, seeking solutions to any problems arising in the handling of development proposals so as to achieve, whenever possible, a positive outcome.

This is achieved by

- Strongly encouraging those proposing development to use the very thorough pre application advice service the Council provides.
- Working together with applicants/agents to ensure planning applications are registered as expeditiously as possible.
- Advising agents/applicants early on in the processing of an application (through the release of a Parish Briefing Note) as to the key issues relevant to the application.
- Updating applicants/agents of issues that arise in the processing of their applications through the availability of comments received on the web or by direct contact when relevant.
- Working together with applicants/agents to closely manage the planning application process to allow an opportunity to negotiate and accept amendments on applications (particularly those that best support the Core Strategy Objectives) when this can be done without compromising government performance requirements.
- Advising applicants/agents as soon as possible as to concerns that cannot be dealt with during the processing of an application allowing for a timely withdrawal and re-submission or decision based on the scheme as originally submitted if this is what the applicant/agent requires.
- When necessary discussing with applicants/agents proposed conditions especially those that would restrict the use of commercial properties or land when this can be done without compromising government performance requirements.

In this case all the above apply and as the application was acceptable as submitted no specific further actions were required.

14 ASSESSMENT

- 14.1 Planning permission has been granted for the redevelopment of this site for a total of 7 dwellings under planning reference 15/11441. The only work that has taken place on the site is the clearance of the buildings and the site is now prepared for development. There is no other evidence to indicate that planning permission 15/11441 has been implemented.
- 14.2 This application seeks consent to vary condition 2 of planning permission 15/11441 to allow a slight change to the size and design of the dwelling on plot 3. The changes entail the width of the rear projection being increased from 4.5 metres to 5.4 metres at ground floor level with a cat slide roof. The first floor window on the south west elevation would be relocated and fitted with obscure glass. No other changes are proposed.
- 14.3 Firstly in assessing applications to vary planning conditions, in effect, if approved, it would result in the issue of a new planning permission. This means that all planning issues have to be considered in light of policy, whether there has been any changes in circumstances at the site and any legal obligations. In this case, a Section 106 Agreement previously secured affordable housing and habitat mitigation contributions. All conditions previously imposed need to be re-considered and applied where necessary.

- 14.4 In assessing the proposed changes to plot 3, it is considered that the amendments to the size of the dwelling are very minor and would not have any adverse impact on the character of the area and living conditions of the adjoining neighbouring properties.
- 14.5 In accordance with the Habitat Regulations 2010 an assessment has been carried out of the likely significant effects associated with the recreational impacts of the residential development provided for in the Local Plan on both the New Forest and the Solent European Nature Conservation Sites. It has been concluded that likely significant adverse effects cannot be ruled out without appropriate mitigation projects being secured. In the event that planning permission is granted for the proposed development, a condition is recommended that would prevent the development from proceeding until the applicant has secured appropriate mitigation, either by agreeing to fund the Council's Mitigation Projects or otherwise providing mitigation to an equivalent standard.
- 14.6 On 19th May 2016 the Government issued planning guidance setting out the specific circumstances in which contributions for affordable housing and tariff style planning obligations (section 106 agreements) should not be sought from small scale and self-build development. This guidance has been reissued following the order of the Court of Appeal dated 13th May 2016 (West Berkshire District Council and Another v The Secretary of State for Communities and Local Government). The planning guidance specifies the circumstances in which contributions should not be sought as follows:
- "Contributions should not be sought from developments of 10 units or less and which have a maximum combined gross floorspace of no more than 1,000 sqm; In designated rural areas, local planning authorities may choose to apply a lower threshold of 5 units or less; Affordable housing and tariff style contributions should not be sought from any development consisting only of the construction of a residential annex or extension to an existing house", This national guidance is at odds with Policy CS15 of the Council's Core Strategy which requires many small scale housing developments including the current application proposal to make affordable housing provision
- 14.7 The presumption in favour of the development plan remains, in that the decision should be taken in accordance with the plan unless material considerations indicate otherwise. The new guidance is a material consideration which post-dates the adoption of the Local Plan. It is for the Council to decide which should prevail in the determination of a planning application. However, the Secretary of State, through his Inspectors can be anticipated to give greater weight to the Government's national guidance unless there are reasons to make an exception.
- 14.8 Whilst the need for affordable housing in this District is pressing, this in itself is unlikely to be considered by the Secretary of State as sufficient reason for the Council to apply its own development plan policy rather than applying national policy. Therefore it is recommended that no affordable housing or tariff style contributions are sought from this development, in accordance with national Planning Practice Guidance, contrary to the provisions of Policy CS15 of the Core Strategy.

- 14.9 In conclusion, the current application to vary condition 2 in relation to the design and size of plot 3 is acceptable and would have no adverse impact on the character of the area and living conditions of the adjoining neighbouring properties. This application would essentially result in a new permission for the redevelopment of the site.
- 14.10 In coming to this recommendation, consideration has been given to the rights set out in Article 8 (Right to respect for private and family life) and Article 1 of the First Protocol (Right to peaceful enjoyment of possessions) of the European Convention on Human Rights. Whilst it is recognised that there may be an interference with these rights and the rights of other third parties, such interference has to be balanced with the like rights of the applicant to develop the land in the way proposed. In this case it is considered that the protection of the rights and freedoms of the applicant outweigh any possible interference that may result to any third party.

Section 106 Contributions Summary Table

Proposal:			
Type of Contribution	NFDC Policy Requirement	Developer Proposed Provision	Difference
Habitats Mitigation			
Financial Contribution			

CIL Summary Table

Description of Class	GIA New	GIA Existing	GIA Net Increase	CIL Liability
Dwelling houses	91.99	0	91.99	£7,670.55 *

15. RECOMMENDATION

GRANT the VARIATION of CONDITION

Proposed Conditions:

- 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.

- The development permitted shall be carried out in accordance with the following approved plans: 15/1870/100B, 13/1870/102C, 13/1870/105 A, 13/1870/104 A, 13/1870/101 B

Reason: To ensure satisfactory provision of the development.

3. The development hereby approved shall only be constructed from the following materials unless otherwise agreed by the Local Planning Authority:

Plots 1 and 2

Existing materials reused and supplemented

Plots 3, 4 and 6-9

Facing Brick: Ibstock Thakenham red multi

Detail: Warnham Teracotta Stock

Roofing: Sandtoft Plain Tiles, Dark Heather Smooth with matching hips and ridges

Windows: White UPVC Cottage style as detailed on Drawing No 13/1870/101 B

RW Goods: UPVC Black

Rear Dormer to plots 4 and 5: Lead roof

Bay windows to plots 6 and 7 only: K Render buttermilk or similar

Balcony: Powder coated steel frame and hand rail. Glass guarding. Framing colour dark grey

Cycle store

Steel frame and mesh with sheet roof.

Reason: To ensure an acceptable appearance of the building in accordance with policy CS2 of the Core Strategy for the New Forest District outside the National Park.

4. The slab levels in relationship to the existing ground levels set to an agreed datum shall only take place in accordance with those details shown on Drawing No 15/1870/100B unless otherwise agreed by the Local Planning Authority.

Reason: To ensure that the development takes place in an appropriate way in accordance with policy CS2 of the Local Plan for the New Forest District outside the National Park (Core Strategy).

5. The first floor windows on the side [north east] elevation of the approved building identified as unit 9 shall be obscurely glazed and other than fan light opening fixed shut at all times.

Reason: To safeguard the privacy of the adjoining neighbouring properties in accordance with policy CS2 of the Core Strategy for the New Forest District outside the National Park.

6. No other first floor windows other than those hereby approved shall be inserted into the rear elevation (north west) of the building identified as Unit 3 unless express planning permission has first been granted.

Reason: To safeguard the privacy of the adjoining neighbouring properties in accordance with policy CS2 of the Core Strategy for the New Forest District outside the National Park.

7. The first floor window serving the bedroom/study on the rear (north west) elevation of the building identified as unit 3 shall at all times have a cill height of no lower than 1.7m above the floor of the room in which the window is installed.

Reason: To safeguard the privacy of the adjoining neighbouring properties in accordance with policy CS2 of the Core Strategy for the New Forest District outside the National Park.

8. The development hereby permitted shall not be occupied until the spaces shown on plan 15/1870/100B for the parking of motor vehicles and cycles have been provided. The spaces shown on plan 15/1870/100B for the parking of motor vehicles and cycles shall be retained and kept available for the parking of motor vehicles and cycles for the dwellings hereby approved at all times.

Reason: To ensure adequate parking provision is made in the interest of highway safety and in accordance with Policy CS2 and CS24 of the Local Plan for the New Forest outside of the National Park (Core Strategy).

9. The landscaping scheme (hard and soft) shall be implemented in accordance with the submitted TGD Landscaping drawing 1515-0101; Landscape Maintenance plan 1515-401; 15/1870/101A by the end of the first planting and seeding seasons following the completion of development. Any trees or plants which within a period of 5 years from the completion of the development die, are removed or become seriously damaged or diseased, shall be replaced in the next planting season with others of similar size or species, unless the Local Planning Authority gives written consent to any variation.

Reason: To ensure the achievement and long term retention of an appropriate quality of development and to comply with Policy CS2 of the Local Plan for the New Forest District outside the National Park (Core Strategy).

10. The disposal of surface water from the site shall only take place in accordance with Drawing No 64919/05 Rev C and calculations, unless otherwise agreed in writing by the Local Planning Authority.

Reason: In order to ensure that the drainage arrangements are appropriate and in accordance with Policy CS2 of the Local Plan for the New Forest District outside the National Park (Core Strategy) and the New Forest District Council and New Forest National Park Authority Strategic Flood Risk Assessment for Local Development Frameworks.

11. Unless otherwise agreed by the Local Planning Authority, development other than that required to be carried out as part of an approved scheme of remediation must not commence until conditions relating to contamination no 12 to 13 have been complied with.

If unexpected contamination is found after development has begun, development must be halted on that part of the site affected by the unexpected contamination to the extent specified by the Local Planning Authority in writing until condition 14 relating to the reporting of unexpected contamination has been complied with in relation to that contamination.

Reason: To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors in accordance with policy CS5 of the Core Strategy for the New Forest District outside the National Park.

12. A detailed remediation scheme to bring the site to a condition suitable for the intended use by removing unacceptable risks to human health, buildings and other property and the natural and historical environment must be prepared, and is subject to the approval in writing of the Local Planning Authority. The scheme must include all works to be undertaken, proposed remediation objectives and remediation criteria, timetable of works and site management procedures. The scheme must ensure that the site will not qualify as contaminated land under Part 2A of the Environmental Protection Act 1990 in relation to the intended use of the land after remediation.

Reason: To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors in accordance with policy CS5 of the Core Strategy for the New Forest District outside the National Park.

13. The approved remediation scheme must be carried out in accordance with its terms prior to the commencement of development other than that required to carry out remediation, unless otherwise agreed in writing by the Local Planning Authority. The Local Planning Authority must be given two weeks written notification of commencement of the remediation scheme works. Following completion of measures identified in the approved remediation scheme, a verification report that demonstrates the effectiveness of the remediation carried out must be produced, and is subject to the approval in writing of the Local Planning Authority.

Reason: To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors in accordance with policy CS5 of the Core Strategy for the New Forest District outside the National Park.

14. In the event that contamination is found at any time when carrying out the approved development that was not previously identified it must be reported in writing immediately to the Local Planning Authority. An investigation and risk assessment must be undertaken in accordance with the requirements of condition 11, and where remediation is necessary a remediation scheme must be prepared in accordance with the requirements of condition 12, which is subject to the approval in writing of the Local Planning Authority. Following completion of measures identified in the approved remediation scheme a verification report must be prepared, which is subject to the approval in writing of the Local Planning Authority in accordance with condition 13.

Reason: To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors in accordance with policy CS5 of the Core Strategy for the New Forest District outside the National Park.

15. A monitoring and maintenance scheme to include monitoring the long-term effectiveness of the proposed remediation over a period of years as stated in the remediation scheme, and the provision of reports on the same must be prepared, both of which are subject to the approval in writing of the Local Planning Authority. Following completion of the measures identified in that scheme and when the remediation objectives have been achieved, reports that demonstrate the effectiveness of the monitoring and maintenance carried out must be produced, and submitted to the Local Planning Authority. This must be conducted in accordance with DEFRA and the Environment Agency's *'Model Procedures for the Management of Land Contamination, CLR 11'*.

Reason: To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors in accordance with policy CS5 of the Core Strategy for the New Forest District outside the National Park.

16. No development shall be carried out until proposals for the mitigation of the impact of the development on the New Forest and Solent Coast European Nature Conservation Sites have been submitted to and approved in writing by the local planning authority, and the local planning authority has confirmed in writing that the provision of the proposed mitigation has been secured. Such proposals must:

- (a) Provide for mitigation in accordance with the New Forest District Council Mitigation Strategy for European Sites SPD, adopted in June 2014 (or any amendment to or replacement for this document in force at the time), or for mitigation to at least an equivalent effect;

- (b) Provide details of the manner in which the proposed mitigation is to be secured. Details to be submitted shall include arrangements for the ongoing maintenance and monitoring of any Suitable Alternative Natural Green Spaces which form part of the proposed mitigation measures together with arrangements for permanent public access thereto.
- (c) The development shall be carried out in accordance with and subject to the approved proposals.

Reason: The impacts of the proposed development must be mitigated before any development is carried out in order to ensure that there will be no adverse impacts on the New Forest and Solent Coast Nature Conservation Sites in accordance with Policy DM3 of the Local Plan Part 2 and the New Forest District Council Mitigation Strategy for European Sites Supplementary Planning Document.

Notes for inclusion on certificate:

1. In accordance with paragraphs 186 and 187 of the National Planning Policy Framework and Article 35 of the Town and Country Planning (Development Management Procedure) (England) Order 2015, New Forest District Council takes a positive and proactive approach, seeking solutions to any problems arising in the handling of development proposals so as to achieve, whenever possible, a positive outcome by giving clear advice to applicants.

In this case all the above apply and as the application was acceptable as submitted no specific further actions were required.

2. In discharging condition No 16 above the Applicant is advised that appropriate mitigation is required before the development is commenced, either by agreeing to fund the Council's Mitigation Projects or otherwise providing mitigation to an equivalent standard. Further information about how this can be achieved can be found here <http://www.newforest.gov.uk/article/16478/>

Further Information:

Major Team
Telephone: 023 8028 5345 (Option 1)



New Forest
DISTRICT COUNCIL

Tel: 023 8028 5000
www.newforest.gov.uk

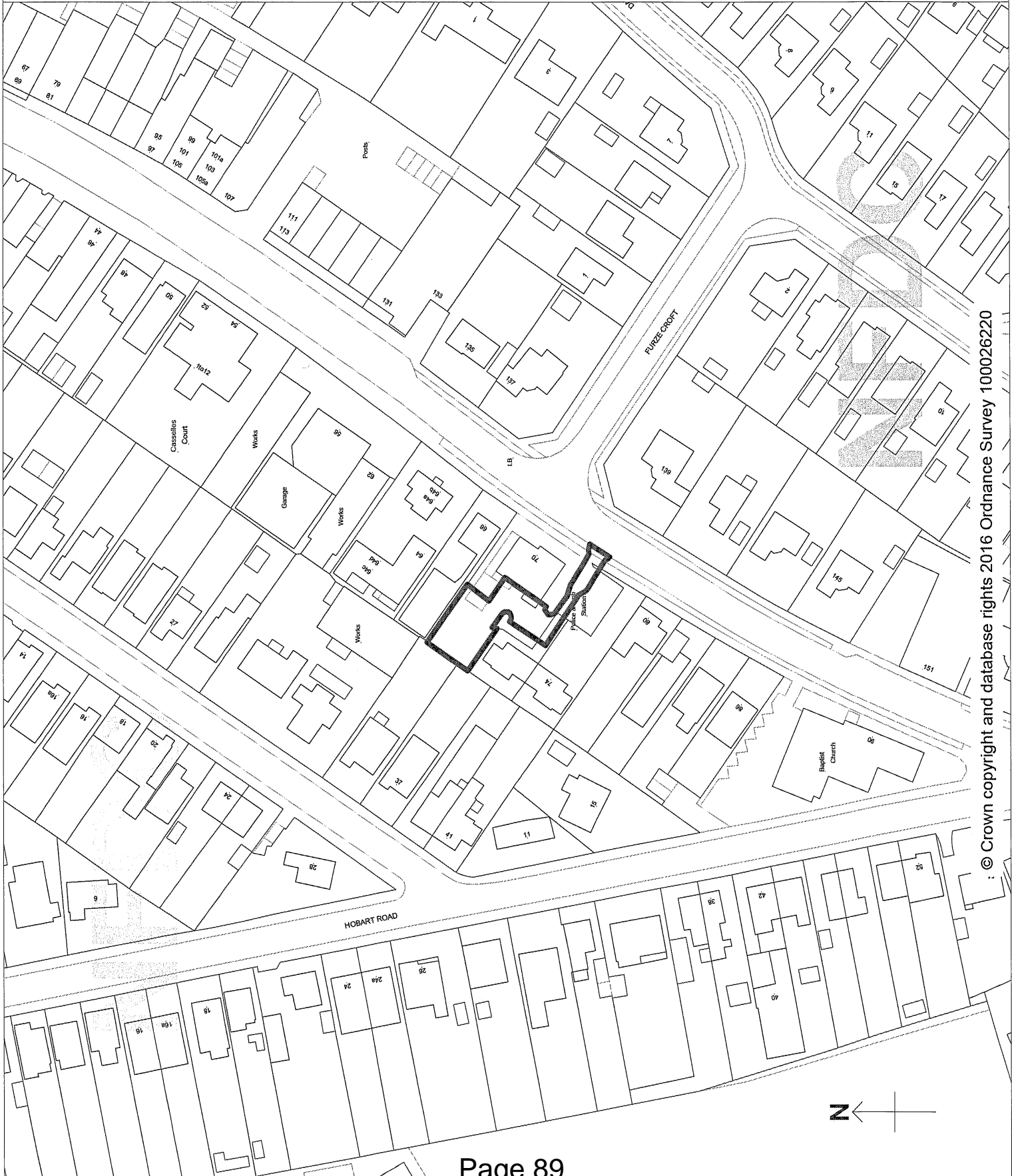
David Groom
Service Manager
Planning and Building Control
New Forest District Council
Appletree Court
Lynchurst
SO43 7PA

**Planning Development
Control Committee
August 2016**

Item No: 3h
Police Station
68-74 Old Milton Road
New Milton
15/11765
SZZ394

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Application Number: 15/11797 Outline Planning Permission

Site: Land North of LOPERWOOD LANE, CALMORE,
TOTTON SO40 2RL

Development: Up to 80 dwellings; open space; drainage
(Outline Application with all matters reserved)

Applicant: Howard Sharp & Partners LLP

Target Date: 18/03/2016

Extension Date: 19/08/2016

1 REASON FOR COMMITTEE CONSIDERATION

Discretion of Executive Head of Economy, Housing and Planning

2 DEVELOPMENT PLAN AND OTHER CONSTRAINTS

Countryside

3 DEVELOPMENT PLAN, OBJECTIVES AND POLICIES

Core Strategy

Objectives

1. Special qualities, local distinctiveness and a high quality living environment
3. Housing
6. Towns, villages and built environment quality
8. Biodiversity and landscape

Policies

- CS1: Sustainable development principles
- CS2: Design quality
- CS3: Protecting and enhancing our special environment (Heritage and Nature Conservation)
- CS7: Open spaces, sport and recreation
- CS9: Settlement hierarchy
- CS10: The spatial strategy
- CS15: Affordable housing contribution requirements from developments
- CS24: Transport considerations
- CS25: Developers contributions

Local Plan Part 2 Sites and Development Management Development Plan Document

- DM1: Heritage and Conservation
- DM2: Nature conservation, biodiversity and geodiversity
- DM3: Mitigation of impacts on European nature conservation sites
- DM20: Residential development in the countryside

4 RELEVANT LEGISLATION AND GOVERNMENT ADVICE

Section 38 Development Plan
Planning and Compulsory Purchase Act 2004
National Planning Policy Framework

5 RELEVANT SUPPLEMENTARY PLANNING GUIDANCE AND DOCUMENTS

SPD - Housing Design, Density and Character
SPD - Mitigation Strategy for European Sites
SPD - Parking Standards

6 RELEVANT PLANNING HISTORY

- 6.1 Development of land for social housing (53182) - refused 10/8/94
- 6.2 Development of land for social housing (57320) - refused 28/9/95
- 6.3 Residential Development (65846) - refused 21/4/99 - appeal dismissed

7 PARISH / TOWN COUNCIL COMMENTS

Totton & Eling Town Council: recommend refusal - the site layout shows that the site is capable of comfortably incorporating the proposed houses whilst remaining green and spacious and in keeping with the surrounding area. However, the site is not within the settlement boundary and is not allocated. No compelling reason has been given as to why this application should be allowed whilst being clearly contrary to policy

8 COUNCILLOR COMMENTS

- 8.1 Cllr Britton: objects - conflict with policy as the site lies outside the settlement boundary; unsuitable access; additional traffic would cause highway safety problems; concerns that the proposal could cause additional flooding problems; increased pressures on local schools and health services.
- 8.2 Cllr Penman: objects - contrary to policy; proposal could increase flooding problems in local area; proposal will generate significant additional traffic resulting in congestion and highway safety issues; increased pressures on local schools and health services; this part of Calmore cannot take the number of homes proposed.

9 CONSULTEE COMMENTS

- 9.1 Hampshire County Council Highway Engineer: No objection subject to condition
- 9.2 Natural England: No objection - agree with the view reached in the applicant's Habitat Regulations Assessment (that needs to be adopted by the LPA as competent authority) that the proposal is not likely to have significant effects on the New Forest SPA/SAC/Ramsar/SSSI. LPA needs to ensure that the proposal provides mitigation measures in accordance with its own SPD / policy.
- 9.3 Land Drainage:- No objection - the lead Local Flood Authority (HCC) would deal with any planning application

- 9.4 Hampshire County Council (Flood Management):- the general principles of the surface water drainage proposals are acceptable; more detail will be needed for a full planning application; a revised drainage strategy should be submitted before development commences
- 9.5 Hampshire County Council (Education):- No objection subject to paying a contribution of £530,136 towards an expansion project in the Totton area to mitigate the impact of the development on educational infrastructure.
- 9.6 Ministry of Defence:- No safeguarding objections
- 9.7 Waste & Recycling Manager:- advise that the internal access must be wide enough to accommodate a 26t refuse collection vehicle; appropriate turning heads should be provided; properties must have rear access to their gardens to enable refuse to be transferred.
- 9.8 Tree Officer:- No objection subject to tree protection condition
- 9.9 Urban Design:- No design objection - the design is well thought out and is likely to provide a place that is likely to be contextually appropriate, practical and attractive.
- 9.10 Ecologist:- No objection subject to details of biodiversity mitigation and enhancement being secured by condition
- 9.11 Policy:- The proposal is contrary to policies CS10 and CS22. The site is not required on the basis of a lack of housing land supply; the application seeks to pre-empt the Local Plan Review process; the proposal should secure 50% affordable housing and on-site SANGS provision at the rate of 8 hectares per thousand people.
- 9.12 Archaeologist:- No objection subject to condition
- 9.13 Environmental Health:- No comment
- 9.14 New Forest Access for All:- Access to dwellings should be flat, level and without steps; development should be designed to allow easy access for wheelchair users / people on scooters.
- 9.15 Southern Water:- cannot accommodate the needs of the development without additional local infrastructure; requests a condition if development is approved.
- 9.16 New Forest National Park Authority:- the proposal is contrary to the Council's adopted development plan; no weight can be given to the site's possible allocation through the Local Plan Review 2016-2036 due to the very early stage in the plan-making process and due to the fact that the allocation includes a range of uses including greenspace provision and employment land and therefore it is far from clear that the site would be allocated for housing development; the application is highly premature; do not accept the applicant's interpretation for calculating 5 year housing land supply; the applicant's LVIA does not adequately assess impacts on the National Park.
- 9.17 Southern Gas:- advise of site's proximity to gas main

- 9.18 Conservation Officer:- No objection - considers that 80 dwellings could be successfully achieved without adversely compromising the setting of the adjacent Listed Building
- 9.19 Environmental Health (pollution):- No concerns raised
- 9.20 Landscape Officer: no objection subject to conditions. The indicative layout, incorporating the existing landscape features using the topography effectively and recognising the benefits of maintaining green margins in association with existing boundary features will provide a framework for development that can retain some of the visual aspects of the rural character of the adjacent landscape.

10 REPRESENTATIONS RECEIVED

- 10.1 69 letters of objection from local residents to original plans and 33 further objections to amended plans:- Development in this countryside location would be contrary to Local Plan policy; loss of greenspace; adverse landscape and visual impact; loss of village / rural character; 80 dwellings would be overdevelopment of the site; dwellings would be too high; development would have an overbearing impact on other nearby dwellings; additional light pollution; increased traffic creating additional congestion to detriment of highway safety; suggested access would not be safe due to poor visibility; proposal would result in increased parking on local roads to detriment of highway safety; development would result in increased flood risk to adjacent land; additional noise pollution; adverse impact on local wildlife; contrary to conditions of a will; additional pressures on local schools, health services and local infrastructure; adverse impact on setting of Listed Building; lack of need; inadequate sewerage system; design will encourage antisocial behaviour; adverse impact on amenities of local residents.

11 CRIME & DISORDER IMPLICATIONS

See Assessment Report below

12 LOCAL FINANCE CONSIDERATIONS

If this development is granted permission and the dwellings built, the Council will receive up to £92,160 in each of the following six years from the dwellings' completion, and as a result, a total of up to £552,960 in government grant under the New Homes Bonus will be received.

From the 6 April 2015 New Forest District Council began charging the Community Infrastructure Levy (CIL) on new residential developments.

Based on the information provided at the time of this report, it is not possible to determine the CIL liability associated with the proposed development. This would need to be determined as reserved matters stage.

Tables setting out all contributions are at the end of this report.

13 WORKING WITH THE APPLICANT/AGENT

In accordance with paragraphs 186 and 187 of the National Planning Policy Framework and Article 35 of the Town and Country Planning (Development Management Procedure) (England) Order 2015, New Forest District Council

take a positive and proactive approach, seeking solutions to any problems arising in the handling of development proposals so as to achieve, whenever possible, a positive outcome.

This is achieved by

- Strongly encouraging those proposing development to use the very thorough pre application advice service the Council provides.
- Working together with applicants/agents to ensure planning applications are registered as expeditiously as possible.
- Advising agents/applicants early on in the processing of an application (through the release of a Parish Briefing Note) as to the key issues relevant to the application.
- Updating applicants/agents of issues that arise in the processing of their applications through the availability of comments received on the web or by direct contact when relevant.
- Working together with applicants/agents to closely manage the planning application process to allow an opportunity to negotiate and accept amendments on applications (particularly those that best support the Core Strategy Objectives) when this can be done without compromising government performance requirements.
- Advising applicants/agents as soon as possible as to concerns that cannot be dealt with during the processing of an application allowing for a timely withdrawal and re-submission or decision based on the scheme as originally submitted if this is what the applicant/agent requires.
- When necessary discussing with applicants/agents proposed conditions especially those that would restrict the use of commercial properties or land when this can be done without compromising government performance requirements.

In this case, there have been pre-application discussions with the applicants. There have also been lengthy discussions with the applicants since the application was first registered and this has enabled a number of detailed concerns to be satisfactorily addressed. However, given the in-principle objection to residential development of this land (of which the applicant is aware) it is not felt possible to negotiate on this application to secure an acceptable outcome.

14 ASSESSMENT

Introduction

- 14.1 The application site is an area of farmland that is situated between Loperwood Lane to the south and Loperwood to the north. The A326 Totton western bypass is situated to the west side of the site beyond a public footpath which runs adjacent to the site's western boundary. The site is bounded on its eastern side by the King George Recreation Ground and play area. Beyond the north-eastern corner of the site, a new residential development comprised of 24 dwellings is currently being constructed.
- 14.2 The site extends to 4.41 hectares and is gently sloping, with the higher parts set on the site's western boundary, and the lowest parts are located adjacent to the site's south-eastern boundary which abuts the rear gardens of a number of dwellings along Calmore Road. The site is fairly open and is currently grazed by horses. There are, however, some isolated mature trees as well as a more significant area of scrub and

trees around a small pond within the central part of the site. Some of these trees are protected by a Tree Preservation Order. The site's boundaries are typically marked by thick hedgerows and mature trees. The site's eastern boundary in particular has a significant number of mature trees that are protected by a Tree Preservation Order.

- 14.3 To the south side of Loperwood Lane, facing the application site, is Calmore Cottage, which is a Grade II Listed thatched property. Other residential properties to the south side of the site comprise a mix of mainly mid-twentieth century dwellings set within fairly generous sized garden plots.
- 14.4 The submitted application is an outline application that seeks to build up to 80 dwellings on the site, including public open space and drainage. The application does not seek approval of any matters of detail. The application is, however, accompanied by an illustrative layout plan and by detailed supporting documents that address a number of detailed site and policy issues. It should be noted that the application proposals have been amended since the application was first registered, the number of proposed units having been reduced.
- 14.5 It should also be noted that a number of applications for residential development of this site were refused during the 1990s, the most recent of which was also dismissed at appeal, with the appeal inspector concluding that the development was unjustified residential development in the countryside that would have caused material harm to the local landscape.

Policy Considerations

- 14.6 The application site falls outside the defined built-up area of Totton and Eling, and is therefore subject to countryside policies. The proposed development would be contrary to Local Plan Part 2 Policy DM20, which does not allow for new residential dwellings in this countryside location. Planning permission should therefore be refused for this proposal unless there are material considerations that would justify a departure from policy.
- 14.7 The applicants recognise that their proposals are contrary to policy. However, they believe that a decision contrary to policy is justified. Specifically, they are of the view that a five year supply of housing cannot be demonstrated within the District. Furthermore, they consider that the Council's Core Strategy policies on housing are out of date, are inconsistent with the National Planning Policy Framework (NPPF), and do not adequately reflect current needs. Because, in their view, the Council does not have an up-to-date plan setting out a housing requirement for the district, they consider that little weight should be attached to the site's countryside location, and instead they consider the application should be considered in terms of the presumption in favour of sustainable development as set out in Paragraph 14 of the NPPF.
- 14.8 Based on objectively assessed housing needs, which have identified a need for between 11,600 and 13,000 extra homes for the period 2006-26, the applicants have calculated that New Forest District (outside the National Park) have a housing supply of just 1.08 to 1.25 years. They therefore consider there to be a serious shortfall in housing land supply assessed against need, and consequently, they consider this supports the immediate release and development of the site, noting that

previous Local Plan inspectors have recommended that the site be allocated for housing.

- 14.9 Currently, the Local Planning Authority calculates its housing land supply against Core Strategy Housing requirements. On this basis, the Council has 8.45 years of housing land supply, which is well in excess of the 5 year housing land supply that Central Government expects Local Planning Authorities to provide for. Therefore, based on the housing land supply requirements that are set out in the Core Strategy there would be no justification to release this site for housing.
- 14.10 In response to NPPF requirements, the Council has produced a Strategic Housing Market Assessment (SHMA), which was published in September 2014. For the years 2011-2031 this suggests that 587-687 houses a year will be needed in order to meet objectively assessed housing needs. However, the SHMA makes it clear that the identified figures take no account of land supply or development constraints within the District, including Green Belt, the National Park, Areas of Outstanding Natural Beauty and areas subject to European nature conservation designations. The NPPF and Planning Practice Guidance are clear that these constraints will affect the potential supply of land for housing and are relevant factors in determining policies for housing provision. Furthermore, a government statement issued in December 2014 makes it quite clear that:-

"the outcome of a Strategic Housing Market Assessment is untested and should not be seen as a proxy for a final housing requirement in Local Plans. It does not in itself invalidate housing numbers in existing Local Plans."

Accordingly, objectively assessed housing needs that are identified through a SHMA are only a starting point in determining future housing provision. They do not invalidate housing numbers set out in the Council's adopted Core Strategy / Local Plan, and they cannot in themselves justify a development that is contrary to current development plan policies.

- 14.11 The Council has commenced a Local Plan Review which will identify suitable sites to meet objectively assessed housing needs. The levels of need identified by the Council's SHMA should be tested through the Plan Examination process, as should potential allocations which are proposed to meet identified needs. The Council has in its recently published Document "Local Plan Review 2016-2036 Part 1: Planning Strategy Initial Proposals for Public Consultation (July 2016)" actually proposed that the application site be considered for future allocation for housing development as part of a much larger area to the north of Totton. However, it must be stressed that this is only a consultation document that carries no weight at the present time. The possibility that the land could be allocated for housing development in the future is not a reason to allow the land to be developed now. The correct way of establishing what sites should be allocated and developed for housing is to allow the Local Plan Review to follow its due process, and until this Review is sufficiently advanced, there can be no justification for permitting development in a countryside location, contrary to policy, taking into account that the Council has a 5 year land supply based on its adopted Core Strategy, and having regard to the government advice referred to above.

Landscape and Design Considerations

- 14.12 Any residential development of this site will inevitably result in a significant urbanisation of the area that will be to the detriment of the site's existing rural character, and harmful to the site's status as an area of countryside on the edge of Totton.
- 14.13 Assessed against the Council's own Landscape Character Assessment (LCA), the site exhibits many of the key characteristics and features of the Copythorne Forest Farmlands Landscape Character Area. As such, the site is one of the very last remaining pieces of land in Totton that still link the town with the forest, and this is fundamental to the distinctive character of Calmore, enabling it to be considered more as a village type neighbourhood than simply part of the suburban town. If residential development were to be accepted in this location, then it is important that the site's landscape character and rural edge context should inform the scale, layout and density of any such development.
- 14.14 The applicants have carried out their own Landscape and Visual Impact Assessment (LVIA) to support their proposals. This is a detailed document which concludes that the development will respect local landscape character, and will contribute well to the overall setting of Loperwood and the edge of Totton.
- 14.15 The Council's Design / landscape team have not fully considered the applicant's LVIA, and therefore, at the time of writing, they have yet to give detailed feedback on the LVIA. However, they have given detailed consideration to the applicant's Design and Access Statement and the associated illustrative supporting information. Their conclusion is that the design of the development has been well thought out and is likely to provide a place that is contextually appropriate, practical and attractive.
- 14.16 From the applicant's submissions and supporting illustrative material, it is clear that significant green infrastructure would be at the heart of the scheme, providing high quality new green space for the enjoyment of the new residents and the wider area. The illustrative plans indicate that the new greenspaces would be well integrated with the existing public open space to the east and with the public footpath to the west. The illustrative plans also indicate a development with significant cumulative garden groups where taller shrubs and some trees could be provided to retain a rural edge character. As a whole, the high proportion of open space and greenery that would be provided on this development would ensure that it has the capacity to be an attractive development, appropriate to its rural edge.
- 14.17 The Council's Urban Design Officer has expressed some concern with certain aspects of the applicant's SANGS creation and management plan, and is particularly concerned that areas of SANGS should not be fenced off, (which could have the effect of severing the SANGS and reducing its value as green infrastructure). Having regard to the submitted landscape strategy drawing, which has some sensible ideas, it is felt that these are matters that could be reasonably resolved through a reserved matters application.
- 14.18 The illustrative layout would offer a hierarchy of connected routes and pedestrian friendly streets, including streets with relatively green frontages where there would be scope to plant trees for shade and to

break down the dominance of hard surfacing. The illustrative layout suggests streets with good natural surveillance. When viewed in combination with the areas of open space that would be created, it is felt that the applicants have adequately demonstrated that it would be possible to provide a high quality and contextually appropriate layout with a development of up to 80 dwellings.

- 14.19 The applicant has submitted a storey heights plan, which indicates that the development would be overwhelmingly 2-storeys high, but with a significant proportion of those dwellings being 1 and a half storeys high. The suggested scale of development would respect the rural edge and would appear to draw on more traditional building forms nearby. A 'Storyboard' drawing suggests the use of good quality materials and detailing that would respect local distinctiveness. The applicant has, therefore provided sufficient supporting information to be able to conclude that a development of up to 80 dwellings could be acceptable in terms of its scale and appearance.
- 14.20 Overall, the applicants have satisfactorily demonstrated that up to 80 dwellings could be provided on the site in a way that would be well designed and with an acceptable change to landscape character, were the principle of development to be accepted. However, given the proposal is not acceptable in principle, the balance must be very much in favour of maintaining the existing rural landscape character, which would inevitably be harmed by any significant development (as recognised in the 1999 appeal decision).

Arboricultural Considerations

- 14.21 The submitted illustrative layout plan and tree protection plan suggests that all of the key protected trees (including a number of particularly fine, mature oak trees) will be retained, and that dwellings could be set sufficiently far away from these trees as not to compromise the future health of these trees. Therefore, subject to conditions, the proposal would be acceptable from an arboricultural perspective.

Heritage Considerations

- 14.22 Notwithstanding the more modern twentieth century development around it, Calmore Cottage still sits within its context of a rural lane with an open countryside outlook to the north. The cottage has visible and tangible breathing space within the landscape which contributes heavily to its setting. Development on the application site would sit much higher in the landscape than Calmore Cottage. The illustrative layout suggests a small green to the front of Calmore Cottage that would be overlooked by houses in the new development. With their illustrative material, the applicants have adequately demonstrated that a development of up to 80 dwellings could be accommodated on this site without harming the setting of the Listed Building. Obviously, much more detailed information would need to be submitted at reserved matters stage to ensure that the development's relationship to the Listed Building is an acceptable one.

Habitat Mitigation Contributions

- 14.23 In line with Local Plan Part 2 Policy DM3, new residential development provided for in the Local Plan is expected to mitigate potential recreational impacts on both the New Forest and the Solent European

Nature Conservation Sites. Specifically, for schemes of more than 50 dwellings, there is a requirement to provide Suitable Alternative Natural Greenspaces (SANGS) on the site or close to it based on a standard of 8 hectares of SANGS per 1000 population. In this case, it must be noted that the proposed development is not provided for in the Local Plan and therefore the mitigation measures required by the Local Plan cannot necessarily be assumed to be enough. This is because the mitigation requirements that have been drawn up by the Council in its Local Plan and related Supplementary Planning Document (SPD) are designed only to mitigate the development provided for in the Local Plan.

- 14.24 The applicant has submitted a Shadow Appropriate Assessment in support of their proposals. They have put forward some detailed mitigation measures, the most important of which is the provision of on-site SANGS. The applicant's supporting statement indicates that 1.62 hectares of SANGS is needed for a development of 80 dwellings (based on the Council's Local Plan Part 2 Policy DM3). The applicant suggests that they are able to provide 1.62 hectares of SANGS, as is confirmed by the supporting illustrative layout plan. Natural England have raised no objection to the application, accepting that the proposed illustrative layout plan would be likely to be successful in mitigating the recreational impacts of the new development on designated European sites.
- 14.25 Natural England have indicated that, as the competent authority, it is the Local Planning Authority's responsibility to produce a Habitats Regulations Assessment (HRA). Their advice that the proposal will not be likely to have significant effects on the New Forest SPA/SAC/RAMSAR/SSSI is on the basis that the Local Planning Authority adopt the HRA/ Shadow Appropriate Assessment produced by the applicants. Therefore, it is confirmed that the Local Planning Authority accepts and adopts the applicant's Shadow Appropriate Assessment, but with the caveat that there be a degree of flexibility on path surfaces and fencing (2 concerns raised by the Council's design team) to ensure that the SANGS complement the design of the whole development. It is not felt such flexibility would affect the fundamental conclusion that the development is one that could be provided without having significant effects on the relevant European sites. However, the on-site habitat mitigation measures needed to comply with policy do need to be secured within a Section 106 legal agreement. The applicants are agreeable to entering into a such an agreement, although at the time of writing it remains to be completed.
- 14.26 It should be noted that as well as providing on-site SANGS, there is a policy requirement for new residential development to secure SANGS maintenance contributions (based on a rate of £56,000 per hectare of SANGS land) and a SANGS monitoring sum (based on a rate of £50 per dwelling). These contributions would also need to be secured through a Section 106 legal agreement. At the time of writing, the contributions remain to be secured.

Public Open Space

- 14.27 In line with Core Strategy Policy CS7, the development is one that would be expected to secure provision towards public open space. As the development site is in excess of 0.5 hectares, appropriately designed informal public open space and children's play space should be provided on

the site. As the number of bedrooms in the development is not yet known, the precise public open space requirement cannot currently be determined, although the applicant's illustrative plans show appropriate areas of public open space being provided through a combination of SANGS land and additional areas of public open space land.

- 14.28 The Local Planning Authority allows for the on-site public open space requirement to be met in part through the on-site SANGS provision. However, not all informal open space areas will be suitable for inclusion as SANGS, and more formal children's play areas should not normally be contiguous with SANGS areas. Nonetheless, the submitted plans give sufficient assurances that the necessary level of public open space (including areas for children's play) could be provided in an acceptable manner in connection with the level of development proposed. Ultimately, the public open space requirement and contributions towards its future maintenance will need to be secured through a Section 106 legal agreement. The applicants are agreeable to entering into such a legal agreement in respect of these matters, although at the time of writing the legal agreement remains to be completed. Until such time as the legal agreement is completed, the development would not accord with the requirements of Core Strategy Policy CS7.

Affordable Housing

- 14.29 Because the development is not an allocated site and is within the countryside, there is no policy that expressly covers the amount of affordable housing that should be provided on the site. In line with the requirements of Core Strategy Policy CS15, there is no doubt that development of this site should make provision towards affordable housing, the question is how much? As the development is a greenfield site, it is felt that part a) of Core Strategy Policy CS15 best fits the application proposals, and on this basis it is considered that 50% of the proposed dwellings should be provided as affordable housing. This would reflect the affordable housing requirement on the adjacent land that is currently under development. It is understood that the applicants are agreeable to securing half the dwellings for affordable housing, of which 35% of the total dwellings would be for social rented housing and 15% of the total dwellings would be for intermediate housing. However, at the time of writing a Section 106 legal agreement remains to be completed to secure any affordable housing.

Transportation & Highway Considerations

- 14.30 The application is accompanied by a detailed Transport Assessment. The Highway Authority have confirmed that this Assessment adequately demonstrates that the existing highway network would be able to absorb safely any additional vehicular movements generated by the proposals. The Highway Authority are satisfied that more detailed access / parking related issues can be left to a reserved matters application.

Residential Amenity Considerations

- 14.31 The application will have some impact on the amenities of nearby properties with the neighbouring dwelling "The Oaks" and 291-299 Calmore Road (odd numbers) being the most affected due to their common boundaries with the application site. Because the application is only outline, the precise position of dwellings is not known. However, 291-299 Calmore Road all have long gardens (30 to 40 metres in depth) and therefore, even though layout is not

a matter for detailed approval at this stage, it is felt that there is no reason why the development could not be designed so as to avoid adversely affecting the privacy and amenities of these neighbouring dwellings. Likewise, with careful positioning of first floor windows there should be no reason why an acceptable relationship to the neighbouring dwelling at "The Oaks" should not be achievable. The development would inevitably generate additional noise, but not to a level that would be detrimental to the amenities of existing residents.

- 14.32 Because of the site's proximity to the A326, there is potential for occupants of the proposed residential development to be affected by noise. The application is accompanied by a noise impact assessment, which concludes that occupants of the proposed development would have acceptable levels of amenity, subject to appropriate mitigation measures being incorporated into the development. The Council's environmental health officer has not raised any concerns.

Drainage & Flooding issues

- 14.33 The application site is within Flood Zone 1, and is therefore within a low flood risk area. The applicants have indicated that they intend to dispose of surface water through a Sustainable Drainage System (SUDS) and they have also submitted a Flood Risk Assessment to support their proposals. The County Council Flood and Water Management Team have considered this document. They indicate that the general principles for the disposal of surface water are acceptable. More information would be needed at reserved matters stage including detailed information on exceedance flows and the routing of these. More information will also be needed on the final drainage design together with details on maintenance, noting that Southern Water have indicated that they are unable to accept the proposed flows in their systems. However, these are matters that could be reasonably resolved through conditions and at reserved matters stage. For now, the applicants have provided adequate information on drainage and flooding issues. It can be reasonably concluded that the development could be provided with an acceptable (and sustainable) drainage system, without causing additional flooding elsewhere.

Other concerns

- 14.34 The application is accompanied by an ecology report. The Ecologist indicates that surveys carried out to date have not revealed any significant impact on protected species, although there would be some loss of semi-improved grassland habitat. However, this would be justified subject to appropriate mitigation and compensation measures being provided. Overall, it is not considered the development would adversely affect the ecological interest of the site.
- 14.35 The application is accompanied by an archaeological desk based assessment, which concludes, on the balance of probabilities, that archaeological remains are unlikely to be encountered on the site. The conclusions of this report are accepted by the County Archaeologist. As such, the application does not raise any archaeological concerns.
- 14.36 The New Forest National Park lies to the west side of the A326, and is therefore in close proximity to the application site. The A326 and the vegetation growing between this road and the application site does provide a strong visual buffer to the National Park. While development on the

application site would not be without impact on the National Park, and while the National Park Authority's comments on the applicant's LVIA are noted, it is felt that the development would not have a material adverse impact on the special qualities of the National Park (at least in visual terms) given the existing visual buffer.

- 14.37 Concerns about crime and antisocial behaviour would be most appropriately considered at reserved matters stage, when a detailed layout is known.
- 14.38 A number of local residents have indicated that the proposed development would be contrary to the terms of a will. However, this is a civil / legal matter that falls outside the scope of planning control.
- 14.39 The County Council Education department have requested a significant education contribution. However, they have not been able to clearly demonstrate where and how the requested money would be spent and how this would be related to the impact of the development. On this basis, it is not felt that there would be an adequate justification to require the applicants to make an education contribution.

Summary & Conclusions

- 14.40 The overriding issue is whether there are material considerations to justify a departure from the Council's adopted Local Plan policies. It is not disputed that the National Planning Policy Framework and National Planning Policy Guidance must carry significant weight. However, in considering whether there is a case to release this site for housing now, it is considered that the applicants have not given sufficient weight to the government's advice in its ministerial letter issued in December 2014, which makes it clear that housing numbers in existing local plans are not invalidated by Strategic Housing Market Assessments. Accordingly, it is not accepted that the Council's Development Plan policies are in material conflict with National Planning policies. Having regard to all relevant material considerations, it is not considered that there is a clear or compelling case to permit the proposed residential development at the current time contrary to policy, and as such, the application is recommended for refusal, taking into account also the lack of a Section 106 legal agreement to secure specific policy requirements.
- 14.41 In coming to this recommendation, consideration has been given to the rights set out in Article 8 (Right to respect for private and family life) and Article 1 of the First Protocol (Right to peaceful enjoyment of possessions) of the European Convention on Human Rights. Whilst it is recognised that this recommendation, if agreed, may interfere with the rights and freedoms of the applicant to develop the land in the way proposed, the objections to the planning application are serious ones and cannot be overcome by the imposition of conditions. The public interest and the rights and freedoms of neighbouring property owners can only be safeguarded by the refusal of permission.

Section 106 Contributions Summary Table

Proposal:			
Type of Contribution	NFDC Policy Requirement	Developer Proposed Provision	Difference
Affordable Housing			
No. of Affordable dwellings	50%		
Financial Contribution			
Habitats Mitigation			
Financial Contribution	8 ha / 1000 population		

15. RECOMMENDATION

Refuse

Reason(s) for Refusal:

1. The proposed development would result in the inappropriate and unjustified residential development of an area of land that is outside the defined settlement boundary and which is therefore within the countryside. As such, this significant proposal would result in the unwarranted and harmful urbanisation of this countryside area, contrary to Policy CS10 of the Core Strategy for New Forest District outside of the National Park and Policy DM20 of the Local Plan Part 2: Sites and Development Management.
2. In the absence of a completed Section 106 legal agreement to secure appropriate habitat mitigation measures, the proposed development would constitute an unsustainable form of development that would be contrary to Policy CS1 of the Core Strategy for the New Forest outside of the National Park and the Policies of the National Planning Policy Framework in that the recreational impacts of the proposed development on the New Forest Special Area of Conservation, the New Forest Special Protection Area the New Forest Ramsar site, the Solent and Southampton Water Special Protection Area, the Solent and Southampton Water Ramsar site, the Solent Maritime Special Area of Conservation would not be adequately mitigated. The proposed development would therefore be likely to unacceptably increase recreational pressures on these sensitive European nature conservation sites, contrary to Policy DM3 of the New Forest Local Plan Part 2: sites and Development Management.
3. In the absence of a completed Section 106 legal agreement to secure any on-site public open space or any provision towards its future maintenance, the proposed development would fail to adequately secure any contribution towards the creation, enhancement and management of public open space to meet the needs of the occupants of the development for public open space. The proposal would therefore be contrary to an objective of the Core Strategy for the New Forest District outside the National Park 2009 and with the terms of Policies CS7 and CS25 of the Core Strategy.

4. In the absence of a completed Section 106 legal agreement to secure any affordable housing, the proposed development would fail to secure any contribution toward addressing the substantial need for affordable housing in the District. The proposal would therefore conflict with an objective of the Core Strategy for the New Forest District outside the National Park 2009 and with the terms of Policies CS15 and CS25 of the Core Strategy.

Notes for inclusion on certificate:

1. In accordance with paragraphs 186 and 187 of the National Planning Policy Framework and Article 35 of the Town and Country Planning (Development Management Procedure) (England) Order 2015, New Forest District Council takes a positive and proactive approach, seeking solutions to any problems arising in the handling of development proposals so as to achieve, whenever possible, a positive outcome by giving clear advice to applicants.

In this case, there have been pre-application discussions with the applicants. There have also been lengthy discussions with the applicants since the application was first registered and this has enabled a number of detailed concerns to be satisfactorily addressed. However, given the in-principle objection to residential development of this land it was not possible to negotiate on this application to secure an acceptable outcome.

Further Information:

Major Team

Telephone: 023 8028 5345 (Option 1)



New Forest
DISTRICT COUNCIL

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New Forest District Council
Appletree Court
Lyndhurst
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**Planning Development
Control Committee
August 2016**

Item No: 3i

Land north of
Loperwood Lane
Calmore Totton
15/11765
SU3314

Scale 1:3000

N.B. If printing this plan from
the internet, it will not be to
scale.



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Application Number: 15/11824 Full Planning Permission

Site: RINGWOOD SOCIAL CLUB, 19 WEST STREET,
RINGWOOD BH24 1DY

Development: Office building; 1 pair of semi-detached houses; 1 terrace of 3 houses; demolition of existing club extension & single-storey rear extension; external window & door alterations; parking; access; landscaping

Applicant: Ringwood Social Club

Target Date: 07/06/2016

Target Date: 12/08/2016

1 REASON FOR COMMITTEE CONSIDERATION

Contrary to Policy

2 DEVELOPMENT PLAN AND OTHER CONSTRAINTS

Built-up area, Conservation Area

3 DEVELOPMENT PLAN, OBJECTIVES AND POLICIES

Core Strategy

Objectives

1. Special qualities, local distinctiveness and a high quality living environment
3. Housing
6. Towns, villages and built environment quality
9. Leisure and recreation

Policies

- CS1: Sustainable development principles
- CS2: Design quality
- CS3: Protecting and enhancing our special environment (Heritage and Nature Conservation)
- CS6: Flood risk
- CS15: Affordable housing contribution requirements from developments
- CS20: Town, district, village and local centres
- CS24: Transport considerations
- CS25: Developers contributions

Local Plan Part 2 Sites and Development Management Development Plan Document

- DM1: Heritage and Conservation
- DM3: Mitigation of impacts on European nature conservation sites
- DM15: Secondary shopping frontages
- DM16: Within town centres, outside Primary Shopping Areas and Secondary Shopping Frontages

4 RELEVANT LEGISLATION AND GOVERNMENT ADVICE

Section 38 Development Plan
Planning and Compulsory Purchase Act 2004
National Planning Policy Framework

5 RELEVANT SUPPLEMENTARY PLANNING GUIDANCE AND DOCUMENTS

SPD - Ringwood Local Distinctiveness
SPD - Mitigation Strategy for European Sites
SPD - Parking Standards

6 RELEVANT PLANNING HISTORY

- 6.1 Use of listed building as 6 flats; one terrace of 4 three-storey houses; bin store; parking; refurbish social club; fenestration alterations; render; separate club from listed building; extension to create internal staircase. (13/11324) - withdrawn 19/12/13
- 6.2 Office building; 1 pair of semi-detached houses; 1 terrace of 3 houses; demolition of existing club extension & single-storey rear extension; external window & door alterations; parking; access; landscaping (15/10322) - refused 10/6/15

7 PARISH / TOWN COUNCIL COMMENTS

Ringwood Town Council:- Recommend permission - value the importance of Ringwood Social Club as an amenity within the community and as such, recommends that affordable housing contributions should be waived as an exception to policy to enable investment in the Listed Building.

8 COUNCILLOR COMMENTS

None

9 CONSULTEE COMMENTS

- 9.1 Hampshire County Council Highway Engineer:- no objection subject to parking condition
- 9.2 Environment Agency:- no objection subject to condition
- 9.3 Natural England:- no objection subject to contributions and conditions
- 9.4 Land Drainage:- no objection subject to conditions
- 9.5 Ecologist:- no objection subject to conditions, although advise it would be preferable for further bat survey work to be undertaken and submitted to the Council prior to determination
- 9.6 Southern Gas:- advise of site's proximity to gas main
- 9.7 Conservation Officer:- no objection subject to conditions
- 9.8 Archaeologist:- no objection subject to archaeological conditions
- 9.9 Tree Officer:- no objection

9.10 District Valuer Services:- considers it likely that the development would be unviable if required to make any contributions towards affordable housing.

10 REPRESENTATIONS RECEIVED

10.1 6 letters of support from local residents / social club members:- proposal would be sympathetic and beneficial to the local community and the Listed Buildings

10.2 Ringwood Society:- Welcomes the renovation; recommends conditions to ensure development is to a high standard; queries whether there is an opportunity to set land aside for a riverside walk.

11 CRIME & DISORDER IMPLICATIONS

No relevant considerations

12 LOCAL FINANCE CONSIDERATIONS

If this development is granted permission and the dwellings built, the Council will receive £5760 times 5 in each of the following six years from the dwellings' completion, and as a result, a total of £34,560 in government grant under the New Homes Bonus will be received.

From the 6 April 2015 New Forest District Council began charging the Community Infrastructure Levy (CIL) on new residential developments.

Based on the information provided at the time of this report this development has a CIL liability of £30,583.81.

Tables setting out all contributions are at the end of this report.

13 WORKING WITH THE APPLICANT/AGENT

In accordance with paragraphs 186 and 187 of the National Planning Policy Framework and Article 35 of the Town and Country Planning (Development Management Procedure) (England) Order 2015, New Forest District Council take a positive and proactive approach, seeking solutions to any problems arising in the handling of development proposals so as to achieve, whenever possible, a positive outcome.

This is achieved by

- Strongly encouraging those proposing development to use the very thorough pre application advice service the Council provides.
- Working together with applicants/agents to ensure planning applications are registered as expeditiously as possible.
- Advising agents/applicants early on in the processing of an application (through the release of a Parish Briefing Note) as to the key issues relevant to the application.
- Updating applicants/agents of issues that arise in the processing of their applications through the availability of comments received on the web or by direct contact when relevant.

- Working together with applicants/agents to closely manage the planning application process to allow an opportunity to negotiate and accept amendments on applications (particularly those that best support the Core Strategy Objectives) when this can be done without compromising government performance requirements.
- Advising applicants/agents as soon as possible as to concerns that cannot be dealt with during the processing of an application allowing for a timely withdrawal and re-submission or decision based on the scheme as originally submitted if this is what the applicant/agent requires.
- When necessary discussing with applicants/agents proposed conditions especially those that would restrict the use of commercial properties or land when this can be done without compromising government performance requirements.

In this case, the application proposals have been the subject of lengthy negotiations both before the application was submitted and during the application process and this has enabled a positive recommendation to be made.

14 ASSESSMENT

- 14.1 17-19 West Street are a pair of Grade II Listed Buildings which date from the 18th Century. The buildings are 3-storeys high under pitched roofs and are positioned at the back edge of the West Street pavement. Attached to the rear of the Listed Buildings is a large 2-storey flat-roofed structure dating from the early 1970s. To the rear of this is a large parking area, which is accessed from Strides Lane. The site has been occupied by Ringwood Social Club since the 1960s, although it is understood that the premises have not been open since May 2011. The now vacated accommodation includes a snooker hall, bar, kitchen, skittle alley, dance floor, first floor function room and bar, committee meeting room, and office. To the east side of the buildings (within the site) there is a private pedestrian access way which links the West Street frontage with areas at the back of the site, while to the west side of the site is a private access (outside the site) that provides access to a private commercial car park. The area is characterised by a mix of commercial and residential uses including a 3-storey residential building at 1-9 New Court, which is set to the east side of the existing rear car parking area.
- 14.2 The application site was the subject of a withdrawn application in 2013. More recently, an application to demolish the 1970s flat roofed addition; to extend, alter and make good the retained Grade II Listed Building; and to build a new office building and 2 pairs of semi-detached houses to the rear was refused planning permission in June 2015. The alterations to the Listed Building were deemed harmful to their heritage interest; the new buildings to the rear were deemed to be harmful to the setting of the retained Listed Buildings and the character and appearance of the Ringwood Conservation Area; the proposed units at the back of the site were deemed harmful to the amenities of neighbouring properties at 1-9 New Court; the development failed to address ecological interests or secure adequate cycle parking; and the proposal failed to secure contributions to affordable housing or secure any habitat mitigation measures.

- 14.3 As with the recently refused application, this latest proposal also seeks to demolish the existing 1970s addition to the rear of the Listed Building. The rear of the Listed Building is proposed to be made good, which includes window and door alterations, as well as the addition of a mainly single-storey extension. To the rear of the restored Listed Building it is proposed to erect 3 new buildings comprised of a 2-storey office building, a terrace of 3 houses, and a pair of semi-detached houses. The application also proposes parking and landscaping with access from Strides Lane to the rear. This application aims to address the key objections to the scheme that was refused last year, and is therefore a materially different design to that development. It should be noted that amended plans have been submitted since the application was first registered in order to try to address some outstanding concerns with the initial submission.
- 14.4 The whole of the application site is within the Ringwood Town Centre boundary, and the front part is within a Secondary Shopping Frontage location. There is considered to be no policy objection to a smaller social club, which would still be a viable size. With respect to the proposed office building, policy does allow for appropriate non-retail uses within Secondary Shopping Frontages to include public offices. In this case, the proposed offices are B1 offices that would not necessarily be 'public'. However, given that the proposed office building would be set to the rear of the site's main West Street frontage, it is felt that even if the office use is not open to the public, it would still be an acceptable commercial use that would be appropriate to the site's town centre context. The rear part of the site is outside the defined Secondary Shopping Frontage and Primary Shopping Areas. Here, residential development will be permitted where it does not result in the loss of retail, appropriate non-retail or other employment and business uses. As the dwellings would only result in the loss of a parking facility rather than a building in active commercial use, it is felt the residential element of the proposal would be consistent with policy. As a whole, it is considered that the mix of uses proposed would be consistent with Local Plan policies DM15 and DM16.
- 14.5 The demolition of the 1970s addition to the rear of the historic Listed Buildings is to be welcomed. This addition has a negative impact on the character and setting of the Listed Buildings and it has an adverse impact on the character and appearance of the Ringwood Conservation Area. However, while the removal of this poor quality addition would be of significant benefit, there is still a need for the new buildings to be sympathetic to the site's historic context.
- 14.6 The form and scale of the proposed extension to the rear of the Listed frontage buildings is acceptable. The design is much better than was the case with the previously refused application. It is felt that the external alterations and modest extension to the rear of the Listed Buildings would be a justified change and subject to conditions to ensure that the use of good quality materials and detailing, it is felt that the extension and alterations to the Listed Buildings would be sympathetic to their historic character and architectural interest.
- 14.7 The new detached buildings to the rear of the Listed Buildings would have a much better layout than the previously refused development. Their narrow linear form along the site's western boundary would be sympathetic to the site's historic context. The buildings would be of an appropriate 2-storey scale and would be well proportioned, drawing

heavily on traditional building forms and details seen in other buildings within the Conservation Area, thereby respecting local distinctiveness. The parking layout to the front of the dwellings and the walkway to the east side of the site would, subject to appropriate hard and soft landscaping proposals (including a need for well detailed brick walls), be well designed spaces. Landscaping details are a matter that can reasonably be conditioned. Subject to the use of good quality materials, the development to the rear of the site is one that, in conjunction with the positive works to the Listed Building, would have an acceptable impact on the character and appearance of the Ringwood Conservation Area. However, there will be a need for conditions to ensure that the development is not partially implemented in a way that fails to deliver the necessary benefits to the Listed Building that are critical in ensuring that the development as a whole is an acceptable scheme.

- 14.8 The commercial units would not have a materially greater impact on the amenities of adjacent properties than the existing 1970s extension which would be demolished. The use of the outside amenity space might generate some noise and activity, but having regard to the site's town centre location and its lawful use, it is not considered that use of these external spaces would cause unreasonable harm. At the back of the site, the 2 residential blocks would have some impact on the amenities of the neighbouring flatted block to the east side of the site. A number of first floor windows are proposed, which would be about 18-19 metres away from the flats at New Court (a greater distance than was the case with the scheme refused last year). In this particular town centre context, it is felt this degree of separation would be acceptable. The east side gable to unit 4, would have some impact on the outlook of the nearest flats in New Court, but not an unacceptable one taking into account the size of the gable end and its distance (14-16 metres) from the adjacent flats. Overall, the development would have a satisfactory relationship to the neighbouring flats at New Court, thereby positively addressing previous neighbour relationship concerns.
- 14.9 The proposed dwellings themselves would have varied sized garden spaces. The 2 dwellings at the southern end of the site would have reasonably generous sized gardens. The other 3 dwellings would have small enclosed courtyard gardens, or no garden at all in the case of the middle unit. Given the size of the dwellings, their outlook and their town centre location, it is felt that the limited amenity spaces afforded to some of the dwellings would be acceptable.
- 14.10 Based on the Environment Agency's flood risk maps, much of the site is within either a flood risk 2 or a flood risk 3 area, although Units 1-3 are outside of these flood risk areas. However, the applicants, in their Flood Risk Assessment, have carried out a more detailed topographical survey of the site and have looked at how this relates to existing and projected flood levels. This FRA suggests the bulk of the site, including the areas set aside for new buildings is actually within Flood Zone 1. The Environment Agency have no objection to the development that is proposed subject to adherence to the FRA including measures to ensure that finished floor levels are set at 15 metres AOD (0.5 metres above the predicted 1 in 100 year plus climate change flood level). Given the conclusions in the applicant's FRA, it would also appear that there is no need to apply the Sequential Test, as it would appear that the new buildings should not flood (although some of the proposed garden areas at the southern end of the site would still be at risk of flooding). Even if

the Sequential Test were applicable (given that some garden areas would be in flood zones 2/3), it is felt that the scheme's overall benefits (particularly in terms of conserving and enhancing the historic environment) would outweigh the disbenefits of developing within a Flood Risk Area, having regards to the Environment Agency's acceptance of the development and given that it would only be relatively limited areas of garden that would be likely to flood.

- 14.11 The application would result in the loss of parking for the social club, and would not provide any parking for the proposed office units. The Highway Authority consider that this lack of parking for the commercial and social club elements of the scheme would be acceptable, taking into account National Planning Policy Guidance. They also consider that the level of on-site parking for the proposed dwellings (10 spaces) would be adequate to meet the needs of the residential units. Given the Highway Authority's conclusions, it is not considered the proposed development would be detrimental to highway safety.
- 14.12 The Highway Authority have requested a condition in respect of cycle parking to ensure that adequate cycle parking is provided in line with the council's parking standards SPD. It is felt the need to provide cycle parking is entirely reasonable. Previously, it was felt this matter should not be left to condition given the site's historic context. Whilst leaving this matter to condition is not ideal, it is felt, on balance, that the details could now be left to condition, given that other design issues have been adequately resolved and given the information illustrated on the layout plan.
- 14.13 The application is accompanied by an ecological report, which identifies a small bat roost within the building that would be demolished and which would consequently be lost as a result of the development. There is therefore a need to consider Habitat Regulations tests. Most importantly, the Council's Ecologist has confirmed that if the suggested mitigation plan is adhered to, then the conservation status of the affected bat species will be maintained at a favourable level (although he has also highlighted a need for an up to date survey to be undertaken). It is also considered that there is an overriding public interest in redeveloping the site given the building to be demolished has a particularly negative impact on the existing heritage assets and given that there is no reasonable alternative to addressing this negative impact. As such, it is felt the relevant test would be satisfied. Subject to conditions, it is felt that the protected species on site, and the ecological interest of adjacent areas (which includes, to the south of the site, a designated Site of Special Scientific Interest / Special Protection Area / Special Area of Conservation) will be safeguarded.
- 14.14 On 19th May 2016 the Government issued planning guidance setting out the specific circumstances in which contributions for affordable housing and tariff style planning obligations (section 106 agreements) should not be sought from small scale and self-build development. This guidance has been reissued following the order of the Court of Appeal dated 13th May 2016 (*West Berkshire District Council and Another v The Secretary of State for Communities and Local Government*). The planning guidance specifies the circumstances in which contributions should not be sought as follows:

*“Contributions should not be sought from developments of 10 units or less and which have a maximum combined gross floorspace of no more than 1,000 sqm;
In designated rural areas, local planning authorities may choose to apply a lower threshold of 5 units or less...;*

Affordable housing and tariff style contributions should not be sought from any development consisting only of the construction of a residential annex or extension to an existing house”

This national guidance is at odds with Policy CS15 of the Council’s Core Strategy which requires many small scale housing developments including the current application proposals to make affordable housing provision.

- 14.15 The presumption in favour of the development plan remains, in that the decision should be taken in accordance with the plan unless material considerations indicate otherwise. The new guidance is a material consideration which post-dates the adoption of the Local Plan. It is for the Council to decide which should prevail in the determination of a planning application. However, the Secretary of State, through his Inspectors can be anticipated to give greater weight to the Government’s national guidance unless there are reasons to make an exception.
- 14.16 While the need for affordable housing in this District is pressing, this in itself is unlikely to be considered by the Secretary of State as sufficient reason for the Council to apply its own development plan policy rather than applying national policy. Therefore, it is recommended that no affordable housing or tariff style contributions are sought from this development, in accordance with national Planning Practice Guidance, contrary to the provisions of Policy CS15 of the Core Strategy. In any event, it should be noted that in this instance, the applicants submitted a viability appraisal, which concluded that any affordable housing contribution would make the scheme unviable, a conclusion that was accepted by the District Valuer. Therefore, irrespective of the latest government advice, the scheme is one where the affordable housing requirement should be reasonably waived.
- 14.17 In accordance with the Habitat Regulations 2010 an assessment has been carried out of the likely significant effects associated with the recreational impacts of the residential development provided for in the Local Plan on both the New Forest and the Solent European Nature Conservation Sites. It has been concluded that likely significant adverse effects cannot be ruled out without appropriate mitigation projects being secured. Therefore, in the event that planning permission is to be granted for the proposed development, a condition will be required that would prevent the development from proceeding until the applicant has secured appropriate mitigation, either by agreeing to fund the Council’s Mitigation Projects or otherwise providing mitigation to an equivalent standard.
- 14.18 Overall, the proposed development is considered to be consistent with Local Plan policies and objectives in that the proposed development would be a well designed development that would be sympathetic to the site’s historic context. The development would be sympathetic to the character and setting of the Listed Buildings and sympathetic to the amenities of neighbouring dwellings. The development would safeguard

the amenities of neighbouring dwellings and subject to conditions would safeguard ecological and archaeological interests. It is felt the affordable housing contribution can be reasonably waived. As such, the application is recommended for permission.

14.19 In coming to this recommendation, consideration has been given to the rights set out in Article 8 (Right to respect for private and family life) and Article 1 of the First Protocol (Right to peaceful enjoyment of possessions) of the European Convention on Human Rights. Whilst it is recognised that there may be an interference with these rights and the rights of other third parties, such interference has to be balanced with the like rights of the applicant to develop the land in the way proposed. In this case it is considered that the protection of the rights and freedoms of the applicant outweigh any possible interference that may result to any third party.

Section 106 Contributions Summary Table

Proposal:			
Type of Contribution	NFDC Policy Requirement	Developer Proposed Provision	Difference
Affordable Housing			
No. of Affordable dwellings	2	0	-2
Financial Contribution	0	0	0
Habitats Mitigation			
Financial Contribution	£17,650		

CIL Summary Table

Description of Class	GIA New	GIA Existing	GIA Net Increase	CIL Liability
Dwelling houses	366.78		366.78	£30,583.81 *
Businesses - Offices (non-Financial/Prof	404.4		404.4	£0.00 *
Drinking Establishments			0	£0.00 *

15. RECOMMENDATION

Grant Subject to Conditions

Proposed Conditions:

- 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. The development permitted shall be carried out in accordance with the following approved plans: 826.100e, 826.101e, 826.102b, 826.103a, 826.104a, 826.105, 826.106, 826.107, 826.108, 826.109b, 826.110a, 826.111a, 826.112d, 826.113c, 826.114d, 826.115d, 826.116b, 826.117c, 826.118c, 826.119c, 826.120c, 826.121b, 826.099c.

Reason: To ensure satisfactory provision of the development.

3. Before development commences, details of the means of disposal of surface water from the site shall be submitted to and approved in writing by the Local Planning 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 CS2 of the Local Plan for the New Forest District outside the National Park (Core Strategy) and the New Forest District Council and New Forest National Park Authority Strategic Flood Risk Assessment for Local Development Frameworks.

4. Before the development is first occupied details of the future maintenance of the drainage system to be approved under condition 3 shall be submitted to and approved in writing by the Local Planning Authority. The drainage system shall thereafter be maintained in accordance with the approved details unless otherwise agreed in writing with the Local Planning Authority.

Reason: In order to ensure that the drainage arrangements are appropriate and in accordance with Policy CS2 of the Core Strategy for the New Forest District outside the National Park and the New Forest District Council and New Forest National Park Authority Strategic Flood Risk Assessment for Local Development Frameworks.

5. The development permitted by this planning permission shall be carried out in accordance with the approved Flood Risk Assessment (FRA) Frank Tyhurst dated February 2015 and the proposed finished floor level and flood resistance/resilience measures recommended therein.

Reason: To prevent flooding / minimise flood risk in accordance with Policy CS6 of the Core Strategy for New Forest District outside of the National Park.

6. Before the commencement of development, an updated ecological report shall be submitted to an approved in writing by the Local Planning Authority. The updated report shall include detailed bat mitigation measures based on an up-to-date bat survey; details of non-native plant species control; and details of a general ecological mitigation plan. Development shall only take place in accordance with the approved details.

Reason: To safeguard ecological interests in accordance with Policy CS3 of the Core Strategy for New Forest District outside of the National Park

7. No demolition/development shall take place/commence until a programme of archaeological work including a Written Scheme of Investigation has been submitted to and approved by the Local Planning Authority in writing. The scheme shall include an assessment of significance and research questions; and:
- a) The programme and methodology of site investigation and recording;
 - b) The programme for post investigation assessment;
 - c) Provision to be made for analysis of the site investigation and recording;
 - d) Provision to be made for publication and dissemination of the analysis and records of the site investigation;
 - e) Provision to be made for archive deposition of the analysis and records of the site investigation;
 - f) fNomination of a competent person or persons/organisation to undertake the works set out within the Written Scheme of Investigation.

No demolition/development shall take place other than in accordance with the Written Scheme of Investigation approved under this condition.

Reason: The development is located in an area of archaeological significance where the recording of archaeological remains should be carried out prior to the development taking place in accordance with Policy DM1 of the Local Plan for the New Forest District outside the National Park. (Part 2: Sites and Development Management).

8. The development shall not be occupied until the site investigation and post investigation assessment has been completed in accordance with the programme set out in the Written Scheme of Investigation approved under condition 7 and the provision made for analysis, publication and dissemination of results and archive deposition has been secured.

Reason: The development is located in an area of archaeological significance where the site's archaeological interest should be recorded in accordance with Policy DM1 of the Local Plan for the New Forest District outside the National Park. (Part 2: Sites and Development Management).

9. There shall be no tipping or piling of materials into the River Avon System Site of Special Scientific Interest (SSSI).

Reason: To safeguard to ecological interest of the adjacent SSSI in accordance with Policy CS3 of the Core Strategy for New Forest District outside of the National Park.

10. Before the commencement of development, details of the measures that are to be put in place to ensure contractors are aware of the boundaries of the adjacent Site of Special Scientific Interest shall be submitted to and approved in writing by the Local Planning Authority. Development shall only proceed in accordance with the approved measures.

Reason: To safeguard to ecological interest of the adjacent SSSI in accordance with Policy CS3 of the Core Strategy for New Forest District outside of the National Park.

11. Samples and details of all external materials shall be submitted to and approved in writing by the Local Planning Authority prior to development commencing. Development shall only be carried out in accordance with the approved details.

Reason: To safeguard the character and setting of the Listed Building and to protect the character and appearance of the Ringwood Conservation Area in accordance with Policy CS3 of Core Strategy for New Forest District outside of the National Park and Policy DM1 of the Local Plan Part 2: Sites and Development Management.

12. Sample panels of brickwork (showing bond and mortar details), boarding and boundary wall details shall be prepared on site and shall be inspected and approved by the Local Planning Authority prior to the commencement of development . Development shall only be carried out in accordance with the approved details.

Reason: To safeguard the character and setting of the Listed Building and to protect the character and appearance of the Ringwood Conservation Area in accordance with Policy CS3 of Core Strategy for New Forest District outside of the National Park and Policy DM1 of the Local Plan Part 2: Sites and Development Management.

13. Large scale drawings (elevations and sections) of the new and replacement windows, timber doors and porch details shall be submitted to and approved in writing by the Local Planning Authority prior to the commencement of development. Development shall only proceed in accordance with the approved details.

Reason: To safeguard the character and setting of the Listed Building and to protect the character and appearance of the Ringwood Conservation Area in accordance with Policy CS3 of Core Strategy for New Forest District outside of the National Park and Policy DM1 of the Local Plan Part 2: Sites and Development Management.

14. Large scale drawings (elevations and sections) of all chimneys, eaves, verges, window cills, window heads and elevational details shall be submitted to and approved in writing by the Local Planning Authority prior to the commencement of development. Development shall only proceed in accordance with the approved details.

Reason: To safeguard the character and setting of the Listed Building and to protect the character and appearance of the Ringwood Conservation Area in accordance with Policy CS3 of Core Strategy for New Forest District outside of the National Park and Policy DM1 of the Local Plan Part 2: Sites and Development Management.

15. Large scale drawings (elevations and sections) of all new low profile metal conservation rooflights shall be submitted to and approved in writing by the Local Planning Authority prior to the commencement of development. Development shall only be carried out in accordance with the approved details.
- Reason: To safeguard the character and setting of the Listed Building and to protect the character and appearance of the Ringwood Conservation Area in accordance with Policy CS3 of Core Strategy for New Forest District outside of the National Park and Policy DM1 of the Local Plan Part 2: Sites and Development Management.
16. Large scale drawings (elevations and sections) of the new bin and cycle store shall be submitted to and approved in writing by the Local Planning Authority prior to the commencement of development. Development shall only be carried out in accordance with the approved details.
- Reason: To safeguard the character and setting of the Listed Building and to protect the character and appearance of the Ringwood Conservation Area in accordance with Policy CS3 of Core Strategy for New Forest District outside of the National Park and Policy DM1 of the Local Plan Part 2: Sites and Development Management.
17. Large scale drawings (elevations and sections) of the new conservatory, rear store, lift tower and lantern shall be submitted to and approved in writing by the Local Planning Authority prior to the commencement of development. Development shall only be carried out in accordance with the approved details.
- Reason: To safeguard the character and setting of the Listed Building and to protect the character and appearance of the Ringwood Conservation Area in accordance with Policy CS3 of Core Strategy for New Forest District outside of the National Park and Policy DM1 of the Local Plan Part 2: Sites and Development Management.
18. No flues, ducts and vents shall be placed on the front elevations of the new buildings unless details have first been submitted to and approved in writing by the Local Planning Authority.
- Reason: To safeguard the character and setting of the Listed Building and to protect the character and appearance of the Ringwood Conservation Area in accordance with Policy CS3 of Core Strategy for New Forest District outside of the National Park and Policy DM1 of the Local Plan Part 2: Sites and Development Management.
19. All new rainwater goods shall be cast aluminium, painted black and match historic profiles and fixings.

Reason: To safeguard the character and setting of the Listed Building and to protect the character and appearance of the Ringwood Conservation Area in accordance with Policy CS3 of Core Strategy for New Forest District outside of the National Park and Policy DM1 of the Local Plan Part 2: Sites and Development Management.

20. Before development commences a scheme of landscaping of the site shall be submitted for approval in writing by the Local Planning Authority. This scheme shall include :

- (a) the existing trees and shrubs 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) the treatment of the boundaries of the site and all 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 prevent inappropriate car parking to comply with Policy CS2 of the Local Plan for the New Forest District outside the National Park (Core Strategy).

21. All planting, seeding or turfing comprised in the approved details of landscaping shall be carried out in the first planting and seeding seasons following the occupation of the buildings or the completion of the development, whichever is the sooner. Any trees or plants which within a period of 5 years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size or species, unless the Local Planning Authority gives written consent to any variation.

Reason: To ensure the appearance and setting of the development is satisfactory and to comply with Policy CS2 of the Local Plan for New Forest District outside the National Park (Core Strategy).

22. Prior to the first occupation of any dwelling, the existing club extension shown to be demolished shall have been demolished in full and prior to the first occupation of the terrace of 3 dwellinghouses (units 1-3) all of the proposed external works to the Listed Building including the erection of the orangery extension, the lift shaft and the new / replacement windows and doors and the associated external repairs shall have been implemented in full.

Reason: The development is considered acceptable as a whole. However, partial implementation of the development without delivering the proposed benefits to the Listed Building would result in a development that would fail to adequately preserve or enhance the site's historic context in accordance with Policy

DM3 of the Core Strategy for New Forest District outside of the National Park, Policy DM1 of the Local Plan Part 2: Sites and Development Management.

23. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) 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 intensity of the development and the site's sensitive historic context and the flood risk, ecological and amenity issues affecting the site, this is a site where small scale alterations could potentially have a significant impact, and the Local Planning Authority would therefore wish to ensure that any future development proposals do not adversely affect the amenities of the area and the site's historic context, contrary to Policy CS3 of the Core Strategy for New Forest District outside of the National Park and Policy DM1 of the Local Plan Part 2: Sites and Development Management.

24. Before development commences, the proposed slab levels in relationship to the existing ground levels set to an agreed datum shall be submitted to and approved in writing by the Local Planning Authority. Development shall only take place in accordance with those details which have been approved.

Reason: To ensure that the development takes place in an appropriate way in accordance with policy CS2 of the Local Plan for the New Forest District outside the National Park (Core Strategy).

25. The development hereby permitted shall not be occupied until the spaces shown on the approved plans for the parking of motor vehicles have been provided. The spaces shown on the approved plans for the parking of motor vehicles shall be retained and kept available for the parking of motor vehicles for the dwellings hereby approved at all times.

Reason: To ensure adequate parking provision is made in the interest of highway safety and in accordance with Policy CS2 and CS24 of the Local Plan for the New Forest outside of the National Park (Core Strategy).

26. The bicycle store to be approved under condition 16 / the approved cycle storage areas shall be provided before any of the new buildings are first occupied and the approved cycle storage areas shall thereafter be permanently retained thereafter.

Reason: To ensure adequate cycle parking is provided in accordance with Policy CS2 and Policy CS24 of the Core Strategy for New Forest District outside of the National Park.

27. No development shall be carried out until proposals for the mitigation of the impact of the development on the New Forest and Solent Coast European Nature Conservation Sites have been submitted to and approved in writing by the local planning authority, and the local planning authority has confirmed in writing that the provision of the proposed mitigation has been secured. Such proposals must:
- (a) Provide for mitigation in accordance with the New Forest District Council Mitigation Strategy for European Sites SPD, adopted in June 2014 (or any amendment to or replacement for this document in force at the time), or for mitigation to at least an equivalent effect;
 - (b) Provide details of the manner in which the proposed mitigation is to be secured. Details to be submitted shall include arrangements for the ongoing maintenance and monitoring of any Suitable Alternative Natural Green Spaces which form part of the proposed mitigation measures together with arrangements for permanent public access thereto.
 - (c) The development shall be carried out in accordance with and subject to the approved proposals.

Reason: The impacts of the proposed development must be mitigated before any development is carried out in order to ensure that there will be no adverse impacts on the New Forest and Solent Coast Nature Conservation Sites in accordance with Policy DM3 of the Local Plan Part 2 and the New Forest District Council Mitigation Strategy for European Sites Supplementary Planning Document.

Notes for inclusion on certificate:

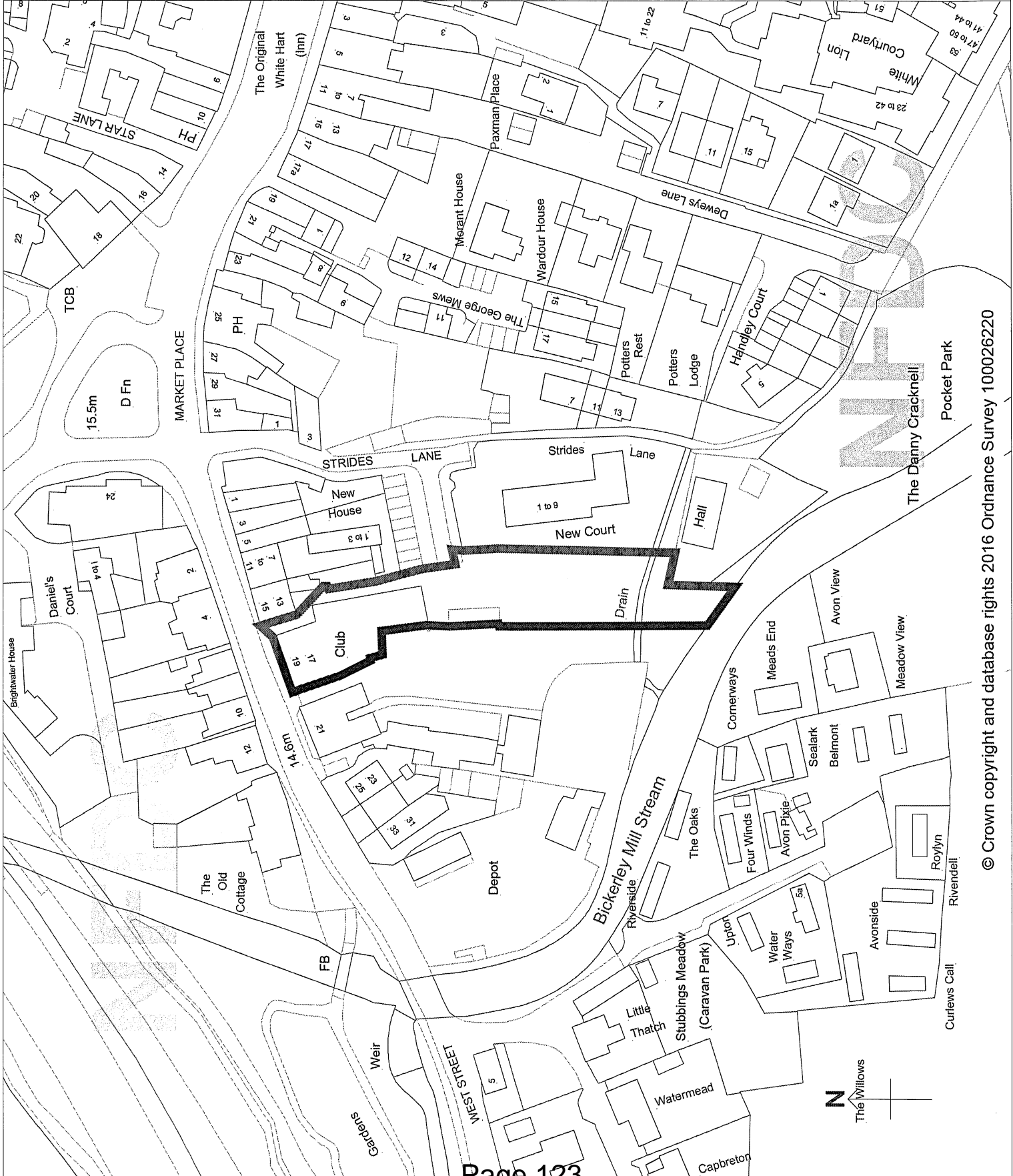
1. In accordance with paragraphs 186 and 187 of the National Planning Policy Framework and Article 35 of the Town and Country Planning (Development Management Procedure) (England) Order 2015, New Forest District Council takes a positive and proactive approach, seeking solutions to any problems arising in the handling of development proposals so as to achieve, whenever possible, a positive outcome by giving clear advice to applicants.

In this case, the application proposals were the subject of lengthy negotiations both before the application was submitted and during the application process and this enabled a positive recommendation to be made.

2. In discharging condition No. 27 above the Applicant is advised that appropriate mitigation is required before the development is commenced, either by agreeing to fund the Council's Mitigation Projects or otherwise providing mitigation to an equivalent standard. Further information about how this can be achieved can be found here <http://www.newforest.gov.uk/article/16478/>

Further Information:

Major Team
Telephone: 023 8028 5345 (Option 1)



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Application Number: 16/10022 Full Planning Permission

Site: 29 FAIRVIEW DRIVE, HYTHE SO45 5GX

Development: Single-storey rear extension; raised decking; fenestration alterations & handrail to side elevation; access alterations to No 29; two bungalows; access; parking

Applicant: Mr Royston-Airey

Target Date: 03/03/2016

Target Date: 31/08/16

1 REASON FOR COMMITTEE CONSIDERATION

To agree the waiving of the affordable housing contribution; previous Committee Consideration (Item 3i March 2016)

2 DEVELOPMENT PLAN AND OTHER CONSTRAINTS

Built-up area

3 DEVELOPMENT PLAN, OBJECTIVES AND POLICIES

Core Strategy

Objectives

1. Special qualities, local distinctiveness and a high quality living environment
3. Housing
6. Towns, villages and built environment quality

Policies

- CS2: Design quality
- CS15: Affordable housing contribution requirements from developments
- CS24: Transport considerations
- CS25: Developers contributions

Local Plan Part 2 Sites and Development Management Development Plan Document

DM3: Mitigation of impacts on European nature conservation sites

4 RELEVANT LEGISLATION AND GOVERNMENT ADVICE

Section 38 Development Plan
Planning and Compulsory Purchase Act 2004
National Planning Policy Framework

5 RELEVANT SUPPLEMENTARY PLANNING GUIDANCE AND DOCUMENTS

SPD - Housing Design, Density and Character
SPD - Mitigation Strategy for European Sites

6 RELEVANT PLANNING HISTORY

- 6.1 Erection of new dwelling with integral garage & form new access (93/52565) - refused 13/9/93
- 6.2 Single-storey rear extension; raised decking; fenestration alterations & handrail to side elevation; access alterations to No 29; two dwellings; new access; associated parking (15/11604) - withdrawn 23/12/15

7 PARISH / TOWN COUNCIL COMMENTS

Hythe & Dibden Parish Council: recommend refusal - there is potential for the development to overlook properties of Whittington Close; overdevelopment of the site; concerns that the development could increase the possibility of flooding into Whittington Close

8 COUNCILLOR COMMENTS

None

9 CONSULTEE COMMENTS

- 9.1 Hampshire County Council Highway Engineer: No objection subject to conditions on car and cycle parking
- 9.2 Tree Officer: No objection subject to tree protection condition
- 9.3 Land Drainage: No objection subject to conditions

10 REPRESENTATIONS RECEIVED

- 10.1 4 letters of objection from local residents/neighbouring properties:- overdevelopment of the site; development would be out of keeping with other properties in Fairview Drive; inadequate on-site parking; adverse impact on highway safety; concerns about adequacy of drainage arrangements and the potential for the development to cause flooding of downhill properties; adverse impact on trees; loss of trees and vegetation would result in overlooking of properties to rear to detriment of neighbours' privacy; overlooking of property to north side; concerns about eaves and guttering overhanging boundary

11 CRIME & DISORDER IMPLICATIONS

No relevant considerations

12 LOCAL FINANCE CONSIDERATIONS

If this development is granted permission and the dwellings built, the Council will receive £2304 in each of the following six years from the dwellings' completion, and as a result, a total of £13,824 in government grant under the New Homes Bonus will be received.

From the 6 April 2015 New Forest District Council began charging the Community Infrastructure Levy (CIL) on new residential developments.

Based on the information provided at the time of this report this development has a CIL liability of £10,632.00.

Tables setting out all contributions are at the end of this report.

13 WORKING WITH THE APPLICANT/AGENT

In accordance with paragraphs 186 and 187 of the National Planning Policy Framework and Article 35 of the Town and Country Planning (Development Management Procedure) (England) Order 2015, New Forest District Council take a positive and proactive approach, seeking solutions to any problems arising in the handling of development proposals so as to achieve, whenever possible, a positive outcome.

This is achieved by

- Strongly encouraging those proposing development to use the very thorough pre application advice service the Council provides.
- Working together with applicants/agents to ensure planning applications are registered as expeditiously as possible.
- Advising agents/applicants early on in the processing of an application (through the release of a Parish Briefing Note) as to the key issues relevant to the application.
- Updating applicants/agents of issues that arise in the processing of their applications through the availability of comments received on the web or by direct contact when relevant.
- Working together with applicants/agents to closely manage the planning application process to allow an opportunity to negotiate and accept amendments on applications (particularly those that best support the Core Strategy Objectives) when this can be done without compromising government performance requirements.
- Advising applicants/agents as soon as possible as to concerns that cannot be dealt with during the processing of an application allowing for a timely withdrawal and re-submission or decision based on the scheme as originally submitted if this is what the applicant/agent requires.
- When necessary discussing with applicants/agents proposed conditions especially those that would restrict the use of commercial properties or land when this can be done without compromising government performance requirements.

In this case, all the above apply and as the application was acceptable as submitted no specific further actions were required.

14 ASSESSMENT

14.1 Introduction

14.1.1 This application was initially considered at the March 2016 Development Control Committee. The original Committee report is set out in the following paragraphs 14.2.1 to 14.2.14

14.2 March 2016 Committee Report

14.2.1 Seen from the road to the front of the site, 29 Fairview Drive is a detached bungalow. The property does, however, have some accommodation within its roof space that is served by a rear dormer and a small gable-end window. Furthermore, the property occupies a sloping site, so that from the rear, the ground floor of the dwelling is elevated above a small basement and adjacent areas of rear garden. The property also has a rear conservatory and balconies that are both elevated above adjacent areas of rear garden. The property occupies

a much larger plot than is typical of the area. In places, the plot is very steeply sloping. Although the front parts of the site, closest to Fairview Drive are either flat or gently sloping, there is quite a dramatic downhill slope to the rear part of the site, meaning that properties to the rear in Whittington Close are set at a much lower level than the dwelling at 29 Fairview Drive. The site also slopes downwards from south to north, meaning that the adjacent chalet-style bungalow at 35 Fairview Drive is set at a lower level than the application site. The adjacent chalet bungalow at 27 Fairview Drive is set at a similar level to the existing dwelling on the application site. The steeply sloping rear parts of the site are thickly vegetated with shrubs and mature (mainly deciduous) trees.

- 14.2.2 The application seeks to remodel the existing dwelling. The northern end of the existing building would be demolished, as would the rear conservatory. A new flat-roofed rear extension is proposed across the full length of the retained rear elevation that would lead out onto a new raised decking / balcony area. To the north side of the remodelled dwelling, it is proposed to build 2 new detached bungalows of a similar design. 2 new vehicular crossovers are proposed onto Fairview Drive, one being for the existing dwelling and the other for one of the proposed new dwellings. 2 on-site car parking spaces would be provided for each dwelling. The application replicates an application that was withdrawn in December 2015 because of difficulties in agreeing Section 106 legal agreement requirements within the requisite 8-week timeframe.
- 14.2.3 It should be noted that an application for a single 2-storey dwelling was refused planning permission in 1993 as it was deemed to be intrusive and out of keeping with the site's surroundings. It was also considered that the dwelling would have an overbearing impact on the neighbouring property and furthermore, it was felt the proposal would adversely affect a group of trees.
- 14.2.4 The development now proposed is a very different proposal to the scheme refused planning permission 23 years ago, and policies have materially changed since that time. Seen from the street, the proposed dwellings would be set in plots that would be 10.5 metres to 12 metres in width. The plots would be slightly narrower than is typical of other properties in Fairview Drive, but not so much narrower as to appear out of keeping in the streetscene. For example, 27 Fairview Drive has a plot width of 11 metres and the recently approved dwellings at Cussens Day Centre would have plot widths of about 11-12 metres. The dwellings have been designed to have reasonable areas of lawned front gardens, and therefore the frontage of the plots would not be too dominated by hardstanding. The single-storey design of the 2 new dwellings would be sympathetic to the site's context, and the remodelled existing dwelling would also be visually appropriate. The dwellings would have acceptable areas of useable rear garden. Because of the site's steeply sloping nature, it is felt that the proposal would only be acceptable if permitted development rights are removed, given that normally 'permitted' development could have an unacceptably poor visual impact in this context. Overall, subject to such a condition, and conditions to secure appropriate materials, and landscaping details, the development is one that would have an acceptable impact on the character and appearance of the area.

- 14.2.5 The proposed single-story bungalow adjacent to 35 Fairview Drive would have some impact on the outlook of that neighbouring property, which does have windows on its side elevation facing the application site. However, given the proposed bungalow would be relatively modest in height with a fully hipped roof, and given the 7.5 metre gap between the 2 buildings, it is felt the development's impact on the light and outlook of 35 Fairview Drive would be within acceptable limits (even taking into account changes of levels). The remodelled existing dwelling would not have a significant additional impact on the neighbouring property at 27 Fairview Drive, and the development's impact on this property is considered to be acceptable. The properties in Whittington Close to the rear of the site would be set about 35 to 40 metres away from the proposed new bungalows and remodelled dwelling. Even taking into account the marked difference in levels, it is felt this degree of separation would be sufficient to ensure that the privacy of properties in Whittington Close is not undermined. Overall, it is considered that the proposed development would have an acceptable relationship to neighbouring dwellings. It should be noted that the submitted plans do not suggest that eaves and guttering would overhang the neighbouring property, but in any event this would be a civil matter.
- 14.2.6 Individually, the existing trees on the site have poor form, and therefore they are not worthy of protection with a Tree Preservation Order. The dwellings would be sufficiently close to trees that some cutting back and removal of trees will be necessary to accommodate the proposed development. It is felt that the likely tree loss arising from this proposal would be justified, given the trees' poor form, subject to securing appropriate replacement planting through a landscape condition.
- 14.2.7 The new access points and the level of on-site parking that would be secured would be acceptable from a highway safety perspective.
- 14.2.8 Concerns have been raised about the proposed drainage arrangements and the potential for increased surface water runoff to cause flooding of adjacent properties. These concerns are understood, but having regard to the comments of the Council's drainage team, it is felt that an acceptable drainage scheme could reasonably be provided for this development, and this is a matter that could be reasonably conditioned.
- 14.2.9 In accordance with the Habitat Regulations 2010 an assessment has been carried out of the likely significant effects associated with the recreational impacts of the residential development provided for in the Local Plan on both the New Forest and the Solent European Nature Conservation Sites. It has been concluded that likely significant adverse effects cannot be ruled out without appropriate mitigation projects being secured. In the event that planning permission is granted for the proposed development, a condition is recommended that would prevent the development from proceeding until the applicant has secured appropriate mitigation, either by agreeing to fund the Council's Mitigation Projects or otherwise providing mitigation to an equivalent standard. In this case, the full mitigation contribution that would be required would be £8500, which could potentially be met in part through CIL payments.

- 14.2.10 In line with Core Strategy Policy CS15, the proposed development is one that would be expected to secure a contribution to affordable housing. In this case, the target contribution would be £50,140. At the time of writing, a Section 106 legal agreement remains to be completed, although it is understood that the applicants are willing to enter the requisite agreement.
- 14.2.11 Overall, the proposed development would be consistent with Local Plan policies and objectives. The development would be appropriate to its context and could be implemented without causing harm to the character and appearance of the area and the amenities and privacy of neighbouring properties. The development would have an acceptable impact on trees and highway safety. Subject to conditions and subject to the prior completion of a Section 106 legal agreement to secure contributions to affordable housing, the development is one that can reasonably be recommended for permission.

14.3 Post March 2016 Committee update

- 14.3.1 At their March 2016 meeting, the Development Control Committee accepted the officers' recommendation and resolved that the Executive Head of Economy, Housing and Planning be authorised to grant planning permission subject to conditions and subject to the prior completion of a Section 106 legal agreement in respect of affordable housing provision.
- 14.3.2 Since March Committee, work has been undertaken in preparing and drawing up the Section 106 legal agreement that the Committee resolution requires to be completed. However, the requisite Section 106 legal agreement has never actually been completed. The need to complete the Section 106 legal agreement has now been overtaken by other events. Specifically:-
- 14.3.3 On 19th May 2016 the Government issued planning guidance setting out the specific circumstances in which contributions for affordable housing and tariff style planning obligations (section 106 agreements) should not be sought from small scale and self-build development. This guidance has been reissued following the order of the Court of Appeal dated 13th May 2016 (*West Berkshire District Council and Another v The Secretary of State for Communities and Local Government*). The planning guidance specifies the circumstances in which contributions should not be sought as follows:

“Contributions should not be sought from developments of 10 units or less and which have a maximum combined gross floorspace of no more than 1,000 sqm; In designated rural areas, local planning authorities may choose to apply a lower threshold of 5 units or less...; Affordable housing and tariff style contributions should not be sought from any development consisting only of the construction of a residential annex or extension to an existing house”

This national guidance is at odds with Policy CS15 of the Council's Core Strategy which requires many small scale housing developments including the current application proposals to make affordable housing provision.

- 14.3.4 The presumption in favour of the development plan remains, in that the decision should be taken in accordance with the plan unless material considerations indicate otherwise. The new guidance is a material consideration which post-dates the adoption of the Local Plan. It is for the Council to decide which should prevail in the determination of a planning application. However, the Secretary of State, through his Inspectors can be anticipated to give greater weight to the Government's national guidance unless there are reasons to make an exception.
- 14.3.5 While the need for affordable housing in this District is pressing, this in itself is unlikely to be considered by the Secretary of State as sufficient reason for the Council to apply its own development plan policy rather than applying national policy. Therefore, it is recommended that no affordable housing or tariff style contributions are sought from this development, in accordance with national Planning Practice Guidance, contrary to the provisions of Policy CS15 of the Core Strategy. Accordingly, planning permission should now be granted for this proposal.
- 14.3.6 In coming to this recommendation, consideration has been given to the rights set out in Article 8 (Right to respect for private and family life) and Article 1 of the First Protocol (Right to peaceful enjoyment of possessions) of the European Convention on Human Rights. Whilst it is recognised that there may be an interference with these rights and the rights of other third parties, such interference has to be balanced with the like rights of the applicant to develop the land in the way proposed. In this case it is considered that the protection of the rights and freedoms of the applicant outweigh any possible interference that may result to any third party.

15. RECOMMENDATION

Grant Subject to Conditions

Proposed 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. The development permitted shall be carried out in accordance with the following approved plans: ra sht 3 rev X, ra sht 5 rev X, ra sht 4 rev X, ra sht 2 rev X, ra sht 1 rev X, ra sht 6 rev X, ra sht 7 rev X.

Reason: To ensure satisfactory provision of the development.

3. No development shall be carried out until proposals for the mitigation of the impact of the development on the New Forest and Solent Coast European Nature Conservation Sites have been submitted to and approved in writing by the local planning authority, and the local planning authority has confirmed in writing that the provision of the proposed mitigation has been secured. Such proposals must:
 - (a) Provide for mitigation in accordance with the New Forest District Council Mitigation Strategy for European Sites SPD, adopted in June 2014 (or any amendment to or replacement for this document in force at the time), or for mitigation to at least an equivalent effect;
 - (b) Provide details of the manner in which the proposed mitigation is to be secured. Details to be submitted shall include arrangements for the ongoing maintenance and monitoring of any Suitable Alternative Natural Green Spaces which form part of the proposed mitigation measures together with arrangements for permanent public access thereto.
 - (c) The development shall be carried out in accordance with and subject to the approved proposals.

Reason: The impacts of the proposed development must be mitigated before any development is carried out in order to ensure that there will be no adverse impacts on the New Forest and Solent Coast Nature Conservation Sites in accordance with Policy DM3 of the Local Plan Part 2 and the New Forest District Council Mitigation Strategy for European Sites Supplementary Planning Document.

4. Before first occupation of the development hereby approved the applicant must design and install a surface water sustainable system to cater for the new impermeable areas (i.e. roofs) on the proposed development such that no additional or increased rate of flow of surface water will drain to any water body or adjacent land for storms up to 1 in 100 years including climate change.

Reason: In order to ensure that the drainage arrangements are appropriate and in accordance with Policy CS2 of the Local Plan for the New Forest District outside the National Park (Core Strategy) and the New Forest District Council and New Forest National Park Authority Strategic Flood Risk Assessment for Local Development Frameworks.

5. Before the development is first occupied, details of the future maintenance of the approved drainage system shall be submitted to and approved in writing by the Local Planning Authority. The approved drainage scheme shall thereafter be maintained in accordance with the approved details at all times.

Reason: In order to ensure that the drainage arrangements are appropriate and in accordance with Policy CS2 of the Local Plan for the New Forest District outside the National Park (Core Strategy) and the New Forest District Council and New Forest National Park Authority Strategic Flood Risk Assessment for Local Development Frameworks.

6. Before development commences, samples or exact details of the facing and roofing materials to be used shall be submitted to and approved in writing by the Local Planning Authority. The development shall only be implemented in accordance with the approved details.

Reason: To ensure an acceptable appearance of the development in accordance with policy CS2 of the Core Strategy for the New Forest District outside the National Park.

7. Before development commences a scheme of landscaping of the site shall be submitted for approval in writing by the Local Planning Authority. This scheme shall include :

- (a) the existing trees and shrubs which have been agreed to be retained;
- (b) a specification for new planting including replacement tree planting (species, size, spacing and location);
- (c) areas for hard surfacing and the materials to be used;
- (d) the treatment of the boundaries of the site and 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 prevent inappropriate car parking to comply with Policy CS2 of the Local Plan for the New Forest District outside the National Park (Core Strategy).

8. All planting, seeding or turfing comprised in the approved details of landscaping shall be carried out in the first planting and seeding seasons following the occupation of the buildings or the completion of the development, whichever is the sooner. Any trees or plants which within a period of 5 years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size or species, unless the Local Planning Authority gives written consent to any variation.

Reason: To ensure the appearance and setting of the development is satisfactory and to comply with Policy CS2 of the Local Plan for New Forest District outside the National Park (Core Strategy).

9. Before development commences the following levels details shall be submitted to and approved in writing by the Local Planning Authority:-

- a) the proposed slab levels of the dwellings in relationship to the existing ground levels set to an agreed datum;
- b) the proposed finished garden levels relative to existing levels (supported by cross-sections).

Development shall only take place in accordance with those details which have been approved.

Reason: To ensure that the development takes place in an appropriate way in accordance with policy CS2 of the Local Plan for the New Forest District outside the National Park (Core Strategy).

10. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015 (or any re-enactment of that Order) no extension otherwise approved by Classes A, B or C of Part 1 of Schedule 2 to the Order, or garage or other outbuilding otherwise approved by Class E of Part 1 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 site, the Local Planning 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 CS2 of the Local Plan for the New Forest District outside the National Park (Core Strategy).

11. The development hereby permitted shall not be occupied until the spaces shown on approved plans for the parking of motor vehicles and cycles have been provided. These areas shall subsequently be kept available for the parking of motor vehicles and cycles for the dwellings hereby approved at all times.

Reason: To ensure adequate parking provision is made in the interest of highway safety, and to promote sustainable travel in accordance with Policies CS2 and CS24 of the Local Plan for the New Forest outside of the National Park (Core Strategy).

Notes for inclusion on certificate:

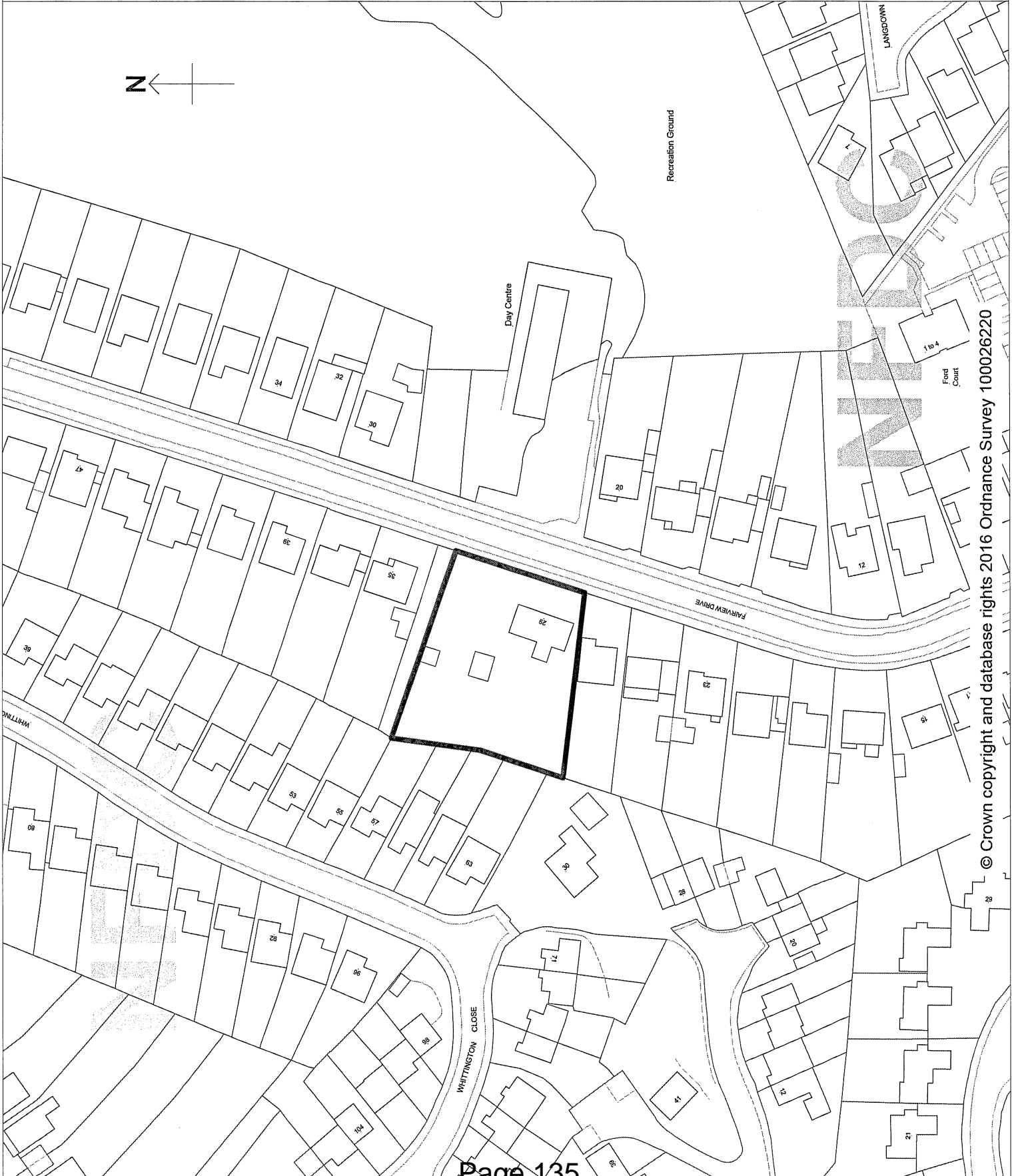
1. In accordance with paragraphs 186 and 187 of the National Planning Policy Framework and Article 35 of the Town and Country Planning (Development Management Procedure) (England) Order 2015, New Forest District Council takes a positive and proactive approach, seeking solutions to any problems arising in the handling of development proposals so as to achieve, whenever possible, a positive outcome by giving clear advice to applicants.

In this case, all the above apply and as the application was acceptable as submitted no specific further actions were required.

2. In discharging condition No. 3 above the Applicant is advised that appropriate mitigation is required before the development is commenced, either by agreeing to fund the Council's Mitigation Projects or otherwise providing mitigation to an equivalent standard. Further information about how this can be achieved can be found here <http://www.newforest.gov.uk/article/16478/>

Further Information:

Major Team
Telephone: 023 8028 5345 (Option 1)



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Application Number: 16/10337 Full Planning Permission

Site: SITE OF 14 SALISBURY ROAD, TOTTON SO40 3PZ

Development: One three-storey block of 4 flats; bin & cycle store; demolition of existing (part retrospective)

Applicant: Mr Smith

Target Date: 05/05/2016

Target Date: 10/08/2016

1 REASON FOR COMMITTEE CONSIDERATION

Contrary to policy

2 DEVELOPMENT PLAN AND OTHER CONSTRAINTS

Built up area

3 DEVELOPMENT PLAN, OBJECTIVES AND POLICIES

Core Strategy

Objectives

1. Special qualities, local distinctiveness and a high quality living environment
3. Housing
6. Towns, villages and built environment quality

Policies

- CS1: Sustainable development principles
- CS2: Design quality
- CS10: The spatial strategy
- CS15: Affordable housing contribution requirements from developments
- CS24: Transport considerations
- CS25: Developers contributions

Local Plan Part 2 Sites and Development Management Development Plan Document

- NPPF1: National Planning Policy Framework – Presumption in favour of sustainable development
- DM3: Mitigation of impacts on European nature conservation sites

4 RELEVANT LEGISLATION AND GOVERNMENT ADVICE

- Section 38 Development Plan
- Planning and Compulsory Purchase Act 2004
- National Planning Policy Framework
- Achieving Sustainable Development

NPPF Ch.2 - Ensuring the vitality of town centres
NPPF Ch. 7 - Requiring good design

5 RELEVANT SUPPLEMENTARY PLANNING GUIDANCE AND DOCUMENTS

SPD - Housing Design, Density and Character
SPD - Parking Standards

6 RELEVANT PLANNING HISTORY

- 6.1 12/99215 - one three-storey block of flats, bin and cycle store, demolition of existing. Granted 13.11.12 (reserved matters)
- 6.2 12/98375 - one three storey block of 4 flats, bin and cycle store, demolition of existing. Granted 25.4.12 (outline consent)

7 PARISH / TOWN COUNCIL COMMENTS

Totton and Eling Town Council - recommend permission but would accept a delegated decision.

8 COUNCILLOR COMMENTS

None received

9 CONSULTEE COMMENTS

- 9.1 Land Drainage - recommend approval subject to condition
- 9.2 Ministry of Defence - no safeguarding objections
- 9.3 Southern Gas Networks - offer advice

10 REPRESENTATIONS RECEIVED

Four letters of objection have been received with the following concerns:

- lack of parking
- cycle stores likely to be used for garden furniture and are of no value
- restricted access for emergency vehicles
- over development
- rooms too small
- loss of property value
- could conflict with covenant
- loss of hedge/wildlife
- loss of light and privacy

11 CRIME & DISORDER IMPLICATIONS

None

12 LOCAL FINANCE CONSIDERATIONS

If this development is granted permission and the dwellings built, the Council will receive £4,608 in each of the following six years from the dwellings' completion, and as a result, a total of £27,648 in government grant under the New Homes Bonus will be received.

From the 6 April 2015 New Forest District Council began charging the

Community Infrastructure Levy (CIL) on new residential developments. Based on the information provided at the time of this report this development has a CIL liability of £14,000.00.

Tables setting out all contributions are at the end of this report.

13 WORKING WITH THE APPLICANT/AGENT

In accordance with paragraphs 186 and 187 of the National Planning Policy Framework and Article 35 of the Town and Country Planning (Development Management Procedure) (England) Order 2015, New Forest District Council take a positive and proactive approach, seeking solutions to any problems arising in the handling of development proposals so as to achieve, whenever possible, a positive outcome.

This is achieved by

- Strongly encouraging those proposing development to use the very thorough pre application advice service the Council provides.
- Working together with applicants/agents to ensure planning applications are registered as expeditiously as possible.
- Advising agents/applicants early on in the processing of an application (through the release of a Parish Briefing Note) as to the key issues relevant to the application.
- Updating applicants/agents of issues that arise in the processing of their applications through the availability of comments received on the web or by direct contact when relevant.
- Working together with applicants/agents to closely manage the planning application process to allow an opportunity to negotiate and accept amendments on applications (particularly those that best support the Core Strategy Objectives) when this can be done without compromising government performance requirements.
- Advising applicants/agents as soon as possible as to concerns that cannot be dealt with during the processing of an application allowing for a timely withdrawal and re-submission or decision based on the scheme as originally submitted if this is what the applicant/agent requires.
- When necessary discussing with applicants/agents proposed conditions especially those that would restrict the use of commercial properties or land when this can be done without compromising government performance requirements.

As the site has been cleared since the last application was granted, more details were considered appropriate in respect of the hedge which was previously shown to be retained and formed an important feature between the site and public car park which has enabled a positive recommendation to be made.

14 ASSESSMENT

14.1 The site lies within the built up area of Totton at the edge of a residential area adjacent to the Town Centre. To the south east, it is adjacent to one of the public car parks within the Town Centre. It is presently fenced off following the demolition of the former detached dwelling and clearance of much of the vegetation including the hedge along the boundary with the car park.

- 14.2 The proposal entails the provision of a block of 4 small units of accommodation (1 x 2-bed, 2 x 1-bed and a studio) together with associated bin and cycle storage provision. Externally, the proposed building is as previously approved although due to internal layout changes, the front door is now false. The cycle store is now shown a little further away from the hedge so the front is in line with the proposed fence to provide private amenity space for the ground floor occupier.
- 14.3 Visually, there are no objections to the provision of the building which is the same design as the previous consent. Similarly, there are no significant impacts on residential amenity given the proposal is as previously approved. Moving the cycle store away from the boundary would enable its proper maintenance whilst a new hedge can be planted outside of the boundary fence and have space to mature.
- 14.4 The approved scheme was for the hedge to be retained and a new fence provided inside the site. This was ideal as it enabled the site to remain private from the car park whilst maintaining a green frontage to the south east which is quite visible from Salisbury Road. The current proposal replicates this although the hedge will need to be planted and details will be requested to ensure that an appropriate mix is achieved.
- 14.5 On 19th May 2016 the Government issued planning guidance setting out the specific circumstances in which contributions for affordable housing and tariff style planning obligations (section 106 agreements) should not be sought from small scale and self-build development. This guidance has been reissued following the order of the Court of Appeal dated 13th May 2016 (*West Berkshire District Council and Another v The Secretary of State for Communities and Local Government*). The planning guidance specifies the circumstances in which contributions should not be sought as follows:
- “Contributions should not be sought from developments of 10 units or less and which have a maximum combined gross floorspace of no more than 1,000 sqm; In designated rural areas, local planning authorities may choose to apply a lower threshold of 5 units or less...;
- Affordable housing and tariff style contributions should not be sought from any development consisting only of the construction of a residential annex or extension to an existing house”
- 14.6 This national guidance is at odds with Policy CS15 of the Council's Core Strategy which requires many small scale housing developments including the current application proposals to make affordable housing provision.
- 14.7 The presumption in favour of the development plan remains, in that the decision should be taken in accordance with the plan unless material considerations indicate otherwise. The new guidance is a material consideration which post-dates the adoption of the Local Plan. It is for the Council to decide which should prevail in the determination of a planning application. However, the Secretary of State, through his Inspectors, can be anticipated to give greater weight to the Government's national guidance unless there are reasons to make an exception.

- 14.8 While the need for affordable housing in this District is pressing, this in itself is unlikely to be considered by the Secretary of State as sufficient reason for the Council to apply its own development plan policy rather than applying national policy. Therefore it is recommended that no affordable housing or tariff style contributions are sought from this development, in accordance with national Planning Practice Guidance, contrary to the provisions of Policy CS15 of the Core Strategy.
- 14.9 The application still generates a requirement for a CIL payment to be made and in accordance with the Habitat Regulations 2010 an assessment has been carried out of the likely significant effects associated with the recreational impacts of the residential development provided for in the Local Plan on both the New Forest and the Solent European Nature Conservation Sites. It has been concluded that likely significant adverse effects cannot be ruled out without appropriate mitigation projects being secured. In the event that planning permission is granted for the proposed development, a condition is recommended that would prevent the development from proceeding until the applicant has secured appropriate mitigation, either by agreeing to fund the Council's Mitigation Projects or otherwise providing mitigation to an equivalent standard.
- 14.10 In conclusion the proposed development is considered acceptable in the location particularly having regard to the fact that consent has already been granted for a very similar scheme.
- 14.11 In coming to this recommendation, consideration has been given to the rights set out in Article 8 (Right to respect for private and family life) and Article 1 of the First Protocol (Right to peaceful enjoyment of possessions) of the European Convention on Human Rights. Whilst it is recognised that there may be an interference with these rights and the rights of other third parties, such interference has to be balanced with the like rights of the applicant to develop the land in the way proposed. In this case it is considered that the protection of the rights and freedoms of the applicant outweigh any possible interference that may result to any third party.

Section 106 Contributions Summary Table

Proposal:			
Type of Contribution	NFDC Policy Requirement	Developer Proposed Provision	Difference
No. of Affordable dwellings	1		
Habitats Mitigation			
Financial Contribution	£9,200		

CIL Summary Table

Description of Class	GIA New	GIA Existing	GIA Net Increase	CIL Liability
Dwelling houses	175	0	175	£14,000.00

15. RECOMMENDATION

Grant Subject to Conditions

Proposed 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. The development permitted shall be carried out in accordance with the following approved plans: Design and Access Statement, biodiversity Checklist, C16/013.01, C16/013.02, C16/013.03, C16/013.04B, C16/013.05, C16/013.06.

Reason: To ensure satisfactory provision of the development.

3. Before development commences, samples or exact details of the facing and roofing materials to be used shall be submitted to and approved in writing by the Local Planning Authority. The development shall only be implemented in accordance with the approved details.

Reason: To ensure an acceptable appearance of the building in accordance with policy CS2 of the Core Strategy for the New Forest District outside the National Park.

4. Before the occupation of the development hereby approved, a scheme of landscaping of the site shall be submitted for approval in writing by the Local Planning Authority. This scheme shall include:

- (a) the existing trees and shrubs 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 occupation 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 prevent inappropriate car parking to comply with Policy CS2 of the Local Plan for the New Forest District outside the National Park (Core Strategy).

5. Before first occupation of the development hereby approved the applicant must design and install a surface water sustainable system to cater for the new impermeable areas (i.e. roofs) on the proposed development such that no additional or increased rate of flow of surface water will drain to any water body or adjacent land for storms up to 1 in 100 years including climate change.

Reason: In order to ensure that the drainage arrangements are appropriate and in accordance with Policy CS6 of the Core Strategy for the New Forest District outside the National Park and the New Forest District Council and New Forest National Park Authority Strategic Flood Risk Assessment for Local Development Frameworks.

6. Before first occupation of the development hereby approved the applicant shall have set up a detailed scheme for the future maintenance of the sustainable drainage system, including arrangements of the responsible parties for the maintenance of the sustainable drainage system. The system shall thereafter be retained and maintained in accordance with the scheme.

Reason: In order to ensure that the drainage arrangements are appropriate and in accordance with Policy CS6 of the Core Strategy for the New Forest District outside the National Park and the New Forest District Council and New Forest National Park Authority Strategic Flood Risk Assessment for Local Development Frameworks.

7. No development shall be carried out until proposals for the mitigation of the impact of the development on the New Forest and Solent Coast European Nature Conservation Sites have been submitted to and approved in writing by the local planning authority, and the local planning authority has confirmed in writing that the provision of the proposed mitigation has been secured. Such proposals must:

- (a) Provide for mitigation in accordance with the New Forest District Council Mitigation Strategy for European Sites SPD, adopted in June 2014 (or any amendment to or replacement for this document in force at the time), or for mitigation to at least an equivalent effect;
- (b) Provide details of the manner in which the proposed mitigation is to be secured. Details to be submitted shall include arrangements for the ongoing maintenance and monitoring of any Suitable Alternative Natural Green Spaces which form part of the proposed mitigation measures together with arrangements for permanent public access thereto.
- (c) The development shall be carried out in accordance with and subject to the approved proposals.

Reason: The impacts of the proposed development must be mitigated before any development is carried out in order to ensure that there will be no adverse impacts on the New Forest and Solent Coast Nature Conservation Sites in accordance with Policy DM3 of the Local Plan Part 2 and the New Forest District Council Mitigation Strategy for European Sites Supplementary Planning Document.

8. The development hereby permitted shall not be occupied until the cycle parking spaces shown on plan C16/013.04B have been provided. The spaces shown shall be retained and kept available for their intended use for the dwellings hereby approved at all times.

Reason: To ensure adequate cycle parking provision is made in the interest of highway safety and in accordance with Policy CS2 of the Local Plan for the New Forest outside of the National Park (Core Strategy).

Notes for inclusion on certificate:

1. In accordance with paragraphs 186 and 187 of the National Planning Policy Framework and Article 35 of the Town and Country Planning (Development Management Procedure) (England) Order 2015, New Forest District Council takes a positive and proactive approach, seeking solutions to any problems arising in the handling of development proposals so as to achieve, whenever possible, a positive outcome by giving clear advice to applicants.

As the site has been cleared since the last application was granted, more details were considered appropriate in respect of the hedge which was previously shown to be retained and formed an important feature between the site and public car park which has enabled a positive recommendation to be made.

2. In discharging condition No. 7 above the Applicant is advised that appropriate mitigation is required before the development is commenced, either by agreeing to fund the Council's Mitigation Projects or otherwise providing mitigation to an equivalent standard. Further information about how this can be achieved can be found here <http://www.newforest.gov.uk/article/16478/>

Further Information:

Major Team
Telephone: 023 8028 5345 (Option 1)



New Forest
DISTRICT COUNCIL

Tel: 023 8028 5000
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David Groom
Service Manager
Planning and Building Control
New Forest District Council
Appletree Court
Lyndhurst
SO43 7PA

**Planning Development
Control Committee
August 2016**

Item No: 31
Site of 14
Salisbury Road
Totton
16/10337
SU3513

Scale 1:1250

N.B. If printing this plan from
the internet, it will not be to
scale.



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Application Number: 16/10460 Full Planning Permission

Site: 35 SHAFTESBURY STREET, FORDINGBRIDGE SP6 1JF

Development: Use as 30 seat cinema; 8 flats; bar; terrace; fenestration alterations; external refurbishment

Applicant: Larasian

Target Date: 14/06/2016

Target Date: 26/08/2016

1 REASON FOR COMMITTEE CONSIDERATION

Contrary to Policy

2 DEVELOPMENT PLAN AND OTHER CONSTRAINTS

Built-up area
Town Centre Boundary
Fordingbridge Conservation Area

3 DEVELOPMENT PLAN, OBJECTIVES AND POLICIES

Core Strategy

CS2: Design quality
CS3: Protecting and enhancing our special environment (Heritage and Nature Conservation)
CS5: Safe and healthy communities
CS15: Affordable housing contribution requirements from developments
CS17: Employment and economic development
CS20: Town, district, village and local centres
CS24: Transport considerations
CS25: Developers contributions

Local Plan Part 2 Sites and Development Management Development Plan Document

DM1: Heritage and Conservation
DM3: Mitigation of impacts on European nature conservation sites
DM4: Renewable and low carbon energy generation
DM16: Within town centres, outside Primary Shopping Areas and Secondary Shopping Frontages

4 RELEVANT LEGISLATION AND GOVERNMENT ADVICE

Section 38 Development Plan
Planning and Compulsory Purchase Act 2004
National Planning Policy Framework

5 RELEVANT SUPPLEMENTARY PLANNING GUIDANCE AND DOCUMENTS

Fordingbridge Town Design Statement
Fordingbridge Conservation Area Appraisal
Housing Design, Density and Character
Advisory Note on the Implementation of Core Strategy Policy CS15 - Affordable Housing (Nov 2012)

6 RELEVANT PLANNING HISTORY

- 6.1 14/10524 - 1 terrace of 4 houses (outline application) - withdrawn December 2014 in light of concerns highlighted over the principle of residential development, character impacts, potential ecology impacts, lack of agreement over contributions and access arrangements.
- 6.2 79/NFDC/14401 - Self-contained flat with parking - 06/11/1979 Refused
- 6.3 XX/RFR/06972 - Change of use of cinema to Light Industry - 11/11/1960 Granted

7 PARISH / TOWN COUNCIL COMMENTS

Fordingbridge Town Council - recommend permission. Sympathetic restoration of a building which has fallen into disrepair to provide an amenity and enhancement to the town in terms of mixed development and will bring some employment.

8 COUNCILLOR COMMENTS

None

9 CONSULTEE COMMENTS

- 9.1 Environmental Design (Conservation) -The proposal entails conversion to mixed use, with a smaller cinema and residential units inserted within the existing shell of the building. The majority of changes are to the interior of the building with subdivision of space and the insertion of floors. The compromise of the internal space is a little regrettable as this would have been a key feature of the original building. The long corridor like flats also cause some concern with regard to the amount of quality living space that will be achieved. The proposal seeks the insertion of a number of openings along the west elevation for the building and a series of proposed roof lights within the new seamed roof. The enhancement to the building with the restoration, new roof covering and the reinstated wall along the north elevation can be balanced against these additional openings. The simple details on the building are a key part of its character and the proposed new windows, roof lights, doors and openings will need to be of sufficiently high quality to justify their interventions and replacement. A detailed condition covering these items would be required to ensure that larger scale aluminium windows are not used as these generally have a much cruder and broader profile. The use of this material does raise some concern, but suitable details can be agreed by condition. Metal framed conservation roof lights with a central glazing bar would be required and this should be shown on drawings. Works to the new courtyard space and new front wall will have a positive impact on the conservation area. This said the detailing of the proposed balconies and staircase would need to again be of sufficiently high

quality as this elevation will be visible from the conservation area. If a simple contemporary approach to this eastern elevation is to be successful then lightweight slim profiling would be required for both balconies and decks. The degree of internal subdivision may be balanced with the extensive enhancement of the building and the restoration of features proposed. The potential to retain this important 20th century building and see it put to a sustainable new use is fully supported, subject to conditions to clarify the detail.

- 9.2 Environmental Protection (Pollution) - it is recommended that sound insulation details are controlled by way of a condition requiring a scheme to control noise. In addition the scheme should require the control of noise breakout to neighbouring dwellings from plant serving the development, including air handling equipment.
- 9.3 Environmental Protection (Contaminated Land) - No objection in principle to the proposed development subject to standard planning conditions 14a-14e being imposed. Without these conditions, the proposed development on this site is likely to pose risks to human health, as the previous use of the site was a pottery and there are petrol tanks within the vicinity of the site. The previous gas works in Fordingbridge also requires some consideration concerning potential contamination at the site. .
- 9.4 Hampshire County Council (Highway Authority) - No objection subject to conditions to ensure closure of the existing access and provision of cycle parking. The site currently has a vehicular access onto Shaftsbury Street which serves a single car parking space. This access which has poor visibility onto the highway would be removed and stopped up. There are no proposals to provide any car parking at the site in respect of the proposed development, however a total of 8 cycle parking spaces would be provided for the new flats. The site is located close to the centre of town with access to local amenities and public transport links. Public off street car parking provision does exist in close proximity to the site and double yellow lines exist in the vicinity to prevent parking in areas where it is undesirable for safety reasons. Given the nature and scale of the proposals the highway authority would therefore not have any in principle objections to the proposed development as it is considered that in this instance the shortfall in off street parking provision will not result in any detrimental effect on users of the local highway network.
- 9.5 Ecologist - no objection, the ecological report appears suitable and establishes that protected species would not be directly adversely affected by the development based on its findings. Recommends a condition to ensure that works are in accordance with the ecology report.
- 9.6 Southern Gas Networks - give informatives on proximity of the site to their apparatus

10 REPRESENTATIONS RECEIVED

- 10.1 Representations have been received from fifteen separate parties. Three letters raise concerns on the following grounds:
- It is queried whether the cinema proposal will come forward and that the scheme is in fact one solely for residential development of the site, justified on the back of a community and commercial benefit to the town.

- The Planning Authority should ensure the cinema use is retained.
- Loss of privacy.
- Glass panels on western wall are inappropriate
- The bar and outside seating area should only be used in conjunction with the cinema and not as an independent unit.

10.2 Twelve letters have been received in support of the proposal for the following reasons.

- The cinema will be an asset for the town
- Valuable housing will be provided
- Employment opportunities will be created

10.3 In addition, the application is supported by the Rt Hon Desmond Swayne MP on the basis that a local amenity will be restored to the town, an Art Deco building will be renovated and keyworker accommodation will be provided.

11 CRIME & DISORDER IMPLICATIONS

None

12 LOCAL FINANCE CONSIDERATIONS

If this development is granted permission and the dwellings built, the Council will receive £9,216 in each of the following six years from the dwellings' completion, and as a result, a total of £55,296 in government grant under the New Homes Bonus will be received.

From the 6 April 2015 New Forest District Council began charging the Community Infrastructure Levy (CIL) on new residential developments. Based on the information provided at the time of this report this development has a CIL liability of £24,430.02. Tables setting out all contributions are at the end of this report.

13 WORKING WITH THE APPLICANT/AGENT

In accordance with paragraphs 186 and 187 of the National Planning Policy Framework and Article 35 of the Town and Country Planning (Development Management Procedure) (England) Order 2015, New Forest District Council take a positive and proactive approach, seeking solutions to any problems arising in the handling of development proposals so as to achieve, whenever possible, a positive outcome.

This is achieved by

- Strongly encouraging those proposing development to use the very thorough pre application advice service the Council provides.
- Working together with applicants/agents to ensure planning applications are registered as expeditiously as possible.
- Advising agents/applicants early on in the processing of an application (through the release of a Parish Briefing Note) as to the key issues relevant to the application.
- Updating applicants/agents of issues that arise in the processing of their applications through the availability of comments received on the web or by direct contact when relevant.

- Working together with applicants/agents to closely manage the planning application process to allow an opportunity to negotiate and accept amendments on applications (particularly those that best support the Core Strategy Objectives) when this can be done without compromising government performance requirements.
- Advising applicants/agents as soon as possible as to concerns that cannot be dealt with during the processing of an application allowing for a timely withdrawal and re-submission or decision based on the scheme as originally submitted if this is what the applicant/agent requires.
- When necessary discussing with applicants/agents proposed conditions especially those that would restrict the use of commercial properties or land when this can be done without compromising government performance requirements.

In this case all the above apply and following the submission of additional information to address amenity impacts the application was acceptable as submitted and no specific further actions were required.

14 ASSESSMENT

14.1 The site and proposal

14.1.1 The proposal relates to a commercial (industrial/retail premises), formerly a cinema within the Conservation Area and town centre of Fordingbridge. Planning permission was originally granted for the change of use from a cinema to light industry in 1960. That use evolved into a mixed use comprising light industrial and retail. The premises is currently vacant, formerly occupied by Branksome China. The existing building comprises a large structure to the rear of the site, where manufacturing previously took place, with an Art Deco facade onto Shaftesbury Street and a frontage building, housing the retail element of the former use. The properties to either side and rear are two-storey dwellings of traditional appearance.

14.1.2 The application is made in full, proposing conversion and slight increase in height of the rear portion of the existing building and retention of the Art Deco facade. The ground floor of the development would be occupied by a 30 seat cinema, bar and 2 no. flats. The first and second floors would be occupied by 6 no. flats, within the footprint of the existing building. To the side separate outdoor areas are proposed for use by residents and by cinema goers, with the reproduction of an Art Deco screen to Shaftesbury Street, over the footprint of an existing yard area and outbuildings, to be demolished. The main roof of the scheme would be slightly higher than the existing structure and be finished with a standing seam metal roof, render and slimline black aluminium windows. No off-street parking is proposed for the proposal.

14.2 The Principle of Mixed Use Redevelopment

14.2.1 Policy CS17 of the Core Strategy outlines that the strategy is to keep all existing employment sites and allocations for employment use. In addition Policy DM16 applies within the defined town centres and would allow for development of retail and appropriate non-retail uses. The policy would not allow for residential development where it would result in the total loss of town centre type uses, which add to the vitality and viability of the town centre. This was a fundamental problem with

the previous application on the site, which sought redevelopment for residential purposes only. The current proposal seeks to incorporate uses (cinema/bar) which are acceptable town centre uses, with residential above and behind. The principle of the proposal needs to be considered, but it is helpful that the application seeks to re-introduce a cinema to the site, which occupies just over half of the ground floor of the proposal.

- 14.2.2 The premises has a long history of employment use and has suited employment related use for many years. However, the premises has been vacant for some years and its condition has deteriorated during this time, making its re-use for employment purposes less attractive to prospective occupiers. The building was originally constructed as a cinema and that use would be reintroduced, with flats above and behind. While it has not been clearly established that the employment use of the premises is no longer a viable proposition, it is acknowledged that the existing building is in poor condition, has a poor relationship with adjoining residential development, that the proposal would result in the re-introduction of a town centre use which is very well supported by the local community and would provide residential accommodation. Consequently, in this instance loss of an employment site is considered to be acceptable on the basis that some jobs would be retained on the site and that a viable town centre use would be re-introduced, in accordance with the provisions of Policies CS17 and CS20 of the Core Strategy and Policy DM16 of the Local Plan Part 2.

14.3 Impact on the Fordingbridge Conservation Area

- 14.3.1 The impact of the proposal upon the character and appearance of the area must be considered under the provisions of Policies CS2 and CS3 and the Fordingbridge Conservation Area Appraisal, the site being within Fordingbridge Conservation Area. The Conservation Team raise no objections to the proposal, which is generally seen as an enhancement to the character and appearance of the conservation area. However, conditions are required in order to clarify the detail and finishes of the proposed development.

14.4 Ecological Impacts

- 14.4.1 The Council's Ecologist notes that the buildings to be demolished or renovated may have features such as mortar gaps and other cavities suitable for use by bats and the location close to water increases the risk of their presence. A report has been submitted which indicates that protected species would not be directly adversely affected by the proposal. As a result no objection is raised subject to a condition.

14.5 Highway Matters

- 14.5.1 The proposal does not include any off-street parking provision, although occupiers of the flats would have good access to town centre public transport links and services and would most likely be employed by a local company (Corintech) who back the application. Consequently no concerns are raised over the lack of off-street parking within the scheme. The County Highway Authority do not raise any concerns over the form of development proposed, subject to conditions to ensure the existing access is stopped up and to ensure cycle parking is provided.

14.6 Amenity Impacts

- 14.6.1 Policy CS2 requires the impact of development proposals upon adjoining amenity to be considered in terms of overlooking, light loss, outlook and noise and disturbance caused by the proposed use.
- 14.6.2 The proposal incorporates external stairs and balconies to access the first floor flats. It was originally proposed to lower a high wall to the rear of the site adjoining the boundary with nos. 37 and 39 Shaftesbury Street. The lowering of the wall would allow intervisibility between the balconies and stairs to this development and windows in the rear elevations of their neighbours, particularly of no. 37, who have raised concerns over loss of privacy. While a privacy screen is provided directly adjoining the rear of nos. 37 and 39, it cannot totally mitigate overlooking from the area of the stairs and landing, approximately 10m away. The applicant has therefore now shown that the wall will be retained at its current height and amended plans have been submitted which would prevent overlooking.
- 14.6.3 While the ridge of the main building would be raised by 0.4m, this would not cause any significant harm to adjoining amenity in respect of any overbearing impact or loss of light.
- 14.6.4 The Environmental Health Section raise no concerns over the proposal, subject to sound insulation details being required by condition and details to control noise breakout to neighbouring dwellings from plant serving the development, including air handling equipment. It is considered prudent to limit the use of the bar and outdoor seating area to be in association with the use of the cinema only, so a stand alone bar cannot be created, in the interests of adjoining amenity.

14.7 Contributions Policy

- 14.7.1 Contributions would normally be expected in relation to affordable housing and habitat mitigation for a development of the type and scale proposed.
- 14.7.2 In respect of affordable housing, on 19th May 2016 the Government issued planning guidance setting out the specific circumstances in which contributions for affordable housing and tariff style planning obligations (section 106 agreements) should not be sought from small scale and self-build development. This guidance has been reissued following the order of the Court of Appeal dated 13th May 2016 (*West Berkshire District Council and Another v The Secretary of State for Communities and Local Government*). The planning guidance specifies the circumstances in which contributions should not be sought as follows:

“Contributions should not be sought from developments of 10 units or less and which have a maximum combined gross floorspace of no more than 1,000 sqm; In designated rural areas, local planning authorities may choose to apply a lower threshold of 5 units or less...;”

Affordable housing and tariff style contributions should not be sought from any development consisting only of the construction of a residential annex or extension to an existing house”

- 14.7.3 This national guidance is at odds with Policy CS15 of the Council's Core Strategy which requires affordable housing provision to be made for the scale of development proposed here. The presumption in favour of the development plan remains, in that the decision should be taken in accordance with the plan unless material considerations indicate otherwise. The new guidance is a material consideration which post-dates the adoption of the Local Plan. It is for the Council to decide which should prevail in the determination of a planning application. However, the Secretary of State, through his Inspectors can be anticipated to give greater weight to the Government's national guidance unless there are reasons to make an exception.
- 14.7.4 While the need for affordable housing in this District is pressing, this in itself is unlikely to be considered by the Secretary of State as sufficient reason for the Council to apply its own development plan policy rather than applying national policy. Therefore it is recommended that no affordable housing or tariff style contributions are sought from this development, in accordance with national Planning Practice Guidance, contrary to the provisions of Policy CS15 of the Core Strategy.
- 14.7.5 In accordance with the Habitat Regulations 2010 an assessment has been carried out of the likely significant effects associated with the recreational impacts of the residential development provided for in the Local Plan on both the New Forest and the Solent European Nature Conservation Sites. It has been concluded that likely significant adverse effects cannot be ruled out without appropriate mitigation projects being secured. In the event that planning permission is granted for the proposed development, a condition is recommended that would prevent the development from proceeding until the applicant has secured appropriate mitigation, either by agreeing to fund the Council's Mitigation Projects or otherwise providing mitigation to an equivalent standard.
- 14.8 Other Matters
- 14.8.1 One notified party suggests the Planning Authority should ensure the cinema use is retained and queries whether the cinema proposal will actually come forward at all. The Planning Authority cannot ensure the cinema is retained, as that will be a matter for market forces to determine. However, should the applicant wish to pursue an alternative form of development to the cinema, then that will need to be considered under the provisions of a new planning application determined on its own merits.
- 14.9 Conclusion
- 14.9.1 Consultees raise no concerns over the form of development proposed and officers consider that subject to the conditions outlined below, the proposal would have no undue impacts. The proposal complies with the relevant provisions of the development plan and the NPPF and is accordingly recommended for approval.
- 14.9.2 In coming to this recommendation, consideration has been given to the rights set out in Article 8 (Right to respect for private and family life) and Article 1 of the First Protocol (Right to peaceful enjoyment of possessions) of the European Convention on Human Rights. Whilst it is recognised that there may be an interference with these rights and

the rights of other third parties, such interference has to be balanced with the like rights of the applicant to develop the land in the way proposed. In this case it is considered that the protection of the rights and freedoms of the applicant outweigh any possible interference that may result to any third party.

Section 106 Contributions Summary Table

Proposal:			
Type of Contribution	NFDC Policy Requirement	Developer Proposed Provision	Difference
Affordable Housing			
No. of Affordable dwellings	2	0	2
Financial Contribution	£3,046	0	£3,046
Habitats Mitigation			
Financial Contribution	£16,400	£16,400	0

CIL Summary Table

Description of Class	GIA New	GIA Existing	GIA Net Increase	CIL Liability
Dwelling houses	292.98	0	292.98	£24,430.02 *
Non-Residential Institutions	134	228	-94	£0.00 *

15. RECOMMENDATION

Grant Subject to Conditions

Proposed 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. The development permitted shall be carried out in accordance with the following approved plans: drawing numbers 1 Rev. B, 6 Rev. A, 7 Rev. A, 8 Rev. A, 9 Rev. A, 10 Rev. A, 11 Rev. A, and 12 Rev. A.

Reason: To ensure satisfactory provision of the development.

3. Before development commences a scheme of landscaping of the site shall be submitted for approval in writing by the Local Planning Authority. This scheme shall include :
- (a) a specification for new planting (species, size, spacing and location);
 - (b) areas for hard surfacing and the materials to be used;
 - (c) other means of enclosure;

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 prevent inappropriate car parking to comply with Policy CS2 of the Local Plan for the New Forest District outside the National Park (Core Strategy).

4. All external works (hard and soft landscape) shall be carried out in accordance with the approved plans and details within one year of commencement of development and maintained thereafter as built and subject to changes or additions (including signage) only if and as agreed in writing with the Local Planning Authority.

Reason: To ensure the achievement and long term retention of an appropriate quality of development and to comply with Policy CS2 of the Local Plan for the New Forest District outside the National Park (Core Strategy).

5. Before development commences, details for a scheme of sound attenuation shall be submitted to and approved in writing by, the Local Planning Authority. The details shall include measures to control the transfer of noise between separate units within the building and details to control the breakout of noise to neighbouring dwellings from plant serving the development, including air handling and extraction equipment and from use of the external areas of the site. The development hereby approved shall only be implemented and thereafter maintained in accordance with the approved scheme of sound attenuation.

Reason: In the interest of the amenity of the surrounding neighbouring properties in accordance with Policy CS2 of the Local Plan for the New Forest District outside the National Park (Core Strategy).

6. No development shall be carried out until proposals for the mitigation of the impact of the development on the New Forest and Solent Coast European Nature Conservation Sites have been submitted to and approved in writing by the local planning authority, and the local planning authority has confirmed in writing that the provision of the proposed mitigation has been secured. Such proposals must:

- (a) Provide for mitigation in accordance with the New Forest District Council Mitigation Strategy for European Sites SPD, adopted in June 2014 (or any amendment to or replacement for this document in force at the time), or for mitigation to at least an equivalent effect;

- (b) Provide details of the manner in which the proposed mitigation is to be secured. Details to be submitted shall include arrangements for the ongoing maintenance and monitoring of any Suitable Alternative Natural Green Spaces which form part of the proposed mitigation measures together with arrangements for permanent public access thereto.
- (c) The development shall be carried out in accordance with and subject to the approved proposals.

Reason: The impacts of the proposed development must be mitigated before any development is carried out in order to ensure that there will be no adverse impacts on the New Forest and Solent Coast Nature Conservation Sites in accordance with Policy DM3 of the Local Plan Part 2 and the New Forest District Council Mitigation Strategy for European Sites Supplementary Planning Document.

- 7. Before use of the development is commenced the existing access from the site to Shaftsbury Street shall be permanently stopped up and effectively closed with the footway provided and full face kerbs reinstated, in accordance with details which have been submitted to and approved by the Planning Authority.

Reason: In the interests of highway safety (in accordance with Policy CS21 of the Core Strategy for the New Forest District outside of the National Park).

- 8. Before use of the development is commenced provision for cycle storage, shall have been made within the site in accordance with the approved plans and shall be retained thereafter.

Reason: To ensure adequate on-site cycle parking provision for the approved development (in accordance with Policy CS21 of the Core Strategy for the New Forest District outside of the National Park)

- 9. Unless otherwise agreed by the Local Planning Authority, development other than that required to be carried out as part of an approved scheme of remediation must not commence until conditions relating to contamination nos. 10 to 13 have been complied with.

If unexpected contamination is found after development has begun, development must be halted on that part of the site affected by the unexpected contamination to the extent specified by the Local Planning Authority in writing until condition no. 13 relating to the reporting of unexpected contamination has been complied with in relation to that contamination.

Reason : To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors in accordance with policy CS5 of the Local Plan for the New Forest District outside the National Park (Core Strategy) and Policy DM4 of the Local Plan For the New Forest District outside the National Park. (Part 2: Sites and Development Management).

10. An investigation and risk assessment, in addition to any assessment provided with the planning application, must be completed in accordance with a scheme to assess the nature and extent of any contamination on the site, whether or not it originates on the site. The contents of the scheme are subject to the approval in writing of the Local Planning Authority. The investigation and risk assessment must be undertaken by competent persons and a written report of the findings must be produced. The written report is subject to the approval in writing of the Local Planning Authority. The report of the findings must include:

(i) a survey of the extent, scale and nature of contamination;

(ii) an assessment of the potential risks to:

- human health,
- property (existing or proposed) including buildings, crops, livestock, pets, woodland and service lines and pipes,
- adjoining land,
- groundwaters and surface waters,
- ecological systems,
- archaeological sites and ancient monuments;

(iii) an appraisal of remedial options, and proposal of the preferred option(s).

This must be conducted in accordance with DEFRA and the Environment Agency's 'Model Procedures for the Management of Land Contamination, CLR 11'.

Reason: To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors in accordance with policy CS5 of the Local Plan for the New Forest District outside the National Park (Core Strategy) and Policy DM4 of the Local Plan for the New Forest District outside the National Park. (Part 2: Sites and Development Management).

11. A detailed remediation scheme to bring the site to a condition suitable for the intended use by removing unacceptable risks to human health, buildings and other property and the natural and historical environment must be prepared, and is subject to the approval in writing of the Local Planning Authority. The scheme must include all works to be undertaken, proposed remediation objectives and remediation criteria, timetable of works and site management procedures. The scheme must ensure that the site will not qualify as contaminated land under Part 2A of the Environmental Protection Act 1990 in relation to the intended use of the land after remediation.

Reason : To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to workers,

neighbours and other offsite receptors in accordance with Policy CS5 of the Local Plan for the New Forest District outside the National Park (Core Strategy) and Policy DM4 of the Local Plan for the New Forest District outside the National Park. (Part 2: Sites and Development Management).

12. The approved remediation scheme must be carried out in accordance with its terms prior to the commencement of development other than that required to carry out remediation, unless otherwise agreed in writing by the Local Planning Authority. The Local Planning Authority must be given two weeks written notification of commencement of the remediation scheme works. Following completion of measures identified in the approved remediation scheme, a verification report that demonstrates the effectiveness of the remediation carried out must be produced, and is subject to the approval in writing of the Local Planning Authority.

Reason : To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors in accordance with Policy CS5 of the Local Plan for the New Forest District outside the National Park (Core Strategy) and Policy DM4 of the Local Plan for the New Forest District outside the National Park. (Part 2: Sites and Development Management).

13. In the event that contamination is found at any time when carrying out the approved development that was not previously identified it must be reported in writing immediately to the Local Planning Authority. An investigation and risk assessment must be undertaken in accordance with the requirements of condition 10, and where remediation is necessary a remediation scheme must be prepared in accordance with the requirements of condition 11, which is subject to the approval in writing of the Local Planning Authority. Following completion of measures identified in the approved remediation scheme a verification report must be prepared, which is subject to the approval in writing of the Local Planning Authority in accordance with condition 12.

Reason: To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors in accordance with Policy CS5 of the Local Plan for the New Forest District outside the National Park (Core Strategy) and Policy DM4 of the Local Plan for the New Forest District outside the National Park. (Part 2: Sites and Development Management).

14. Before development commences, samples of any new render, rainwater goods, roof materials and brick shall be submitted to and approved in writing by the Local Planning Authority. The development shall only be implemented in accordance with the approved details.

Reason: To ensure an acceptable appearance of the building in accordance with Policies CS2 and CS3 of the Core Strategy for the New Forest District outside the National Park and Policy DM1 of the Local Plan for the New Forest District outside the National Park. (Part 2: Sites and Development Management).

15. Notwithstanding submitted plans, large scale drawings (elevations and sections) of the following details shall be submitted to and approved by the Local Planning Authority prior to works commencing:

- new and replacement, metal framed windows, to match where possible the profiles and dimensions of the existing metal framed windows;
- new gates, fence, balconies, external steps and decks;
- new conservation rooflights and lantern;
- drawings and details of all proposed flues, ducts, vents and pipes;
- details of the colour and finish of all replacement windows and doors

Work shall then be carried out in accordance with the approved details.

Reason: To ensure an acceptable appearance of the building in accordance with Policies CS2 and CS3 of the Core Strategy for the New Forest District outside the National Park and Policy DM1 of the Local Plan for the New Forest District outside the National Park. (Part 2: Sites and Development Management).

16. No flues ducts and vents to be placed on north and west elevations due to their impact on these prominent facades.

Reason: To ensure an acceptable appearance of the building in accordance with Policies CS2 and CS3 of the Core Strategy for the New Forest District outside the National Park and Policy DM1 of the Local Plan for the New Forest District outside the National Park. (Part 2: Sites and Development Management).

17. All replacement rainwater goods shall be cast iron or cast aluminium and match existing profiles and fixings.

Reason: To ensure an acceptable appearance of the building in accordance with Policies CS2 and CS3 of the Core Strategy for the New Forest District outside the National Park and Policy DM1 of the Local Plan for the New Forest District outside the National Park. (Part 2: Sites and Development Management).

18. Sample panels of render work, brickwork and mouldings shall be prepared on site and be inspected and approved by the Local Planning Authority prior to works commencing. Work shall then be carried out in accordance with these details.

Reason: To ensure an acceptable appearance of the building in accordance with Policies CS2 and CS3 of the Core Strategy for the New Forest District outside the National Park and Policy DM1 of the Local Plan for the New Forest District outside the National Park. (Part 2: Sites and Development Management).

19. The bar and associated outdoor seating area shall only be used directly in conjunction with the primary cinema use of the ground floor and shall only be used up to two hours prior to and during advertised screening times. It shall not be used as a separate business unit or bar, independent of the cinema use.

Reason: To protect the amenity of adjoining occupiers in accordance with Policy CS2 of the Local Plan for the New Forest District outside of the National Park (Core Strategy).

20. The works hereby approved shall be undertaken in strict accordance with the Ecological Survey methodology and details (Ecological Surveys Ltd) dated July 2016 unless otherwise first agreed in writing with the Local Planning Authority.

Reason: To safeguard protected species in accordance with Policy CS3 of the Local Plan for the New Forest District outside of the National Park (Core Strategy) and Policy DM2 of the Local Plan for the New Forest District outside the National Park (Part 2: Sites and Development Management).

Notes for inclusion on certificate:

1. In accordance with paragraphs 186 and 187 of the National Planning Policy Framework and Article 35 of the Town and Country Planning (Development Management Procedure) (England) Order 2015, New Forest District Council takes a positive and proactive approach, seeking solutions to any problems arising in the handling of development proposals so as to achieve, whenever possible, a positive outcome by giving clear advice to applicants.

In this case all the above apply and following submission of additional information to address amenity impacts the application was acceptable as submitted no specific further actions were required.

2. Southern Gas Networks have provided a plan showing the site in relation to their apparatus, which is available to view on the Council's website. This plan only shows the pipes owned by SGN in our role as a Licensed Gas Transporter (GT). Please note that privately owned gas pipes or ones owned by other GTs may be present in this area and information regarding those pipes needs to be requested from the owners. If we know of any other pipes in the area we will note them on the plans as a shaded area and/or a series of x's.

The accuracy of the information shown on this plan cannot be guaranteed. Service pipes, valves, siphons, stub connections etc. are not shown but you should look out for them in your area. Please read the information and disclaimer on these plans carefully. The information included on the plan is only valid for 28 days.

On the mains record you can see our low/medium/intermediate pressure gas main near your site.

There should be no mechanical excavations taking place above or within 0.5m of a low/medium pressure system or above or within 3.0m of an intermediate pressure system.

You should, where required confirm the position using hand dug trial holes.

A colour copy of these plans and the gas safety advice booklet enclosed should be passed to the senior person on site in order to prevent damage to our plant and potential direct or consequential costs to your organisation.

Safe digging practices, in accordance with HSE publication HSG47 "Avoiding Danger from Underground Services" must be used to verify and establish the actual position of mains, pipes, services and other apparatus on site before any mechanical plant is used. It is your responsibility to ensure that this information is provided to all relevant people (direct labour or contractors) working for you on or near gas plant.

Damage to our pipes can be extremely dangerous for both your employees and the general public. The cost to repair our pipelines following direct or consequential damage will be charged to your organisation.

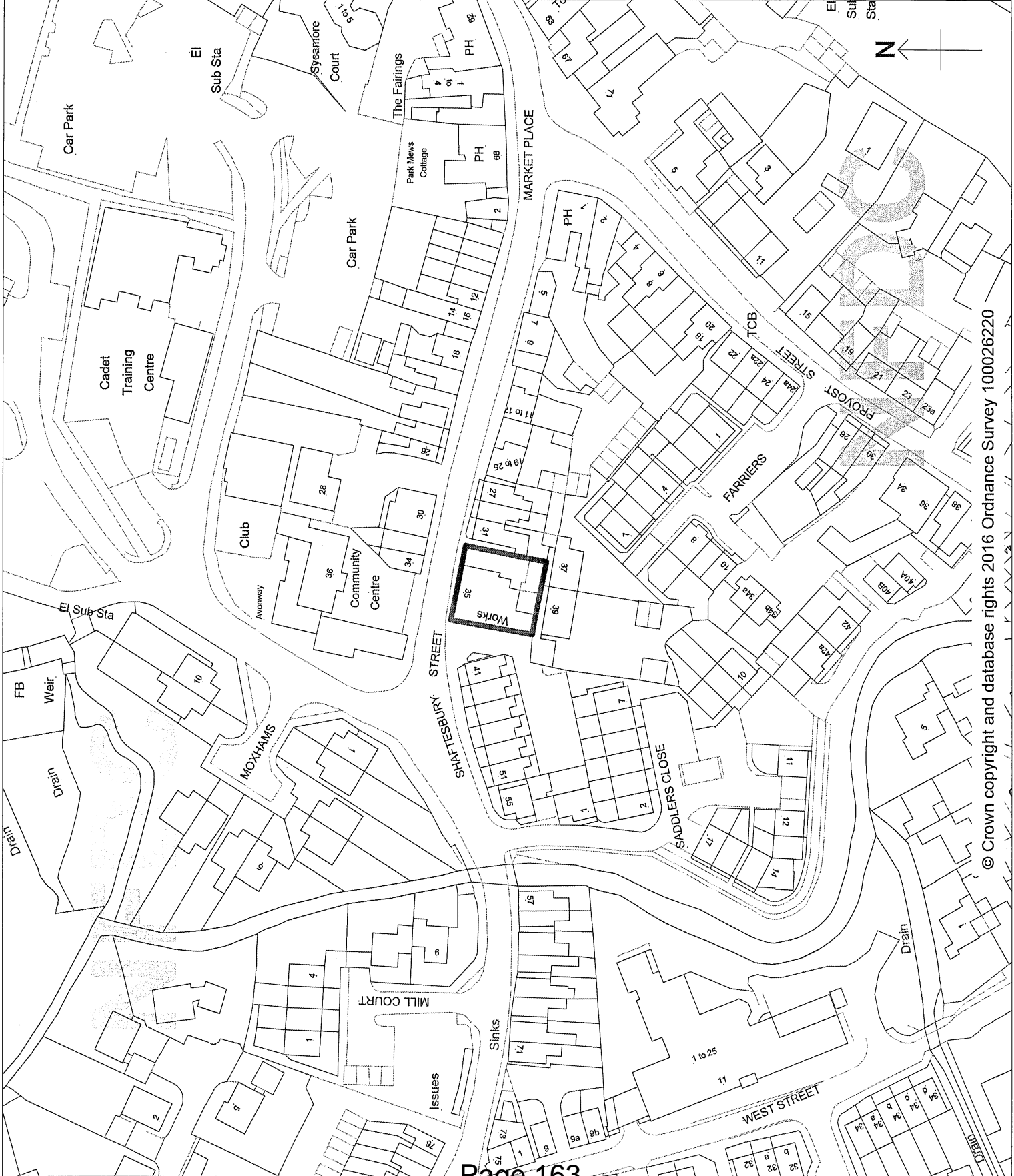
Please ensure we are able to gain access to our pipeline throughout the duration of your operations.

3. In discharging condition No. 6 above the Applicant is advised that appropriate mitigation is required before the development is commenced, either by agreeing to fund the Council's Mitigation Projects or otherwise providing mitigation to an equivalent standard. Further information about how this can be achieved can be found here <http://www.newforest.gov.uk/article/16478/>

Further Information:

Major Team

Telephone: 023 8028 5345 (Option 1)



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Application Number: 16/10508 Full Planning Permission

Site: FOUR ACRES FARM, SALISBURY ROAD, CALMORE,
NETLEY MARSH SO40 2RQ

Development: Temporary siting of agricultural workers' mobile dwelling with ancillary agricultural storage sheds (retrospective) and container

Applicant: Mr & Mrs Gibson

Target Date: 11/07/2016

Extension Date: 13/08/2016

1 REASON FOR COMMITTEE CONSIDERATION

Contrary to Councillor comments

2 DEVELOPMENT PLAN AND OTHER CONSTRAINTS

Explosives Safeguarding Zone
Plan Area
Aerodrome Safeguarding Zone

3 DEVELOPMENT PLAN, OBJECTIVES AND POLICIES

Core Strategy

Objectives

1. Special qualities, local distinctiveness and a high quality living environment
4. Economy
7. The countryside
8. Biodiversity and landscape

Policies

CS1: Sustainable development principles
CS2: Design quality
CS3: Protecting and enhancing our special environment (Heritage and Nature Conservation)
CS10: The spatial strategy
CS21: Rural economy
CS24: Transport considerations

Local Plan Part 2 Sites and Development Management Development Plan Document

NPPF1: National Planning Policy Framework – Presumption in favour of sustainable development
DM2: Nature conservation, biodiversity and geodiversity
DM3: Mitigation of impacts on European nature conservation sites
DM20: Residential development in the countryside
DM21: Agricultural or forestry workers dwellings

4 RELEVANT LEGISLATION AND GOVERNMENT ADVICE

Section 38 Development Plan
Planning and Compulsory Purchase Act 2004
National Planning Policy Framework

5 RELEVANT SUPPLEMENTARY PLANNING GUIDANCE AND DOCUMENTS

Mitigation Strategy for European Sites
Residential Design Guide for Rural Areas
Landscape Types and Character Areas Map
Policies CS21 and DM21 (Agricultural Worker's Dwellings)

6 RELEVANT PLANNING HISTORY

16/10366 Agricultural building (Agricultural Prior Notification) Prior Approval Refused:
13 April 2016

7 PARISH / TOWN COUNCIL COMMENTS

Netley Marsh Parish Council are happy to accept the decision reached by the NFDC planning officers.

'As there is a presumption against development. Netley Marsh PC also questions the need on this site and the consideration of the 3 sites being considered in one application'.

8 COUNCILLOR COMMENTS

Cllr Tipp has written in support of the planning application. The following points are made:

- Development is barely visible from neighbouring properties and would not be detrimental to them;
- The applicant has demonstrated that he has a viable business and needs to be on site to deal with animals at all times;
- The site is in area being put forward for development and is likely to be developed in the next decade.

9 CONSULTEE COMMENTS

- 9.1 Hampshire County Council Highways Engineer: insufficient information
- 9.2 Tree Officer: no objection
- 9.3 Landscape Officer: objection
- 9.4 Ministry of Defence: no safeguarding objections
- 9.5 Southern Gas: statutory comments
- 9.6 Land Drainage: recommend condition regarding surface water drainage
- 9.7 Environmental Health (Contaminated Land): no comments
- 9.8 Ecologist: no objection raised

10 REPRESENTATIONS RECEIVED

- 10.1 1 letter received objecting to this planning application.
- 10.2 1 letter received raising the following concerns:
- Concerns raised regarding run off which now involves a lot more mud- and possibly not only mud;
 - Presumably there is a dung heap- the air is not as clean smelling;
 - No big objection provided not affected by waste.
- 10.3 6 letters received in support of the application which are addressed to and have been forwarded via the applicant's agent: (summary)
- Freezer packs have been purchased for the past 4 years;
 - The animals are well cared for because the owners live on site;
 - Meat is preferable to large scale intensive farming;
 - A new owner of their previous site confirms they have a tenancy agreement with the applicants to continue to graze pigs;
 - The head of catering at 'The Bibury Club' at Salisbury race course confirms pork shoulder sausages were purchased during the summer of 2014;
 - Price Farm Foods confirm pork carcasses have been purchased since 2014;
 - An independent butcher confirms carcasses have been purchased for a few years and the high quality is attributed to the pigs being carefully attended;
 - Some writers look forward to supplying meat again when re-established.

11 CRIME & DISORDER IMPLICATIONS

n/a

12 LOCAL FINANCE CONSIDERATIONS

Local financial considerations are not material to the decision on this application.

13 WORKING WITH THE APPLICANT/AGENT

In accordance with paragraphs 186 and 187 of the National Planning Policy Framework and Article 35 of the Town and Country Planning (Development Management Procedure) (England) Order 2015, New Forest District Council take a positive and proactive approach, seeking solutions to any problems arising in the handling of development proposals so as to achieve, whenever possible, a positive outcome.

This is achieved by

- Strongly encouraging those proposing development to use the very thorough pre application advice service the Council provides.
- Working together with applicants/agents to ensure planning applications are registered as expeditiously as possible.
- Advising agents/applicants early on in the processing of an application (through the release of a Parish Briefing Note) as to the key issues relevant to the application.
- Updating applicants/agents of issues that arise in the processing of their applications through the availability of comments received on the web or by direct contact when relevant.

- Working together with applicants/agents to closely manage the planning application process to allow an opportunity to negotiate and accept amendments on applications (particularly those that best support the Core Strategy Objectives) when this can be done without compromising government performance requirements.
- Advising applicants/agents as soon as possible as to concerns that cannot be dealt with during the processing of an application allowing for a timely withdrawal and re-submission or decision based on the scheme as originally submitted if this is what the applicant/agent requires.
- When necessary discussing with applicants/agents proposed conditions especially those that would restrict the use of commercial properties or land when this can be done without compromising government performance requirements.

In this case the agent has been advised of the objections to the application and has been provided with the opportunity to address these concerns although ultimately, this further information is not considered to be able to overcome the objections.

14 ASSESSMENT

The Proposal

- 14.1 This application seeks retrospective planning permission for the temporary siting of an agricultural workers dwelling and ancillary agricultural storage sheds. The application also seeks permission for a shipping container for butchering and cold storage of pork meat products. The application relates to Four Acres Farm on the south side of Salisbury Road located beyond the built up area and within the countryside. Four Acres Farm comprises approximately 1.8ha.
- 14.2 The application advises that the applicant (Mrs Gibson) operates the agricultural enterprise as the full-time farm worker and is assisted by Mr Gibson and their son as required. The enterprise is primarily based on the breeding and rearing of pigs and the off site sale of pork meat products. Land at Four Acres Farm is used to keep the breeding boars and sows and the litters and weaners. A further 6.9ha of land is rented by the applicants at West Wellow and a further 10ha is rented at Ower. The land at West Wellow is used for further grazing and foraging for the pigs and the land at Ower is to be used for grazing and foraging as required.
- 14.3 The application advises that the applicants have developed a range of pork meat products to appeal to niche and broader markets and have established a strong existing market base for pig products with opportunities to expand. The applicants also have ducks and hens producing eggs to be sold off site and there are plans to expand their numbers and to include sheep and cattle.
- 14.4 The mobile home is a twin unit located at the end of the entrance track abutting the west flank boundary. It has been extended to include a farm office which the application describes as a portable structure used to provide a boot room, farm office and wash-room facilities. The mobile home and extension are timber clad and rest on concrete blocks. It is observed that the additions to the mobile home nearby, double its size. The application specifies that the position of the mobile home allows the applicants to control access to the site and monitor livestock

- 14.5 The shipping container would be positioned opposite the mobile home and comprise a standard 20ft unit which would be connected to mains electricity and water supplies. The existing ancillary timber storage sheds are located on a hard standing adjacent to the access track and are typical of small garden sheds.

Planning Policy

- 14.6 The NPPF details that local authorities should avoid new isolated homes in the countryside unless there are special circumstances; one such circumstance could comprise the essential need for a rural worker to live permanently at or near their place of work.
- 14.7 Policy DM20 maintains this presumption against new residential development in the countryside but facilitates agricultural workers' dwellings where they accord with policy DM21; however this policy relates to permanent dwellings and is not directly applicable.
- 14.8 In the absence of a specific Development Plan policy the Agricultural Appraisal suggests that it is helpful to refer to the more detailed requirements of Annex A of the now superseded national PPS7 which provides a framework within which to consider such proposals. The Council's advisory note on the implementation of policies CS21 and DM21 confirms that the Local Planning Authority views this previous guidance, particularly in relation to functional and financial tests, as a sensible way of assessing 'essential need' and is a material consideration in the assessment of related planning applications.
- 14.9 Policy DM20 requires that in all cases, development should be of an appropriate design, scale and appearance in keeping with the rural character of the area, and should not be harmful to the rural character of the area by reason of traffic and other activity generated or other impacts.

Essential Need

- 14.10 The Council appointed an Agricultural Consultant to undertake a rural appraisal of the business and the application details to establish whether there is an essential need for a worker to be permanently on site. The appraisal concludes that there is no established essential need.
- 14.11 The consultant's appraisal notes that the proposal is to expand to 40 sows and produce 750 plus meat products per year utilising the further land available to the applicant for rearing with all the breeding sows and weaners based at Four Acres Farm. The intention is to move away from selling carcasses and towards selling higher value pork products to customers including restaurants. On other livestock, it is noted that limited details have been provided but with the intention to rear and finish 20 beef cattle each year, run a small flock of 20 ewes, and keep a flock of 200 laying hens and 20- 30 laying ducks. The appraisal reports as follows:
- 14.12 **Firm Intention and Ability:**
The ability and intention of the applicant is not disputed but there is concern with regards to the ability to develop and continue the proposed farming enterprise given that it is entirely dependent on

rented land. There is no guarantee that Four Acres Farm will be available after September 2020 and no guarantee that West Wellow will be available after January 2021. In the absence of long term availability, there would be no case for a permanent dwelling.

- 14.13 **Functional Need:**
During farrowing, extra vigilance and frequent observation would be required and is necessary to help maximise piglet survival. If there were 40 sows, this might result in 2 farrowing's per week and on this scale, it is considered that there would be a functional need for an experienced stock person within easy access of the breeding sows.
- 14.14 Nevertheless, the lack of security of tenure brings into question this functional need in future with this assessment dependent upon stock numbers. Breeding sows are ideally stocked at 8 - 10 sows per acre and with little more than 4 acres at Four Acres Farm, there would not appear enough room to accommodate the proposed 40 sows and progeny. This also does not take into account the ability to rotate and rest land and also does not allow for issues of waste management which are particularly important on small sites. Furthermore, it is not clear how the poultry would be accommodated.
- 14.15 With regards to the cattle, if strong calves are purchased at around 6 months and reared through to 24 months, this would imply that there would be 20 cattle at any one time. However, there is no winter housing whilst the land at West Wellow is understood to be at high flood risk. It is also where 750 pigs would be finished each year; the proposed flock of sheep raise similar issues. Functional need cannot be established where no case has been made as to how the enterprises are to be accommodated within such a restriction.
- 14.16 **Sound financial basis:**
The applicants' budget details are based on stock numbers that are considered to be unjustified. Regarding the financial forecasts, concern is raised given that there is no comprehensive market research or feasibility study to support and justify the turnover based on the direct sale of pork and pork products to customers from 750 bred and reared pigs 'expected during the third year'.
- 14.17 **Alternative Accommodation:**
No alternative accommodation is known to be available.

Agent Response

- 14.18 The applicants agent has sought to address the above concerns (supported also with further information from their land agent and letters from customers) as follows:
- **Firm Intention and Ability:** Annex A does not state that land can not be rented while a rural worker who owns land might choose to sell land and thus "Land ownership therefore provides no more guarantee than land that is rented". A flood map is also provided seeking to show that 6.5 acres of land at West Wellow is outside flood zones 2 and 3 with the remainder at lowest risk level;
 - **Functional Need:** This does not relate to the tenure of the land and the Council's Consultant supports the need for a worker to be on site;

- **Sound financial basis:** The applicants have previously established a market base for their products and have begun to re-establish a market base after moving to this site. They have made significant investment into the business and have sought to demonstrate that the proposed stock numbers relating to pigs and chickens are justified with livestock rotated between Four Acres Farm, West Wellow and Ower.
 - **Alternative Accommodation:** this is not disputed if an essential need is established.
- 14.19 The Council's consultant has reviewed this additional information but confirms that the issues raised are still apparent and these details do not alter the conclusions of the original appraisal. Accordingly, no essential need has been established.

Landscape Impact

- 14.20 Four Acres Farm is located on the very edge of the Landscape Character Area of the Copythorne Forest Farmlands and is composed entirely of the landscape type Ancient Forest Farmlands. The Council's landscape officer writes that this proposal, to site a temporary agricultural worker's dwelling on the narrow shared access to the pig pasture, is well contained visually within the existing landscape infrastructure and, although on land rising to the north, views are limited by existing hedged field boundaries from the Public Right of Way to the south. Similarly, views into the site from the north are limited and thus, from a visual amenity viewpoint, there is no objection to this application.
- 14.21 Nonetheless, the landscape character is disrupted by the coniferous windbreaks that visually contains the site which are a detracting feature in this small pastoral landscape where hedges with oaks are a feature. There are also landscape concerns that an intensive pig rearing business on a very small holding will not be sustainable in the longer term eventually resulting in a new dwelling in the countryside that does not support an agricultural need and which is sited in such a way as to prevent the reinstatement of appropriate hedge and oak planting on the western boundary.
- 14.22 For the above reasons, the proposal is considered to be contrary to policies CS2 and DM20. The agent has sought to address these concerns but the landscape officer has maintained this objection.
- 14.23 In respect of these comments, the mobile home and structures are not readily visible from the wider public viewpoints. Although the permanent siting of a container would not be acceptable, in the event that permission was granted, a condition might be attached requiring this to be clad. Therefore on balance it is not considered to be appropriate to raise an objection. Further, while it is acknowledged that this application seeks only a temporary permission in respect of a mobile home (and as such the design etc of any permanent dwelling is not subject to consideration), there are concerns that the size of the site would not be sufficient to accommodate the aspirations of the applicants without having a detrimental landscape impact. As such, there is an objection to the application on this basis.

Protected Trees

- 14.24 There is a line of protected oak trees along the western site boundary. The mobile home is positioned in a natural gap in this line of trees and has been constructed on concrete pad foundations. It is considered that this will have caused minimal impact on the trees on this boundary and as such, no objection has been raised to the application with regards to the impact on these trees.

Residential Amenity

- 14.25 Only Highlands (a two-storey dwelling) stands within close proximity of the proposals. This faces the highway (i.e. orientated away from the mobile home) and shares the same vehicular access. It is considered that the proposal would have an impact on the residential amenities of these occupiers but this would be primarily through the use of the land rather than provision of the dwelling/ further structures which are the subject of this application. As such, it is not considered that any impact on the residential amenities of the occupiers of Highlands would amount to a sustainable refusal reason.
- 14.26 All further residential properties are located at an appreciable distance from the site of the proposal and, therefore, having regard to the nature and scale of the planning application, it is not considered that any significant adverse impact in residential amenity would be caused.

Highway Safety

- 14.27 The site is accessed via the A36 with the access being shared with the neighbouring dwelling. This access is of insufficient width to allow 2 vehicles to pass and is located opposite the junction with the A326; the posted speed limit in the vicinity of the application site is 60mph. Hampshire Highways advise that any increase in the use of this access will therefore result in an increased probability of vehicles being forced to reverse onto the A36 which, given the nature of the A36 and the proximity of the junction and slip road is considered to be undesirable and would amount to a reason for refusal.
- 14.28 The planning statement also does not provide sufficient information detailing existing movements or any details regarding available visibility at the entrance (which is likely to be less than that required). There is also an objection to the application on this basis. This objection remains despite the additional (limited) information submitted by the agent.

Ecology

- 14.29 The application does not affect any known identified sites of nature conservation interest and it is unlikely that protected species would be significantly affected by the development if the site was previously utilised for an intensive agricultural use or previous use.
- 14.30 There is no information to enable an assessment of ecological impact and demonstrate accordance with policies CS3/ DM2 which states 'Development proposals will be expected to incorporate features to encourage biodiversity and retain, and where possible, enhance existing features of nature conservation value within the site. Existing

ecological networks should be identified and maintained to avoid habitat fragmentation, and ecological corridors should form an essential component of green infrastructure provision in association with new development to ensure habitat connectivity'. However, in the circumstances, it is not considered appropriate to withhold planning permission for this reason but such mitigation could reasonably form the basis of an appropriately worded planning condition in the event that planning permission.

Outstanding Issues

- 14.31 The application site does fall within an area of land where the Council have suggested that new housing might be built. However, these proposals are only at an early consultation stage and do not form a material consideration in the assessment of this planning application at this stage.
- 14.32 With regards to concerns about waste, the keeping of pigs does not specifically form a part of this planning application. If this does cause a nuisance, then the matter can be referred to the Council's Environmental Health team who might be able to assist.

Human Rights

- 14.33 In coming to this recommendation, consideration has been given to the rights set out in Article 8 (Right to respect for private and family life) and Article 1 of the First Protocol (Right to peaceful enjoyment of possessions) of the European Convention on Human Rights. Whilst it is recognised that this recommendation, if agreed, may interfere with the rights and freedoms of the applicant to develop the land in the way proposed, the objections to the planning application are serious ones and cannot be overcome by the imposition of conditions. The public interest and the rights and freedoms of neighbouring property owners can only be safeguarded by the refusal of permission.

15. RECOMMENDATION

Refuse

Reason(s) for Refusal:

1. The application has not demonstrated the essential need for a rural worker to live permanently at their place of work in the countryside. The application therefore comprises inappropriate residential development within the countryside which is contrary to the Council's Advisory Note on the Implementation of Local Plan Policies CS21 and DM21 (March 2016), Planning Policies DM20 and DM21 of the Sites and Development Management (Adopted) April 2014, Planning Policies CS10 and CS21 of the New Forest District outside the National Park Core Strategy (October 2009) and the provisions of the National Planning Policy Framework (2012).

2. By reason of the restricted size of the application site and the proposals for the future growth of the business, the application fails to demonstrate that the proposal could be satisfactorily accommodated without detriment to the landscape character of the site and its surroundings. The application is therefore considered to be contrary to Planning Policy DM20 of the Local Plan Part 2: Sites and Development Management (Adopted) April 2014, Planning Policy CS2 of the New Forest District outside the National Park Core Strategy (October 2009) and the provisions of the National Planning Policy Framework (2012).
3. The application fails to demonstrate that the development can be accommodated in a manner which would not cause increased danger and inconvenience to highway users. The proposal is therefore considered to be contrary to Planning Policies CS2 and CS24 of the New Forest District outside the National Park Core Strategy (October 2009) and the provisions of the National Planning Policy Framework (2012).

Notes for inclusion on certificate:

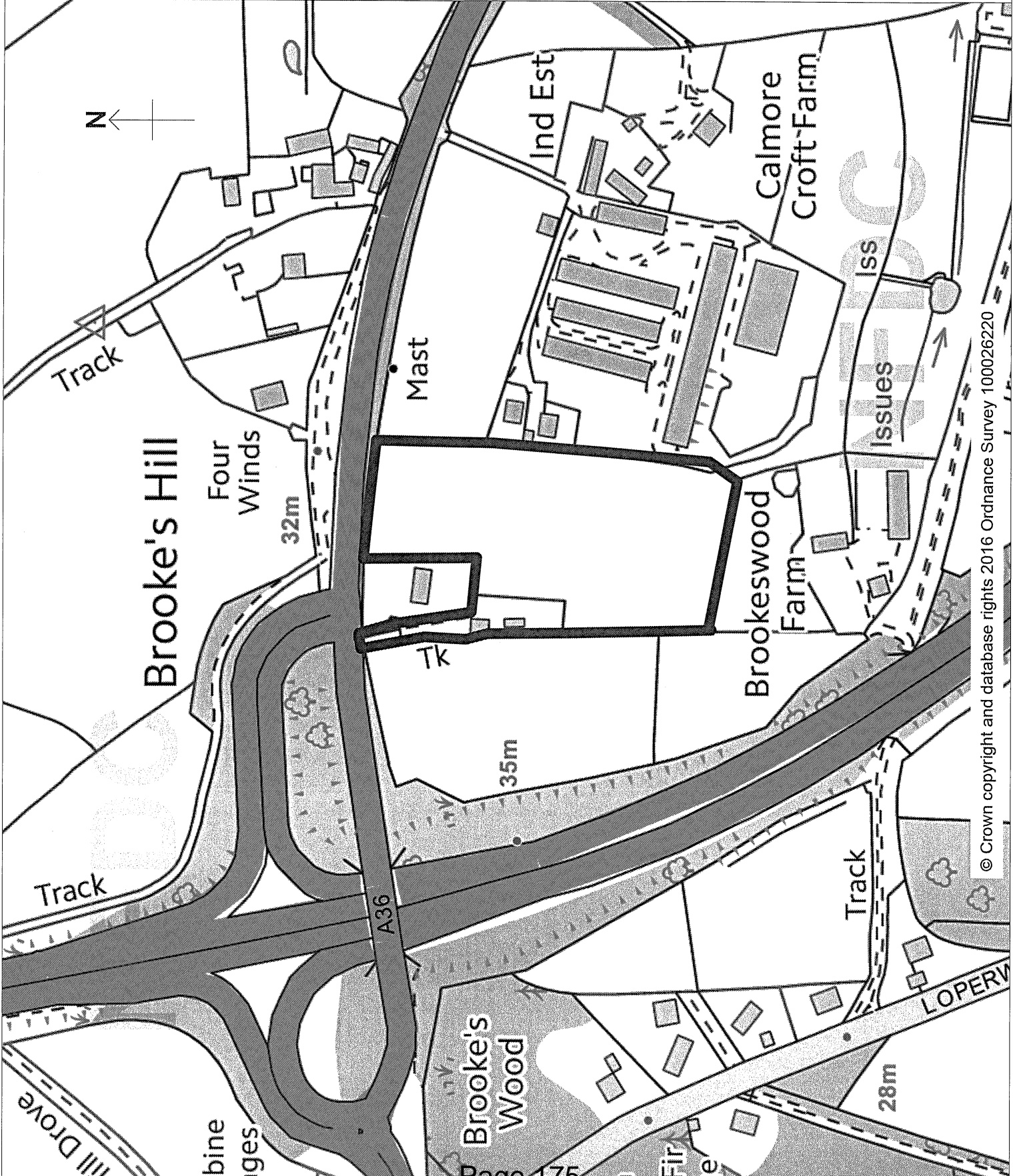
1. In accordance with paragraphs 186 and 187 of the National Planning Policy Framework and Article 35 of the Town and Country Planning (Development Management Procedure) (England) Order 2015, New Forest District Council takes a positive and proactive approach, seeking solutions to any problems arising in the handling of development proposals so as to achieve, whenever possible, a positive outcome by giving clear advice to applicants.

In this case the agent was advised of the objections to the application and given the opportunity to address these concerns although ultimately, the further information provided was not considered to overcome the objections.

Further Information:

Major Team

Telephone: 023 8028 5345 (Option 1)



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Application Number: 16/10524 Full Planning Permission

Site: 35-37 HAMPTON LANE, BLACKFIELD, FAWLEY SO45 1ZA

Development: Use of ground floor as 2 flats; single-storey front & rear extensions; associated alterations; cycle store

Applicant: Millsam Development Co Ltd

Target Date: 09/06/2016

Extension Date: 17/08/2016

1 REASON FOR COMMITTEE CONSIDERATION

Contrary to Local Plan Policy in respect of affordable housing contribution

2 DEVELOPMENT PLAN AND OTHER CONSTRAINTS

HSE Consultation Zone
Built-up Area
Plan Area

3 DEVELOPMENT PLAN, OBJECTIVES AND POLICIES

Core Strategy

Objectives

1. Special qualities, local distinctiveness and a high quality living environment
3. Housing
6. Towns, villages and built environment quality

Policies

CS1: Sustainable development principles
CS2: Design quality
CS8: Community services and infrastructure
CS10: The spatial strategy
CS15: Affordable housing contribution requirements from developments
CS24: Transport considerations
CS25: Developers contributions

Local Plan Part 2 Sites and Development Management Development Plan Document

DM3: Mitigation of impacts on European nature conservation sites
DM19: Small local shops and public houses

4 RELEVANT LEGISLATION AND GOVERNMENT ADVICE

Section 38 Development Plan
Planning and Compulsory Purchase Act 2004
National Planning Policy Framework

5 RELEVANT SUPPLEMENTARY PLANNING GUIDANCE AND DOCUMENTS

Parking Standards
Policy CS15 (Affordable Housing)
Housing design, density and character
Mitigation Strategy for European Sites

6 RELEVANT PLANNING HISTORY

14/10801	Use as single dwelling, fenestration alterations	Granted: 17 September 2014
80/NFDC/17200	Alterations and addition of a shop storage area and staff room and an additional unit of living accommodation consisting of lounge, 2 bedrooms, kitchen and bathroom (existing storeroom to be demolished)	Refused: 11 August 1980
79/NFDC/15243/ADV	Double sided projecting advertisement sign affixed to wall above fascia	Refused: 7 January 1980
77/NFDC/07384	2 attached garages (existing garage to be demolished)	Withdrawn: 8 June 1977
XX/NFR/13554	Extension to shop with additional living accommodation on 1st floor and construction of new shop front	Granted: 22 September 1964
XX/NFR/13394	Addition to dwelling and extension of store	Granted 17 July 1964
XX/NFR/09558	Addition of staff toilet accommodation	Granted: 22 December 1960

7 PARISH / TOWN COUNCIL COMMENTS

- 7.1 Fawley Parish Council:
We recommend permission subject to the drawings listed on line being correctly titled; there is no good reason to retain this property as a retail unit with other retail outlets in the area.
- 7.2 The drawing titles on the Council's website have subsequently been corrected with the 'existing floor plans' and 'proposed floor plans' wrongly applied.

8 COUNCILLOR COMMENTS

No comments received

9 CONSULTEE COMMENTS

- 9.1 Land Drainage: no comment
- 9.2 Southern Gas: no objection

9.3 Hampshire County Council Highways Engineer: no objection subject to conditions

9.4 HSE: not within consultation distance

10 REPRESENTATIONS RECEIVED

10.1 Two letters received raising the following concerns (summary):

- The property is already twice the size of all surrounding bungalows- is making it bigger 'the right way to go'?
- The front extension will bring the building further forward of the building line;
- The issue of parking has not been considered;
- The area of grass and gravel drive to the front of 39- 57 is private owned by the bungalows and new residents will not be allowed to park here;
- The sewage drain runs to the rear of the neighbouring property - this should be removed and rerouted along their own drive.

11 CRIME & DISORDER IMPLICATIONS

n/a

12 LOCAL FINANCE CONSIDERATIONS

If this development is granted permission and the dwellings built, the Council will receive £2304 in each of the following six years from the dwellings' completion, and as a result, a total of £6912 in government grant under the New Homes Bonus will be received.

From the 6 April 2015 New Forest District Council began charging the Community Infrastructure Levy (CIL) on new residential developments.

Based on the information provided at the time of this report this development has a CIL liability of £10,923.38.

Tables setting out all contributions are at the end of this report.

13 WORKING WITH THE APPLICANT/AGENT

In accordance with paragraphs 186 and 187 of the National Planning Policy Framework and Article 35 of the Town and Country Planning (Development Management Procedure) (England) Order 2015, New Forest District Council take a positive and proactive approach, seeking solutions to any problems arising in the handling of development proposals so as to achieve, whenever possible, a positive outcome.

This is achieved by

- Strongly encouraging those proposing development to use the very thorough pre application advice service the Council provides.
- Working together with applicants/agents to ensure planning applications are registered as expeditiously as possible.
- Advising agents/applicants early on in the processing of an application (through the release of a Parish Briefing Note) as to the key issues relevant to the application.

- Updating applicants/agents of issues that arise in the processing of their applications through the availability of comments received on the web or by direct contact when relevant.
- Working together with applicants/agents to closely manage the planning application process to allow an opportunity to negotiate and accept amendments on applications (particularly those that best support the Core Strategy Objectives) when this can be done without compromising government performance requirements.
- Advising applicants/agents as soon as possible as to concerns that cannot be dealt with during the processing of an application allowing for a timely withdrawal and re-submission or decision based on the scheme as originally submitted if this is what the applicant/agent requires.
- When necessary discussing with applicants/agents proposed conditions especially those that would restrict the use of commercial properties or land when this can be done without compromising government performance requirements.

In this case, the agent has been contacted to discuss the merits of the proposal while revised/ corrected plans have been submitted to indicate the allocated garden area to the proposed ground flat at the rear.

14 ASSESSMENT

Introduction

- 14.1 The application relates to a detached two-storey building on the west side of Hampton Lane, Blackfield. The ground floor was previously used as a retail store although this use has ceased and planning permission has previously been granted for use of the building as a four-bedroom property. The first floor is already in residential use comprising a three bedroom flat.
- 14.2 The premises has a shopfront with a fascia board and a large area of hardstanding to the front for car parking. The site is within a predominantly residential area where there is a mix of property types and styles although the immediate area is characterised by bungalows with single-storey/ chalet style dwellings either side of the premises.
- 14.3 This application would allow the change of use and extension of the ground floor to create 2 two-bedroom flats; this would be in addition to the existing first floor flat.
- 14.4 Amended plan forms part of this application comprising:
- Correction to the proposed side elevation owing to the omission of a new side facing kitchen window which was shown on the proposed floor plan. This new plan shows that this would comprise a high level window;
 - Amended site layout plan to show the allocated garden for the rear ground floor flat;
 - A further amended site plan removing the far end of the rear garden from the application site because this land is not owned by the applicant. This new plan appears correct given that the end of the rear garden aligns with that of the neighbouring property as now shown.

Principle of Development

- 14.5 Policy DM19 relates to small local shops and public houses. This policy states that outside of town centres and defined local shopping frontages, development that results in the loss of small local shops will not be permitted where this would result in the loss of an important local facility or if this would leave the local area without such a facility. In this case, the principle of conversion has already been established by 14/10801 at which time it was determined that in view of the alternative facilities which are available, such as Tesco Express and Sainsbury's local, it was not considered essential to retain this shop. As such, there is no objection to the application on this basis.
- 14.6 While the principle of the development is considered acceptable, there is some concern regarding the number of units proposed given the general pattern of surrounding development which is predominantly characterised by detached dwellings on regular sized plots and, further, given the proposed layout with the rear ground floor flat 'tucked' away at the rear. It is considered that this intensity of use would also be apparent given the creation of 3 parking spaces.
- 14.7 This matter has been discussed with the agent with it suggested that two flats (i.e. one at ground floor with the existing above) would be likely to provide a more satisfactory layout. In reply, the agent considers the current proposal to be acceptable and thus this scheme must be determined as submitted.
- 14.8 Accordingly, subject to those considerations outlined below, it is considered that it would be difficult to mount any sustainable objection to this proposal. In this regard, use as a retail store would have attracted a greater number of visitors while the parking area already comprises an area of hardstanding. Further, the design alterations would provide the appearance of a single dwelling while the agent has referenced landscaping that would be provided which, they feel, would enhance the appearance of this dilapidated site.

Design/ Visual Amenity

- 14.9 The front extension would introduce two ground floor bay windows with a central entrance and it is considered that this would enhance the appearance of the building if used for residential purposes. Further, while the building already stands forward of the building line, this extension would be single-storey, of limited depth and appear subservient to the existing building. For this reason, there is no associated objection.
- 14.10 The rear extension would comprise a flat roof addition albeit with a dummy pitch, and would measure 6.7m in length and 7.2m in width; it would replace a smaller flat roofed extension. There is an element of concern given that this extension would risk an overly extended appearance to the building. Nevertheless, the extension would not be readily visible from any public viewpoint and thus it is considered that any associated refusal reason would be difficult to sustain.
- 14.11 The bike shed would replace an existing dilapidated outbuilding and would be typical of a small garden shed. There is no objection to this

- 14.12 The creation of 3 car parking spaces would be a regrettable element to this scheme having regard to the previous approval that could have allowed a front garden. The agent was prepared to reduce the number of spaces, given the existing drive and garage, to allow for additional landscaping but Hampshire Highways have resisted this. Given that this area is already an area of hardstanding, it is not considered that planning permission could be reasonably withheld, subject to a condition pertaining to planting and surface materials.

Residential Amenity

- 14.13 The neighbouring dwelling to the north comprises a bungalow which sits further back on its plot, aligning with the proposed rear extension. A 1.7m high (approx.) boundary wall aligns this boundary, with planting on both sides; no side facing windows in this neighbouring property are visible.
- 14.14 Given the single-storey nature and position of the proposed rear extension, it is not considered that any significant adverse impact in residential amenity would be caused; the same is true of the front extension which would be of limited depth and inset from the boundary. Regarding new side facing windows, bedroom 2 of flat 2 could allow views over this adjoining front garden; with bedroom 2 of flat 1 also potentially allowing views in this direction (the kitchen window would be a high level window). Nevertheless, the front garden is already overlooked from the road while the plans show a new boundary fence to screen views. It is recommended that this form the basis of an appropriately worded condition in the event that permission is granted. In addition, this change of use would reduce visitor numbers to the site. For this reason, it would be difficult to substantiate an objection having regard to the number of units proposed in relation to the intensity of use and level of activity likely to be generated.
- 14.15 The neighbouring property to the south is also single-storey (albeit with a room in the roof) but which aligns with the host building. It has no side facing windows but benefits from a rear conservatory on this boundary. The existing outbuildings to the rear of the application site screen views between these two gardens.
- 14.16 The existing garage which comprises one of the rear outbuildings might be retained, with a cycle store to replace the rearmost building. These would screen views of the rear extension which would remain inset from the boundary. Further, this neighbouring property lies to the south thus sun light would not be impacted, while again, the new kitchen window would have a high level opening. For these reasons, again it is not considered that any objection having regards to the impact on the amenities of these neighbouring occupiers would prove sustainable
- 14.17 With regards to the residential amenity of the proposed and existing occupiers on site, the two flats would provide a reasonable level of accommodation and while the windows to bedroom 2 of both flats would be side facing onto a boundary fence, the main outlook from each unit would be to the front and rear. On this matter, the updated site

plan showing part of the rear garden allocated to the rear ground floor flat would help to prevent any views into this new flat. It is recommended that a condition be attached regarding boundary treatments in the event that planning permission is granted.

- 14.18 All other neighbouring dwellings are positioned at an appreciable distance from the premises and therefore it is not considered that any significant adverse impact in residential amenity would be caused.

Highway Safety

- 14.19 Hampshire Highways advise that the proposal would generate a demand for 3 on site car parking spaces compared with approximately 6 spaces for the retail use. The proposal would therefore result in a reduction in demand for on site parking. No objection has therefore been raised, subject to a condition ensuring the provision and retention of the car parking spaces.

Affordable Housing

- 14.20 The applicant had commenced work on a proposed S106 agreement to secure an affordable housing contribution. This S106 agreement has not been completed and therefore this application has been put forward for a decision without any S106 agreement. This is for the following reasons:

- 14.21 On 19th May 2016 the Government issued planning guidance setting out the specific circumstances in which contributions for affordable housing and tariff style planning obligations (section 106 agreements) should not be sought from small scale and self-build development. This guidance has been reissued following the order of the Court of Appeal dated 13th May 2016 (*West Berkshire District Council and Another v The Secretary of State for Communities and Local Government*). The planning guidance specifies the circumstances in which contributions should not be sought as follows:

“Contributions should not be sought from developments of 10 units or less and which have a maximum combined gross floorspace of no more than 1,000 sqm;

In designated rural areas, local planning authorities may choose to apply a lower threshold of 5 units or less...;

Affordable housing and tariff style contributions should not be sought from any development consisting only of the construction of a residential annex or extension to an existing house”

- 14.22 This national guidance is at odds with Policy CS15 of the Council's Core Strategy which requires affordable housing provision to be made for all housing developments except:
- a single replacement dwelling;
 - an agricultural/ forestry workers dwelling or commoners' dwelling (but the removal of an occupancy condition will require an affordable housing contribution);
 - the conversion or subdivision (without significant extension) of an existing dwelling;

- a residential redevelopment scheme for 4 or less dwellings, involving the demolition of at least 1 dwelling, and where the site size is smaller than 0.1 hectare.

14.23 The presumption in favour of the development plan remains, in that the decision should be taken in accordance with the plan unless material considerations indicate otherwise. The new guidance is a material consideration which post-dates the adoption of the Local Plan. It is for the Council to decide which should prevail in the determination of a planning application. However, the Secretary of State, through his Inspectors can be anticipated to give greater weight to the Government's national guidance unless there are reasons to make an exception.

14.24 While the need for affordable housing in this District is pressing, this in itself is unlikely to be considered by the Secretary of State as sufficient reason for the Council to apply its own development plan policy rather than applying national policy. Therefore it is recommended that no affordable housing or tariff style contributions are sought from this development, in accordance with national Planning Practice Guidance, contrary to the provisions of Policy CS15 of the Core Strategy.

Outstanding Matters

14.25 With regards to the concerns raised about the foul sewer, the Council's Building Control team have advised that this would be for the two landowners to agree and that any changes would require the consent of Southern Water. It is not considered that these works could be reasonably required as a part of this planning application.

Habitats Mitigation

14.26 In accordance with the Habitat Regulations 2010 an assessment has been carried out of the likely significant effects associated with the recreational impacts of the residential development provided for in the Local Plan on both the New Forest and the Solent European Nature Conservation Sites. It has been concluded that likely significant adverse effects cannot be ruled out without appropriate mitigation projects being secured. In the event that planning permission is granted for the proposed development, a condition is recommended that would prevent the development from proceeding until the applicant has secured appropriate mitigation, either by agreeing to fund the Council's Mitigation Projects or otherwise providing mitigation to an equivalent standard.

Human Rights

14.27 In coming to this recommendation, consideration has been given to the rights set out in Article 8 (Right to respect for private and family life) and Article 1 of the First Protocol (Right to peaceful enjoyment of possessions) of the European Convention on Human Rights. Whilst it is recognised that there may be an interference with these rights and the rights of other third parties, such interference has to be balanced with the like rights of the applicant to develop the land in the way proposed. In this case it is considered that the protection of the rights and freedoms of the applicant outweigh any possible interference that may result to any third party.

Section 106 Contributions Summary Table

Proposal:			
Type of Contribution	NFDC Policy Requirement	Developer Proposed Provision	Difference
Affordable Housing			
No. of Affordable dwellings	0	0	0
Financial Contribution	0	0	0
Habitats Mitigation			
Financial Contribution	£6,100	0	0

CIL Summary Table

Description of Class	GIA New	GIA Existing	GIA Net Increase	CIL Liability
Dwelling houses	131	0	131	£10,923.38 *

15. RECOMMENDATION

Grant Subject to Conditions

Proposed 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. The external facing materials shall match those used on the existing building.

Reason: To ensure an acceptable appearance of the building in accordance with policy CS2 of the Local Plan for the New Forest District outside the National Park Core Strategy.

3. The building shall not be first occupied until:
 - (a) details of the treatment of the site boundaries and boundary treatments in the rear garden area have been approved in writing by the Local Planning Authority, and
 - (b) these means of enclosure have been implemented in accordance with the details thus approved with these boundary treatments thereafter retained unless otherwise agreed in writing by the Local Planning Authority.

Reason: To ensure that the development takes place in an appropriate way and in the interests of residential amenity, all to accord with Policy CS2 of the Local Plan for the New Forest District outside the National Park (Core Strategy).

4. Before development commences a scheme of landscaping for the site shall be submitted for approval in writing by the Local Planning Authority. This scheme shall include :

- (a) a specification for new planting (species, size, spacing and location);
- (b) areas for hard surfacing and the materials to be used;
- (c) 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 prevent inappropriate car parking to comply with Policy CS2 of the Local Plan for the New Forest District outside the National Park (Core Strategy).

5. The development hereby permitted shall not be occupied until the spaces shown on plan 4835:6B for the parking of motor vehicles and cycles have been provided. The spaces shown on plan 4835:6B for the parking of motor vehicles and cycles shall be retained and kept available for the parking of motor vehicles and cycles for the residential units hereby approved at all times.

Reason: To ensure adequate parking provision is made in the interest of highway safety and in accordance with Policy CS2 and CS24 of the Local Plan for the New Forest outside of the National Park (Core Strategy).

6. No development shall be carried out until proposals for the mitigation of the impact of the development on the New Forest and Solent Coast European Nature Conservation Sites have been submitted to and approved in writing by the local planning authority, and the local planning authority has confirmed in writing that the provision of the proposed mitigation has been secured. Such proposals must:

- (a) Provide for mitigation in accordance with the New Forest District Council Mitigation Strategy for European Sites SPD, adopted in June 2014 (or any amendment to or replacement for this document in force at the time), or for mitigation to at least an equivalent effect;
- (b) Provide details of the manner in which the proposed mitigation is to be secured. Details to be submitted shall include arrangements for the ongoing maintenance and monitoring of any Suitable Alternative Natural Green Spaces which form part of the proposed mitigation measures together with arrangements for permanent public access thereto.
- (c) The development shall be carried out in accordance with and subject to the approved proposals.

Reason: The impacts of the proposed development must be mitigated before any development is carried out in order to ensure that there will be no adverse impacts on the New Forest and Solent

Coast Nature Conservation Sites in accordance with Policy DM3 of the Local Plan Part 2 and the New Forest District Council Mitigation Strategy for European Sites Supplementary Planning Document.

7. The development permitted shall be carried out in accordance with the following approved plans: Existing Floor Plan: drg no. 4835:1; Existing Elevations; drg no. 4835:2; Proposed Ground Floor Plan: drg no. 4835:4; Proposed Elevations; drg no. 4835:5; Proposed Site Layout Plan: drg no. 4835:6B

Reason: To ensure satisfactory provision of the development.

Notes for inclusion on certificate:

1. In accordance with paragraphs 186 and 187 of the National Planning Policy Framework and Article 35 of the Town and Country Planning (Development Management Procedure) (England) Order 2015, New Forest District Council takes a positive and proactive approach, seeking solutions to any problems arising in the handling of development proposals so as to achieve, whenever possible, a positive outcome by giving clear advice to applicants.

In this case, the agent has been contacted to discuss the merits of the proposal whilst an updated plan has been submitted showing how the amenity area would be divided.

Further Information:

Major Team
Telephone: 023 8028 5345 (Option 1)



New Forest
DISTRICT COUNCIL

Tel: 023 8028 5000
www.newforest.gov.uk

David Groom
Service Manager
Planning and Building Control
New Forest District Council
Appletree Court
Lyndhurst
SO43 7PA

**Planning Development
Control Committee
August 2016**

Item No: 30
35-37
Hampton Lane
Blackfield Fawley
16/10524
SU4401

Scale 1:1250

N.B. If printing this plan from
the internet, it will not be to
scale.



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Application Number: 16/10579 Full Planning Permission

Site: Land rear of the COMPASS INN, HIGH STREET, EAST END,
DAMERHAM SP6 3HQ

Development: Conversion of barn to dwelling; associated external alterations;
office/cartshed; use of stables as workshop

Applicant: Mr Burton

Target Date: 05/07/2016

Extension Date: 11/08/2016

1 REASON FOR COMMITTEE CONSIDERATION

Contrary to Policy

2 DEVELOPMENT PLAN AND OTHER CONSTRAINTS

Area of Outstanding Natural Beauty
Conservation Area
Countryside outside the New Forest

3 DEVELOPMENT PLAN, OBJECTIVES AND POLICIES

Core Strategy

Objectives

1. Special qualities, local distinctiveness and a high quality living environment
3. Housing
7. The countryside

Policies

Core Strategy

- CS2: Design quality
- CS3: Protecting and enhancing our special environment (Heritage and Nature Conservation)
- CS7: Open spaces, sport and recreation
- CS10: The spatial strategy
- CS15: Affordable housing contribution requirements from developments
- CS24: Transport considerations
- CS25: Developers contributions

Local Plan Part 2 Sites and Development Management Development Plan Document

- DM1: Heritage and Conservation
- DM2: Nature conservation, biodiversity and geodiversity

DM3: Mitigation of impacts on European nature conservation sites
DM20: Residential development in the countryside
DM22: Employment development in the countryside

4 RELEVANT LEGISLATION AND GOVERNMENT ADVICE

Section 38 Development Plan
Planning and Compulsory Purchase Act 2004
National Planning Policy Framework

5 RELEVANT SUPPLEMENTARY PLANNING GUIDANCE AND DOCUMENTS

SPD - Mitigation Strategy for European Sites
SPG - Residential Design Guide for Rural Areas
SPD – Housing Design Density and Character

6 RELEVANT PLANNING HISTORY

6.1 Conversion and use of agricultural barn as 1 live/work unit (11111)
Granted with conditions on the 14th November 2014

7 PARISH / TOWN COUNCIL COMMENTS

Damerham Parish Council: Support

8 COUNCILLOR COMMENTS

None

9 CONSULTEE COMMENTS

9.1 Conservation Officer: No objection subject to conditions

10 REPRESENTATIONS RECEIVED

1 letter of support

11 CRIME & DISORDER IMPLICATIONS

No relevant considerations

12 LOCAL FINANCE CONSIDERATIONS

If this development is granted permission and the dwellings built, the Council will receive £1152 in each of the following six years from the dwellings' completion, and as a result, a total of £6912 in government grant under the New Homes Bonus will be received.

From the 6 April 2015 New Forest District Council began charging the Community Infrastructure Levy (CIL) on new residential developments.

Based on the information provided at the time of this report this development has a CIL liability of £15294.41.

Tables setting out all contributions are at the end of this report.

13 WORKING WITH THE APPLICANT/AGENT

In accordance with paragraphs 186 and 187 of the National Planning Policy Framework and Article 35 of the Town and Country Planning (Development Management Procedure) (England) Order 2015, New Forest District Council take a positive and proactive approach, seeking solutions to any problems arising in the handling of development proposals so as to achieve, whenever possible, a positive outcome.

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- Working together with applicants/agents to ensure planning applications are registered as expeditiously as possible.
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- Updating applicants/agents of issues that arise in the processing of their applications through the availability of comments received on the web or by direct contact when relevant.
- Working together with applicants/agents to closely manage the planning application process to allow an opportunity to negotiate and accept amendments on applications (particularly those that best support the Core Strategy Objectives) when this can be done without compromising government performance requirements.
- Advising applicants/agents as soon as possible as to concerns that cannot be dealt with during the processing of an application allowing for a timely withdrawal and re-submission or decision based on the scheme as originally submitted if this is what the applicant/agent requires.
- When necessary discussing with applicants/agents proposed conditions especially those that would restrict the use of commercial properties or land when this can be done without compromising government performance requirements.

In this case all the above apply and as the application was acceptable as submitted no specific further actions were required.

14 ASSESSMENT

- 14.1.1 The site lies within an area of countryside which is also designated as Area of Outstanding Natural Beauty and forms part of the Damerham Conservation Area. The site previously contained two redundant former agricultural buildings, the timber barn building and the brick stable building.
- 14.1.2 Planning permission was approved to convert and make alterations to the timber barn building into a live work unit in 2014 under planning reference 11111. The approved works to the timber barn are nearing completion. The approved live work unit includes a workshop on the ground floor with the residential accommodation on the first floor.
- 14.1.3 This application entails three separate proposals. Firstly, it is proposed to use the whole of the barn as a single dwelling rather than a live work unit together with some minor modifications to the building with larger window openings on the rear elevation. The second part of the proposal is to create an additional building within the curtilage to be

used as an office and garage. The third part of the proposals is to convert the existing former stable building into a workshop to be used by the applicant.

- 14.1.4 The proposed use of the whole of the building as a dwelling, as opposed to a live work unit, would be acceptable. Indeed, the applicant has invested significantly in the restoration of this important former barn securing its long term retention. Given that the principle of a residential unit has already been established, there are no policy objections to the use of the ground floor as additional residential accommodation. The proposal is not to create an additional dwelling, but to effectively use the whole of the building as a single residential unit. The Conservation Officer does not raise any concerns in relation to the proposed external changes to the building.
- 14.1.5 The proposed outbuilding would be sited on the north boundary between the converted barn and stable building. The proposed building would be a simple single storey structure with a pitched roof, which would be in keeping with the size and scale of the existing outbuilding would be positioned to sit around the outside of the site creating a courtyard effect and replacing an unsympathetic boundary timber fence with a brick wall. The use of the existing outbuilding as a workshop is acceptable in principle.
- 14.1.6 Overall it is considered that the proposal would be acceptable and would not have any adverse impact on the character and appearance of the Conservation Area or the living conditions of the adjoining neighbouring properties.
- 14.1.7 On 19th May 2016 the Government issued planning guidance setting out the specific circumstances in which contributions for affordable housing and tariff style planning obligations (section 106 agreements) should not be sought from small scale and self-build development. This guidance has been reissued following the order of the Court of Appeal dated 13th May 2016 (*West Berkshire District Council and Another v The Secretary of State for Communities and Local Government*). The planning guidance specifies the circumstances in which contributions should not be sought as follows:
- "Contributions should not be sought from developments of 10 units or less and which have a maximum combined gross floorspace of no more than 1,000 sqm;
In designated rural areas, local planning authorities may choose to apply a lower threshold of 5 units or less;
- 14.1.8 Affordable housing and tariff style contributions should not be sought from any development consisting only of the construction of a residential annex or extension to an existing house", This national guidance is at odds with Policy CS15 of the Council's Core Strategy which requires many small scale housing developments including the current application proposal to make affordable housing provision
- 14.1.9 The presumption in favour of the development plan remains, in that the decision should be taken in accordance with the plan unless material considerations indicate otherwise. The new guidance is a material consideration which post-dates the adoption of the Local Plan. It is for the Council to decide which should prevail in the determination

of a planning application. However, the Secretary of State, through his Inspectors, can be anticipated to give greater weight to the Government's national guidance unless there are reasons to make an exception.

- 14.1.10 While the need for affordable housing in this District is pressing, this in itself is unlikely to be considered by the Secretary of State as sufficient reason for the Council to apply its own development plan policy rather than applying national policy. Therefore it is recommended that no affordable housing or tariff style contributions are sought from this development, in accordance with national Planning Practice Guidance, contrary to the provisions of Policy CS15 of the Core Strategy.
- 14.1.11 In accordance with the Habitat Regulations 2010 an assessment has been carried out of the likely significant effects associated with the recreational impacts of the residential development provided for in the Local Plan on both the New Forest and the Solent European Nature Conservation Sites. It has been concluded that likely significant adverse effects cannot be ruled out without appropriate mitigation projects being secured. In the event that planning permission is granted for the proposed development, a condition is recommended that would prevent the development from proceeding until the applicant has secured appropriate mitigation, either by agreeing to fund the Council's Mitigation Projects or otherwise providing mitigation to an equivalent standard.
- 14.1.12 In coming to this recommendation, consideration has been given to the rights set out in Article 8 (Right to respect for private and family life) and Article 1 of the First Protocol (Right to peaceful enjoyment of possessions) of the European Convention on Human Rights. Whilst it is recognised that there may be an interference with these rights and the rights of other third parties, such interference has to be balanced with the like rights of the applicant to develop the land in the way proposed. In this case it is considered that the protection of the rights and freedoms of the applicant outweigh any possible interference that may result to any third party.

CIL Summary Table

Description of Class	GIA New	GIA Existing	GIA Net Increase	CIL Liability
Dwelling houses	183.42		182.42	£15294.41

15. RECOMMENDATION

Grant Subject to Conditions

Proposed 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. The development permitted shall be carried out in accordance with the following approved plans: jd/p/102j and jd/p/01.

Reason: To ensure satisfactory provision of the development.

3. Before development commences, the following details shall be submitted to, and approved in writing by the Local Planning Authority.
 - a) Typical joinery details including window/doors, eaves, verge, bargeboards.
 - b) Any other detail relevant to the case (required by PDI)
 - c) Samples of all external materials (including coping bricks, ridge tiles and pad stones) to be used in the construction of the new outbuilding and the construction of the new boundary wall
 - d) Joinery details at a scale of 1:10 for the window and office door on the outbuilding
 - e) Eaves and verge details of the new outbuilding shall be provided at a scale of 1:10
 - f) Profile of the mid rail on the main barn at a scale of 1:10
 - g) Details of new vent pipes and extractor flues on the main barn and their locations marked on an
 - h) elevation plan of the building shall be provided
 - a) Joinery details for the amended windows on the

Development shall only take place in accordance with those details which have been approved.

Reason: To ensure that the development takes place in an appropriate way in this sensitive location lying within the countryside, Conservation Area and Area of Outstanding Natural Beauty to comply with Policies CS2 and CS3 of the Core Strategy for the New Forest District outside the National Park.

4. No development shall be carried out until proposals for the mitigation of the impact of the development on the New Forest and Solent Coast European Nature Conservation Sites have been submitted to and approved in writing by the local planning authority, and the local planning authority has confirmed in writing that the provision of the proposed mitigation has been secured. Such proposals must:
 - (a) Provide for mitigation in accordance with the New Forest District Council Mitigation Strategy for European Sites SPD, adopted in June 2014 (or any amendment to or replacement for this document in force at the time), or for mitigation to at least an equivalent effect;

- (b) Provide details of the manner in which the proposed mitigation is to be secured. Details to be submitted shall include arrangements for the ongoing maintenance and monitoring of any Suitable Alternative Natural Green Spaces which form part of the proposed mitigation measures together with arrangements for permanent public access thereto.
- (c) The development shall be carried out in accordance with and subject to the approved proposals.

Reason: The impacts of the proposed development must be mitigated before any development is carried out in order to ensure that there will be no adverse impacts on the New Forest and Solent Coast Nature Conservation Sites in accordance with Policy DM3 of the Local Plan Part 2 and the New Forest District Council Mitigation Strategy for European Sites Supplementary Planning Document.

5. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 (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 sites location, the Local Planning Authority would wish to ensure that any future development proposals do not adversely affect the Conservation Area in accordance with Policies CS2 and CS3 of the Core Strategy for the New Forest District outside the National Park and policy DM1 of Local Plan Part 2 Sites and Development Management Document.

6. The landscaping scheme (hard and soft) shall be implemented in accordance with the submitted Drawing No jd/p/102e and JD/P/102J by the end of the first planting and seeding seasons following the completion of development. Any trees or plants which within a period of 5 years from the completion of the development die, are removed or become seriously damaged or diseased, shall be replaced in the next planting season with others of similar size or species, unless the Local Planning Authority gives written consent to any variation.

Reason: To ensure the achievement and long term retention of an appropriate quality of development and to comply with Policy CS2 of the Local Plan for the New Forest District outside the National Park (Core Strategy).

Notes for inclusion on certificate:

1. In accordance with paragraphs 186 and 187 of the National Planning Policy Framework and Article 35 of the Town and Country Planning (Development Management Procedure) (England) Order 2015, New Forest District Council takes a positive and proactive approach, seeking solutions to any problems arising in the handling of development proposals so as to achieve, whenever possible, a positive outcome by giving clear advice to applicants.

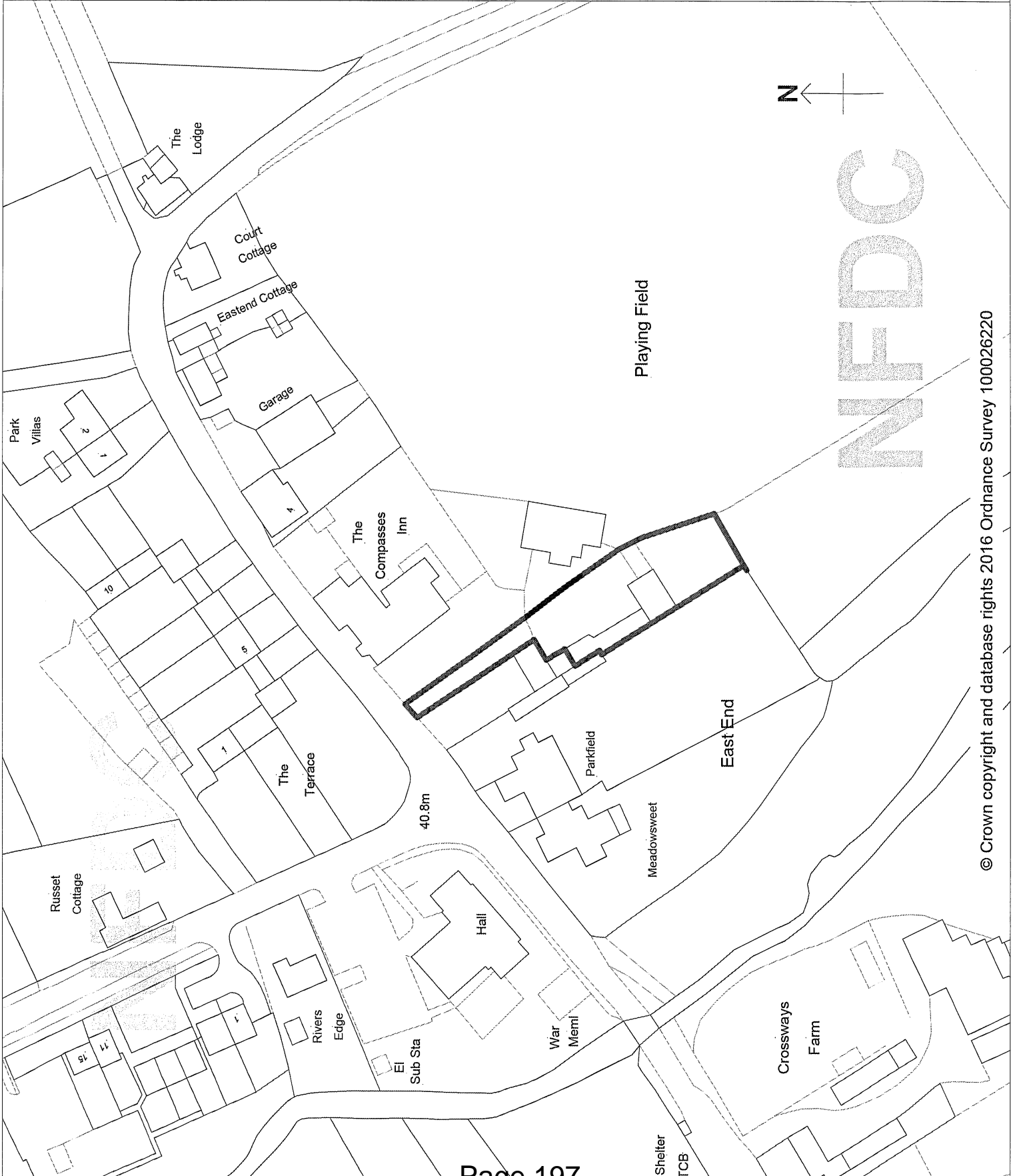
In this case all the above apply and as the application was acceptable as submitted no specific further actions were required.

2. In discharging condition No 4 above the Applicant is advised that appropriate mitigation is required before the development is commenced, either by agreeing to fund the Council's Mitigation Projects or otherwise providing mitigation to an equivalent standard. Further information about how this can be achieved can be found here <http://www.newforest.gov.uk/article/16478/>

Further Information:

Major Team

Telephone: 023 8028 5345 (Option 1)



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Application Number: 16/10583 Full Planning Permission

Site: CHANCE, HARE LANE, HORDLE SO41 0GE

Development: Single-storey rear extension; raise ridge height; front and rear dormers in association with new first floor; detached double garage

Applicant: Mr Everett

Target Date: 21/07/2016

Extension Date: 11/08/2016

1 REASON FOR COMMITTEE CONSIDERATION

Request of Member of Planning Development Control Committee

2 DEVELOPMENT PLAN, OBJECTIVES AND POLICIES

Constraints

Plan Area
Historic Land Use

Plan Policy Designations

Built-up Area

Core Strategy

CS2: Design quality

Local Plan Part 2 Sites and Development Management Development Plan Document

DM5: Contaminated land

Supplementary Planning Guidance And Documents

SPD - Hordle Village Design Statement

3 RELEVANT LEGISLATION AND GOVERNMENT ADVICE

Section 38 Development Plan
Planning and Compulsory Purchase Act 2004
National Planning Policy Framework

4 RELEVANT SITE HISTORY

Proposal / Site	Decision Date	Decision Description	Status
15/11662: Raise ridge height, front and rear dormers, rooflights in association with new first floor; two-storey rear extension; front porch; detached garage with hard standing	11/01/2016	Withdrawn by Applicant	Withdrawn

5 COUNCILLOR COMMENTS

Cllr Carpenter has requested that this application come before the Committee to give the objectors a chance to come and speak about their concerns.

6 PARISH / TOWN COUNCIL COMMENTS

Hordle Parish Council

We recommend permission but would accept the decision reached by the Planning Officers under their delegated powers. Request a condition that the bathroom window should be obscure glazed.

7 CONSULTEE COMMENTS

- 7.1 Land Drainage: No comment
- 7.2 Environmental Health Contaminated Land: Recommends informative in the event that contamination is found
- 7.3 Tree Officer: Recommends a condition in respect of the means of removal of the remaining garage slab

8 REPRESENTATIONS RECEIVED

Four letters of objection have been received from residents at 1 Golden Hill Cottages, 5 Windsor Close and 52 Lavender Road. These raise the following;

- Increase in height excessive for a loft conversion, result in sense of enclosure to neighbouring premises
- Loss of privacy and impact on quality of life
- Forward position of garage would result in a congested appearance from the road
- Set precedent for future development which would be inappropriate for a rural village
- Suggest that the first floor bathroom window is obscured glass and tree planting scheme
- The site could accommodate ground floor extensions only

9 CRIME & DISORDER IMPLICATIONS

None Relevant

10 LOCAL FINANCE CONSIDERATIONS

From the 6 April 2015 New Forest District Council began charging the Community Infrastructure Levy (CIL) on new residential developments.

Regulation 42 of the CIL Regulations 2010 (as amended) states that CIL will be applicable to all applications over 100sqm GIA and those that create a new dwelling. The development is under 100 sq metres and is not for a new dwelling and so there is no CIL liability in this case.

11 WORKING WITH THE APPLICANT/AGENT

In accordance with paragraphs 186 and 187 of the National Planning Policy Framework and Article 35 of the Town and Country Planning (Development Management Procedure) (England) Order 2015, New Forest District Council takes a positive and proactive approach, seeking solutions to any problems arising in the handling of development proposals so as to achieve, whenever possible, a positive outcome by giving clear advice to applicants.

In this case the applicant has worked actively with the Council following the withdrawal of a previous submission and this proposal meets with the recommendations made during pre-application discussions.

12 ASSESSMENT

- 12.1 The site is located in Hordle on the edge of the built up area. A detached bungalow it is set back from the road with a large driveway area to the front and an enclosed rear garden area. Neighbouring premises include a detached bungalow to the east and a two storey dwelling, part of a new development to the west. There are two protected existing trees to the rear of the property, situated close to the boundary in the neighbouring rear garden. The site is also close to historic gravel pits.
- 12.2 This application follows a previously withdrawn scheme under PA 15/11662 over which there were concerns in terms of the design of the proposal and its impact on visual amenity. It proposes a revised scheme for alterations to the roof of the property, a ground floor front extension and the addition of a detached garage at the front of the site.
- 12.3 In comparison with the withdrawn scheme, the roof alterations would see a more limited increase in height, with retention of the property's existing span, the increase in which was a concern with the previous submission. Additional space at ground floor level would be provided by a new single storey rear addition. The proposed front elevation has also seen a reduction in the size of the dormer additions and porch and at the rear, a revised dormer window design. The detached garage has been adjusted in position, recessing further back into the site, reduced in size and its roof redesigned to a fully hipped form.
- 12.4 The proposed alterations to the property would result in modest changes in respect of the front elevation. Although the ridge height would increase by 1 metre this would not appear out of keeping in the context of the existing varied street scene, with the backdrop of adjacent larger properties to the west. Overall the roof alterations, in maintaining the principle span of the property, would respond to the existing form. Proposed dormer additions would remain well balanced and although the rear dormer is large, screened from wider street scene views and subject to appropriate external cladding this would not result in any wider visual harm. Ground floor extensions would represent proportionate and sympathetic additions to the property with the porch providing interest to the front elevation.

- 12.5 Although positioned to the front of the property, the proposed garage would not be inconsistent with the form of development in the vicinity. A garage in a forward position serves the adjacent property No.1 Golden Hill Cottages. The garage would be viewed against the backdrop of this neighbouring structure and, considering its design and size, would not result in a conspicuous or visually harmful addition in respect of the appearance of the street scene. It is noted that the proposals would see a change in external cladding materials, however, these would not be inconsistent with those used in the vicinity. It is however recommended that further details of these are conditioned, to ensure an appropriate finished appearance.
- 12.6 The proposed development would impact on adjacent neighbouring premises, however given the scale of the additions and orientation it is not considered this would lead to any demonstrable harm through loss of light. Objections have been received on grounds of loss of privacy from neighbouring residents at No.1 Golden Hill Cottages and it is noted that this neighbouring property has windows on this side at ground floor level which serve a kitchen and dining area, and also a study. The proposed rear windows would likely enable some views towards these neighbouring windows above the existing boundary wall. However any views would be limited by the angle of view and distance, such that it is not considered this would result in material harm through loss of privacy. It is recognised that the existing boundary shrubs provide additional screening in this respect and the applicant has stated their intention to maintain these. However, it is not considered necessary in the interests of the acceptability of this application, to condition this matter.
- 12.7 Objection has been received from a neighbouring occupier at No 5 Windsor Close which is separated from the site by an appreciable distance (approximately 40m). Given this distance of separation and aspect of views, with intervening trees it is not considered that the extent of views from these windows would result in any material harm to the privacy of these occupiers. Furthermore given the separation and the limited extent to which the roof height would be increased, it is not considered that this would lead to any overbearing impacts on the outlook of these occupiers.
- 12.8 In respect of other neighbouring premises and garden areas the proposed first floor windows would have direct views to the rear of the site and, again, the views at an oblique angle are not considered to result in material harm through loss of privacy.
- 12.9 With reference to comments from the Hordle Parish Council, it is not considered that the proposed first floor windows would result in any material harm to the privacy of neighbouring occupiers. As such it would not be appropriate to recommend a condition restricting glazing of the bathroom window. Furthermore, in respect of other matters raised through representations, this application is being considered on its individual merits and any subsequent application for future development in the area would also be considered on this basis.
- 12.10 The site is close to former gravel pits which may be filled with contaminative material. As such the Environmental Health Officer recommends an informative in the event that contamination is found.

- 12.11 The Tree Officer has raised no objections to the proposed extension or garage, on grounds of potential impacts on the two protected oak trees, which overhang the site. They have however recommended details are submitted in respect of the means of removal of the remaining garage slab, which falls within the root protection area. The removal of this could result in harmful impacts on the root protection area.
- 12.12 In conclusion it is considered that these proposals would have an acceptable impact on visual amenity, and would not lead to any material harm to the living conditions of neighbouring occupiers. They would also be acceptable in their impacts on protected trees and not lead to harm through contaminated land risks. As such this meets with local plan Policies and objectives. Approval, subject to condition, is therefore recommended.
- 12.13 In coming to this recommendation, consideration has been given to the rights set out in Article 8 (Right to respect for private and family life) and Article 1 of the First Protocol (Right to peaceful enjoyment of possessions) of the European Convention on Human Rights. Whilst it is recognised that there may be an interference with these rights and the rights of other third parties, such interference has to be balanced with the like rights of the applicant to develop the land in the way proposed. In this case it is considered that the protection of the rights and freedoms of the applicant outweigh any possible interference that may result to any third party.

13. RECOMMENDATION

Grant Subject to Conditions

Proposed 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. The development permitted shall be carried out in accordance with the following approved plans: 1021/P00A; 1021/P05C; 1021/P03 B; 1021/P04A; 1021/P06B; 1021/P02A; 1021/P01; A3/3041

Reason: To ensure satisfactory provision of the development.

3. Before development commences, samples or exact details of the facing and roofing materials to be used shall be submitted to and approved in writing by the Local Planning Authority. The development shall only be implemented in accordance with the approved details.

Reason: To ensure an acceptable appearance of the building in accordance with policy CS2 of the Core Strategy for the New Forest District outside the National Park.

4. Prior to the removal of the former garage concrete slab a method statement for the works shall be submitted to and approved in writing by the Local Planning Authority. Thereafter works shall be undertaken in accordance with the details agreed.

Reason: To ensure the retention of existing trees and natural features and avoidance of damage during the construction phase in accordance with Policy CS2 of the Local Plan for the New Forest District outside of the National Park (Core Strategy).

Notes for inclusion on certificate:

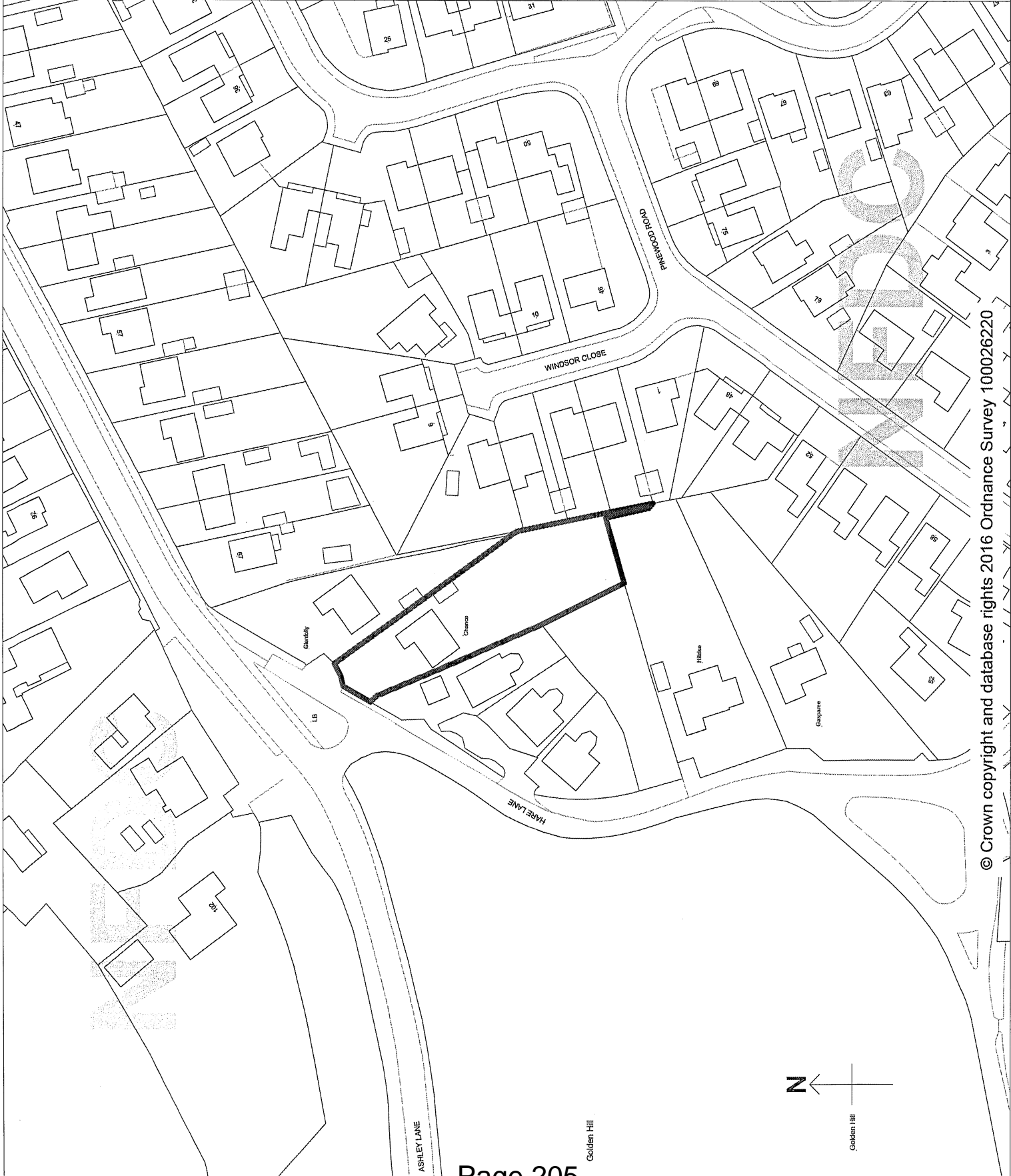
1. In accordance with paragraphs 186 and 187 of the National Planning Policy Framework and Article 35 of the Town and Country Planning (Development Management Procedure) (England) Order 2015, New Forest District Council takes a positive and proactive approach, seeking solutions to any problems arising in the handling of development proposals so as to achieve, whenever possible, a positive outcome by giving clear advice to applicants.

In this case the applicant has worked actively with the Council following the withdrawal of a previous submission and this proposal meets with the recommendation made during pre-application discussions.

2. There are a number of sites near to this property which have had past contaminative uses. It is possible that some contamination may have migrated through the ground and groundwater. Whilst the Authority has no evidence to suggest that this is the case, any observed presence of contamination during any ground invasive works should be reported to the Local Authority Environmental Health Officer and works halted whilst the matter is considered. It is advisable to obtain specialist advice concerning the potential for contamination and its recognition. Under the National Planning Policy Framework, where a site is affected by contamination, responsibility for securing a safe development and/or new use, rests with the developer and/or landowner and as a minimum requirement the land should not be capable of being determined as contaminated land under Part IIA of the Environmental Protection Act 1990.
3. This decision relates to amended plans received by the Local Planning Authority on 18.07.2016 & 18.07/2016

Further Information:

Householder Team
Telephone: 023 8028 5345 (Option 1)



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Application Number: 16/10621 Full Planning Permission

Site: 9 HURST ROAD, MILFORD-ON-SEA SO41 0PY

Development: 2 pairs of semi-detached houses; parking; access;
demolition of existing

Applicant: Pathway Construction Ltd

Target Date: 26/07/2016

Extension Date: 10/08/2016

1 REASON FOR COMMITTEE CONSIDERATION

Contrary to policy and Parish Council view.

2 DEVELOPMENT PLAN AND OTHER CONSTRAINTS

Built up area

3 DEVELOPMENT PLAN, OBJECTIVES AND POLICIES

Core Strategy

Objectives

1. Special qualities, local distinctiveness and a high quality living environment
6. Towns, villages and built environment quality

Policies

- CS1: Sustainable development principles
- CS2: Design quality
- CS15: Affordable housing contribution requirements from developments
- CS25: Developers contributions

Local Plan Part 2 Sites and Development Management Development Plan Document

- DM3: Mitigation of impacts on European nature conservation sites

4 RELEVANT LEGISLATION AND GOVERNMENT ADVICE

- Section 38 Development Plan
- Planning and Compulsory Purchase Act 2004
- National Planning Policy Framework
- Achieving Sustainable Development
- NPPF Ch. 6 - Delivering a wide choice of high quality homes
- NPPF Ch. 7 - Requiring good design

5 RELEVANT SUPPLEMENTARY PLANNING GUIDANCE AND DOCUMENTS

SPD - Housing Design, Density and Character
SPG - Milford-on-Sea Village Design Statement
SPD - Parking Standards

6 RELEVANT PLANNING HISTORY

- 6.1 15/10595 - (O/L) 2 pairs of semi-detached houses, access, parking. Refused 9.7.15, appeal dismissed (Appeal 2).
- 6.2 15/10008 - 2 pairs of semi-detached houses, parking, access, demolition of existing. Refused 12.3.15.
- 6.3 12/98339 - 2 pairs of semi-detached houses, access, parking, demolition of existing. Refused 10.5.12, appeal dismissed (Appeal 1).
- 6.4 07/90117 - terrace of 4 houses, 1 block of 2 flats. Refused 11.7.07, appeal dismissed.
- 6.5 05/86262 - one pair of semi-detached houses, one block of 3 apartments, new access. Refused 13.12.05, appeal dismissed.

7 PARISH / TOWN COUNCIL COMMENTS

Milford on Sea Parish Council - recommend refusal and would not accept a delegated approval. The proposal would negatively affect the open nature of the area with particular concerns in respect of the gable to plot 4 and the proximity of its driveway to the junction of Hurst Road and Sea Road. Affordable housing should be appropriately resolved (this comment relates to the original submission).

8 COUNCILLOR COMMENTS

Cllr Kendal - supports local objections relating to design, requests a firm stance to be taken on affordable housing

9 CONSULTEE COMMENTS

- 9.1 Land Drainage - recommend approval subject to conditions
- 9.2 Hampshire County Council Highway Engineer - no objections
- 9.3 Southern Gas Networks - offer advice

10 REPRESENTATIONS RECEIVED

- 10.1 Objections have been received from 8 local residents. Their concerns are:
- gable end of plot 4 extends further than it should into open area
 - loss of light
 - poor design and layout
 - increased traffic congestion
 - fails to comply with CS2
 - proposal will be an eyesore
 - over crowded site
 - gable doesn't enhance the environment

- existing property is sited appropriately
- loss of privacy
- there have been no significant changes to the scheme
- proximity of access to corner is dangerous and highway safety issues have not been properly addressed
- amendments will not fully address concerns

10.2 Three further letters of objection have been received following re-consultation. raising concerns already referred to in paragraph 10.1 above.

11 CRIME & DISORDER IMPLICATIONS

None

12 LOCAL FINANCE CONSIDERATIONS

If this development is granted permission and the dwellings built, the Council will receive £4,608 in each of the following six years from the dwellings' completion, and as a result, a total of £27,648 in government grant under the New Homes Bonus will be received.

From the 6 April 2015 New Forest District Council began charging the Community Infrastructure Levy (CIL) on new residential developments. Based on the information provided at the time of this report this development has a CIL liability of £40,750.06.

Tables setting out all contributions are at the end of this report.

13 WORKING WITH THE APPLICANT/AGENT

In accordance with paragraphs 186 and 187 of the National Planning Policy Framework and Article 35 of the Town and Country Planning (Development Management Procedure) (England) Order 2015, New Forest District Council take a positive and proactive approach, seeking solutions to any problems arising in the handling of development proposals so as to achieve, whenever possible, a positive outcome.

This is achieved by

- Strongly encouraging those proposing development to use the very thorough pre application advice service the Council provides.
- Working together with applicants/agents to ensure planning applications are registered as expeditiously as possible.
- Advising agents/applicants early on in the processing of an application (through the release of a Parish Briefing Note) as to the key issues relevant to the application.
- Updating applicants/agents of issues that arise in the processing of their applications through the availability of comments received on the web or by direct contact when relevant.
- Working together with applicants/agents to closely manage the planning application process to allow an opportunity to negotiate and accept amendments on applications (particularly those that best support the Core Strategy Objectives) when this can be done without compromising government performance requirements.

- Advising applicants/agents as soon as possible as to concerns that cannot be dealt with during the processing of an application allowing for a timely withdrawal and re-submission or decision based on the scheme as originally submitted if this is what the applicant/agent requires.
- When necessary discussing with applicants/agents proposed conditions especially those that would restrict the use of commercial properties or land when this can be done without compromising government performance requirements.

In view of the outline nature of the previous application, dismissed due to the lack of affordable housing contributions, guidance was sought from previous Inspector's decisions with regard to the siting and design of the dwellings, in particular, plot 4. Amended plans have been received to address the outstanding issues which were readvertised and any further responses will be reported to Committee.

14 ASSESSMENT

- 14.1 The site lies within the built up area of Milford on Sea along the popular seafront. There is a lengthy planning history for this site dating back over 10 years and this is partly due to the difficult nature of the plot with flats to the west, a three storey property to the rear and a large open space to the east bound by a variable unruly hedge and which is considered to be an important feature of the locality. The proposal follows the dismissed appeal for a similar scheme but which was in outline form. The current scheme is a full planning application for two pairs of semi-detached three storey houses with integral garages. Access to the dwellings would be provided off Hurst Road.
- 14.2 The main issues to consider with this application are the siting and design of the proposed dwellings, neighbour amenity, highways and the affordable housing situation. The lack of a contribution towards the latter was the only reason for the last appeal to fail.

Affordable Housing

- 14.3 On 19th May 2016 the Government issued planning guidance setting out the specific circumstances in which contributions for affordable housing and tariff style planning obligations (section 106 agreements) should not be sought from small scale and self-build development. This guidance has been reissued following the order of the Court of Appeal dated 13th May 2016 (*West Berkshire District Council and Another v The Secretary of State for Communities and Local Government*). The planning guidance specifies the circumstances in which contributions should not be sought as follows:

“Contributions should not be sought from developments of 10 units or less and which have a maximum combined gross floorspace of no more than 1,000 sqm; In designated rural areas, local planning authorities may choose to apply a lower threshold of 5 units or less...;”

“Affordable housing and tariff style contributions should not be sought from any development consisting only of the construction of a residential annex or extension to an existing house”

This national guidance is at odds with Policy CS15 of the Council's Core Strategy which requires many small scale housing developments including the current application proposal to make affordable housing provision.

- 14.4 The presumption in favour of the development plan remains, in that the decision should be taken in accordance with the plan unless material considerations indicate otherwise. The new guidance is a material consideration which post-dates the adoption of the Local Plan. It is for the Council to decide which should prevail in the determination of a planning application. However, the Secretary of State, through his Inspectors can be anticipated to give greater weight to the Government's national guidance unless there are reasons to make an exception.
- 14.5 While the need for affordable housing in this District is pressing, this in itself is unlikely to be considered by the Secretary of State as sufficient reason for the Council to apply its own development plan policy rather than applying national policy. Therefore it is recommended that no affordable housing or tariff style contributions are sought from this development, in accordance with national Planning Practice Guidance, contrary to the provisions of Policy CS15 of the Core Strategy.

Siting

- 14.6 With regard to the siting of the proposed dwellings, it reflects that from the outline proposal and the previous full application. In determining these appeals, the Inspectors concluded that plot 4 would be set back by a reasonable distance from the corner and that a condition could protect the general openness of the corner in terms of built form, but not restricting vegetation which is already quite tall in places. It is not considered therefore, that a recommendation for refusal could be justified on the grounds of the proposed built form being sited too far east. In terms of the spacing between the two buildings, the Inspector, in determining appeal 2 concluded that 'whilst there are some wider gaps between buildings to the west, ... there are also similarly closely-spaced buildings along the sea front to the east'. It would therefore be inappropriate to refuse permission on the grounds that there was inadequate space between the buildings.
- 14.7 Given the corner location of the site, it has always been considered appropriate to ensure that the easternmost dwelling addresses the corner and does not offer a blank side elevation to Sea Road. The design put forward in appeal 1 was criticised for resulting in almost a full three-storey structure which, at the time of the appeal decision, was contrary to the now superseded policy MS-1 which allowed only appropriately designed accommodation within the roof space. Combined with front and rear gables, it was considered to be overly urban and intensive. By contrast, the proposal has no projecting elements to the east of the side wall to plot 4. However, the first floor living space and bedroom above have an additional side window which rises above the eaves, culminating in a dormer to the side elevation. There are other examples of floor to ceiling windows and glazed dormers elsewhere along Hurst Road and it is considered that the design would reflect the character of the development to the opposite side of Sea Road.

Highways

- 14.8 It is noted that many comments raise the access for plot 4 as being of concern, although the Highway Authority has consistently accepted that this layout is acceptable in highways terms and Inspectors have agreed with this point.

Amenity

- 14.9 With regard to residential amenity, the rear windows above ground floor level are indicated as being obscure glazed. They relate to landings, staircases, WCs or kitchens. While the comments of local residents have been noted with regard to the potential loss of privacy, the Inspector for appeal 1 considered that, in view of the open nature of the kitchen/living area, subject to the windows being obscure glazed and fixed shut, overlooking from these windows would be avoided.
- 14.10 In dismissing Appeal 2 the Inspector recognised that the proposed development would have an impact on views from No.50 Sea Road at first and second floor level. He stated that the appeal development has the potential to curtail "private views from No. 50 to the south west, particularly from the first floor, whilst retaining the present open views to the south east and the Isle of Wight" and that "I consider that to be reasonable given that there is no right in planning law, policy or practice, to keep open a view from private land across other private land".

Other Matters

- 14.11 In accordance with the Habitat Regulations 2010 an assessment has been carried out of the likely significant effects associated with the recreational impacts of the residential development provided for in the Local Plan on both the New Forest and the Solent European Nature Conservation Sites. It has been concluded that likely significant adverse effects cannot be ruled out without appropriate mitigation projects being secured. In the event that planning permission is granted for the proposed development, a condition is recommended that would prevent the development from proceeding until the applicant has secured appropriate mitigation, either by agreeing to fund the Council's Mitigation Projects or otherwise providing mitigation to an equivalent standard.
- 14.12 This site has been considered at appeal on several occasions with the design of the dwelling and the lack of affordable housing contributions the only outstanding matters. The current proposal has been designed such that there are no additional issues such as residential amenity or highway safety to re-consider and the outstanding matters are now considered to have been satisfactorily addressed.
- 14.13 In coming to this recommendation, consideration has been given to the rights set out in Article 8 (Right to respect for private and family life) and Article 1 of the First Protocol (Right to peaceful enjoyment of possessions) of the European Convention on Human Rights. Whilst it is recognised that there may be an interference with these rights and the rights of other third parties, such interference has to be balanced with the like rights of the applicant to develop the land in the way proposed. In this case it is considered that the protection of the rights and freedoms of the applicant outweigh any possible interference that may result to any third party.

Section 106 Contributions Summary Table

Proposal:			
Type of Contribution	NFDC Policy Requirement	Developer Proposed Provision	Difference
No. of Affordable dwellings	0	0	0
Habitats Mitigation			
Financial Contribution	£17,000		

CIL Summary Table

Description of Class	GIA New	GIA Existing	GIA Net Increase	CIL Liability
Dwelling houses	664.5	0	664.5	£40,750.06 *

15. RECOMMENDATION

That the Executive Head of Economy, Housing and Planning be **AUTHORISED TO GRANT PERMISSION** subject to:

- i) the receipt of no new material objections to the submitted amended plans before August 10th 2016.
- ii) the imposition of the conditions set out below.

Proposed 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. The development permitted shall be carried out in accordance with the following approved plans: Design and Access Statement, 106B, 10C, 11C, 209A.

Reason: To ensure satisfactory provision of the development.

3. Before development commences, samples or exact details of the facing and roofing materials to be used shall be submitted to and approved in writing by the Local Planning Authority. The development shall only be implemented in accordance with the approved details.

Reason: To ensure an acceptable appearance of the building in accordance with policy CS2 of the Core Strategy for the New Forest District outside the National Park.

4. Before use of the development is commenced provision for parking shall have been made within the site in accordance with the approved plans and shall be retained thereafter.

Reason: To ensure adequate on-site car parking provision for the approved development and in accordance with policy CS2 of the New Forest District Council Core Strategy.

5. Prior to the occupation of the first dwelling, plans and particulars showing details of the provisions of cycle storage within the site shall be submitted for approval in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved details before the use of the development is commenced and shall be retained thereafter.

Reason: To ensure adequate provision within the site and in accordance with policy CS2 of the New Forest District Council Core Strategy.

6. Before first occupation of the development hereby approved the applicant shall have set up a detailed scheme for the future maintenance of the sustainable drainage system, including arrangements of the responsible parties for the maintenance of the sustainable drainage system. The system shall thereafter be retained and maintained in accordance with the scheme.

Reason: In order to ensure that the drainage arrangements are appropriate and in accordance with Policy CS6 of the Core Strategy for the New Forest District outside the National Park and the New Forest District Council and New Forest National Park Authority Strategic Flood Risk Assessment for Local Development Frameworks.

7. No development shall be carried out until proposals for the mitigation of the impact of the development on the New Forest and Solent Coast European Nature Conservation Sites have been submitted to and approved in writing by the local planning authority, and the local planning authority has confirmed in writing that the provision of the proposed mitigation has been secured. Such proposals must:

- (a) Provide for mitigation in accordance with the New Forest District Council Mitigation Strategy for European Sites SPD, adopted in June 2014 (or any amendment to or replacement for this document in force at the time), or for mitigation to at least an equivalent effect;
- (b) Provide details of the manner in which the proposed mitigation is to be secured. Details to be submitted shall include arrangements for the ongoing maintenance and monitoring of any Suitable Alternative Natural Green Spaces which form part of the proposed mitigation measures together with arrangements for permanent public access thereto.
- (c) The development shall be carried out in accordance with and subject to the approved proposals.

Reason: The impacts of the proposed development must be mitigated before any development is carried out in order to ensure that there will be no adverse impacts on the New Forest and Solent Coast Nature Conservation Sites in accordance with Policy DM3 of the Local Plan Part 2 and the New Forest District Council Mitigation Strategy for European Sites Supplementary Planning Document

8. The first and second floor windows on the north elevation of the approved buildings shall be obscurely glazed and fixed shut at all times unless the parts that can be opened are more than 1.7m above the floor.

Reason: To safeguard the privacy of the adjoining neighbouring properties in accordance with policy CS2 of the Local Plan for the New Forest District outside the National Park (Core Strategy).

9. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) 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 Local Planning 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 CS2 of the Local Plan for the New Forest District outside the National Park (Core Strategy).

Notes for inclusion on certificate:

1. In accordance with paragraphs 186 and 187 of the National Planning Policy Framework and Article 35 of the Town and Country Planning (Development Management Procedure) (England) Order 2015, New Forest District Council takes a positive and proactive approach, seeking solutions to any problems arising in the handling of development proposals so as to achieve, whenever possible, a positive outcome by giving clear advice to applicants.

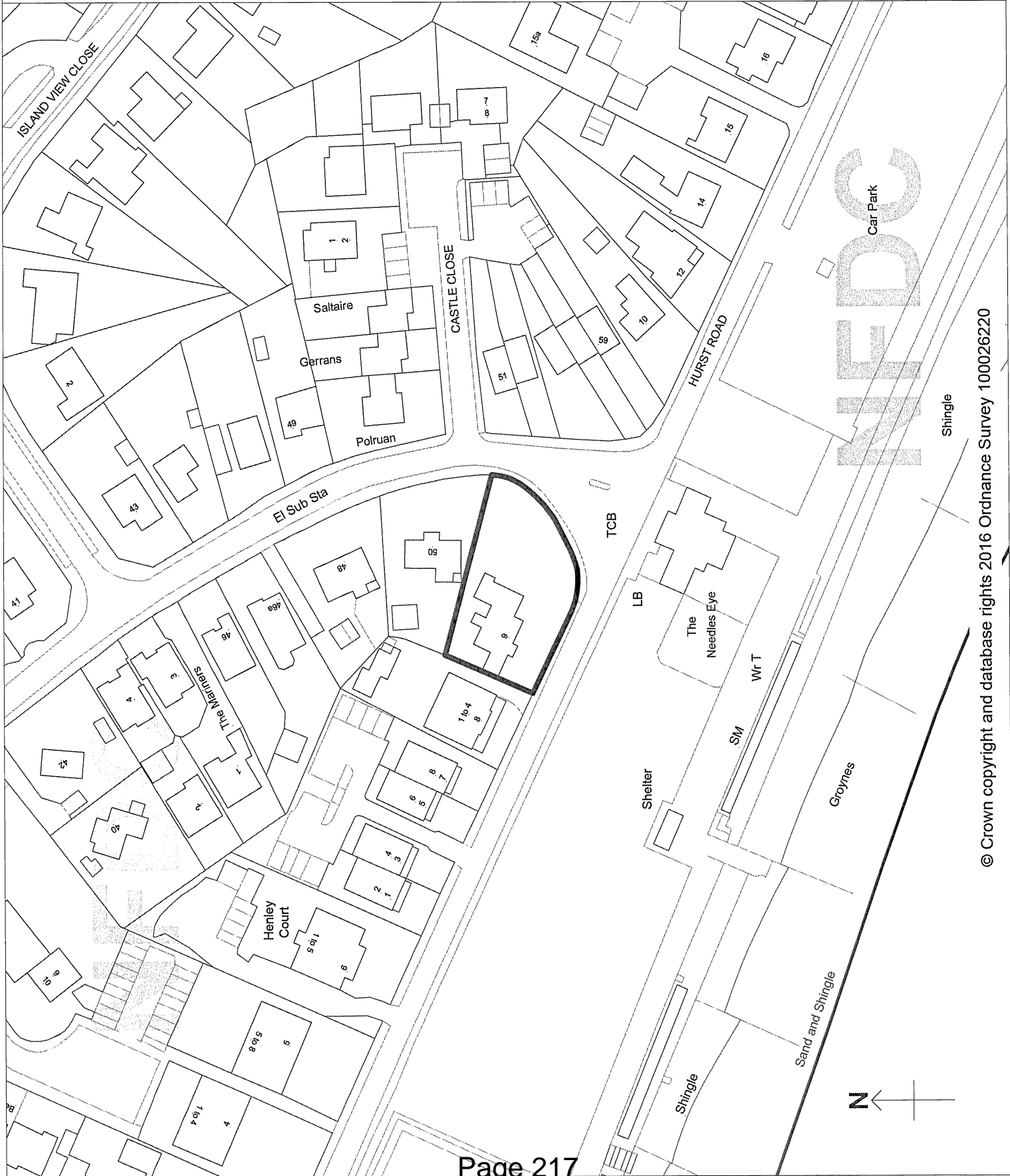
In view of the outline nature of the previous application, dismissed due to the lack of affordable housing contributions, guidance was sought from previous Inspector's decisions with regard to the siting and design of the dwellings, in particular, plot 4. Amended plans have been received to address the outstanding issues.

2. In discharging condition No. 7 above the Applicant is advised that appropriate mitigation is required before the development is commenced, either by agreeing to fund the Council's Mitigation Projects or otherwise providing mitigation to an equivalent standard. Further information about how this can be achieved can be found here <http://www.newforest.gov.uk/article/16478/>

Further Information:

Major Team

Telephone: 023 8028 5345 (Option 1)



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Application Number: 16/10626 Advertisement Consent

Site: 49 OLD MILTON ROAD, NEW MILTON BH25 6DJ

Development: Display illuminated fascia sign & non-illuminated window & door signs (Application for Advertisement Consent)

Applicant: Lemon Tree

Target Date: 30/06/2016

Extension Date: 10/08/2016

1 REASON FOR COMMITTEE CONSIDERATION

Deferred from Committee meeting in July 2016

2 DEVELOPMENT PLAN AND OTHER CONSTRAINTS

Built up area
Town Centre

3 DEVELOPMENT PLAN, OBJECTIVES AND POLICIES

Core Strategy

Objectives

1. Special qualities, local distinctiveness and a high quality living environment
6. Towns, villages and built environment quality

Policies

- CS1: Sustainable development principles
CS2: Design quality

Local Plan Part 2 Sites and Development Management Development Plan Document

4 RELEVANT LEGISLATION AND GOVERNMENT ADVICE

Section 38 Development Plan
Planning and Compulsory Purchase Act 2004
National Planning Policy Framework
NPPF Ch.2 - Ensuring the vitality of town centres
NPPF Ch. 7 - Requiring good design

5 RELEVANT SUPPLEMENTARY PLANNING GUIDANCE AND DOCUMENTS

SPD - New Milton Local Distinctiveness

6 RELEVANT PLANNING HISTORY

16/10627 - shopfront, use of first and second floor as 2 flats. Withdrawn

16/10813 - shopfront. Under consideration.

7 PARISH / TOWN COUNCIL COMMENTS

New Milton Town Council - initial comments: object and would not accept a delegated approval. Cannot be accurately judged with the withdrawal of the shop front application. Updates comments raise no concerns with this proposal.

8 COUNCILLOR COMMENTS

None received

9 CONSULTEE COMMENTS

Highway Authority - no objection

10 REPRESENTATIONS RECEIVED

None

11 CRIME & DISORDER IMPLICATIONS

None

12 LOCAL FINANCE CONSIDERATIONS

Local financial considerations are not material to the decision on this application.

13 WORKING WITH THE APPLICANT/AGENT

In accordance with paragraphs 186 and 187 of the National Planning Policy Framework and Article 35 of the Town and Country Planning (Development Management Procedure) (England) Order 2015, New Forest District Council take a positive and proactive approach, seeking solutions to any problems arising in the handling of development proposals so as to achieve, whenever possible, a positive outcome.

This is achieved by

- Strongly encouraging those proposing development to use the very thorough pre application advice service the Council provides.
- Working together with applicants/agents to ensure planning applications are registered as expeditiously as possible.
- Advising agents/applicants early on in the processing of an application (through the release of a Parish Briefing Note) as to the key issues relevant to the application.
- Updating applicants/agents of issues that arise in the processing of their applications through the availability of comments received on the web or by direct contact when relevant.
- Working together with applicants/agents to closely manage the planning application process to allow an opportunity to negotiate and accept amendments on applications (particularly those that best support the Core Strategy Objectives) when this can be done without compromising government performance requirements.
- Advising applicants/agents as soon as possible as to concerns that cannot be dealt with during the processing of an application allowing for a timely withdrawal and re-submission or decision based on the scheme as originally submitted if this is what the applicant/agent requires.

- When necessary discussing with applicants/agents proposed conditions especially those that would restrict the use of commercial properties or land when this can be done without compromising government performance requirements.

The application was amended following the changes made to the application for the new shopfront.

14 ASSESSMENT

- 14.1 The application was deferred from the July meeting of Committee as the Town Council had not had the opportunity to comment on the amended plan. The assessment below is as set out in the last meeting of this Committee.
- 14.2 The site lies within the built up area of New Milton in a secondary shopping parade within the town centre. It is a vacant shop unit which has an existing timber fascia together with painted lettering on the glazing above and below the transom. The proposal entails a new fascia with external illumination together with window transfers detailing the opening hours of business and the company logo together with etched glazing to the lower part of the windows. The design is similar to the existing premises for the business a few doors away to the north.
- 14.3 This part of the Town Centre has seen many changes over the years and there is no definitive character or style with regard to the shopfronts and associated signage. While the immediately adjacent properties do not have illuminated signage, there are examples in the vicinity of lighting similar to that proposed (chip shop to the south west as well as the existing premises) and swan necked external illumination too. The fascia is proportionate to the existing fascia and the lettering/logo are central to the shop part of the frontage. (The frontage also includes access to the residential accommodation above).
- 14.4 With regard to the window transfers and etching, whilst planning permission would still be required for the shopfront a revised scheme has been submitted to which these adverts would be applied, there are no objections to the principle of providing them given that they are very similar to the existing premises to the north. Further, the existing shop and repair centre next door both have wording on the glazing.
- 14.5 In coming to this recommendation, consideration has been given to the rights set out in Article 8 (Right to respect for private and family life) and Article 1 of the First Protocol (Right to peaceful enjoyment of possessions) of the European Convention on Human Rights. Whilst it is recognised that there may be an interference with these rights and the rights of other third parties, such interference has to be balanced with the like rights of the applicant to develop the land in the way proposed. In this case it is considered that the protection of the rights and freedoms of the applicant outweigh any possible interference that may result to any third party.

15. RECOMMENDATION

GRANT ADVERTISEMENT CONSENT

Standard Conditions

1. Any advertisements displayed, and any site used for the display of advertisements, shall be maintained in a clean and tidy condition to the reasonable satisfaction of the Local Planning Authority.
2. Any structure or hoarding erected or used principally for the purpose of displaying advertisements shall be maintained in a safe condition.
3. Where an advertisement is required under these Regulations to be removed, the removal shall be carried out to the reasonable satisfaction of the Local Planning Authority.
4. No advertisement is to be displayed without the permission of the owner of the site or any other person with an interest in the site entitled to grant permission.
5. No advertisement shall be sited or displayed so as to obscure, or hinder the ready interpretation of, any road traffic sign, railway signal or aid to navigation by water or air, or so as otherwise to render hazardous the use of any highway, railway, waterway (including any coastal waters) or aerodrome (civil or military).

Notes for inclusion on certificate:

1. In accordance with paragraphs 186 and 187 of the National Planning Policy Framework and Article 35 of the Town and Country Planning (Development Management Procedure) (England) Order 2015, New Forest District Council takes a positive and proactive approach, seeking solutions to any problems arising in the handling of development proposals so as to achieve, whenever possible, a positive outcome by giving clear advice to applicants.

The application was amended following the changes made to the application for the new shopfront.

Further Information:

Major Team
Telephone: 023 8028 5345 (Option 1)



New Forest
DISTRICT COUNCIL

Tel: 023 8028 5000
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David Groom
Service Manager
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New Forest District Council
Appletree Court
Lyndhurst
SO43 7PA

**Planning Development
Control Committee
August 2016**

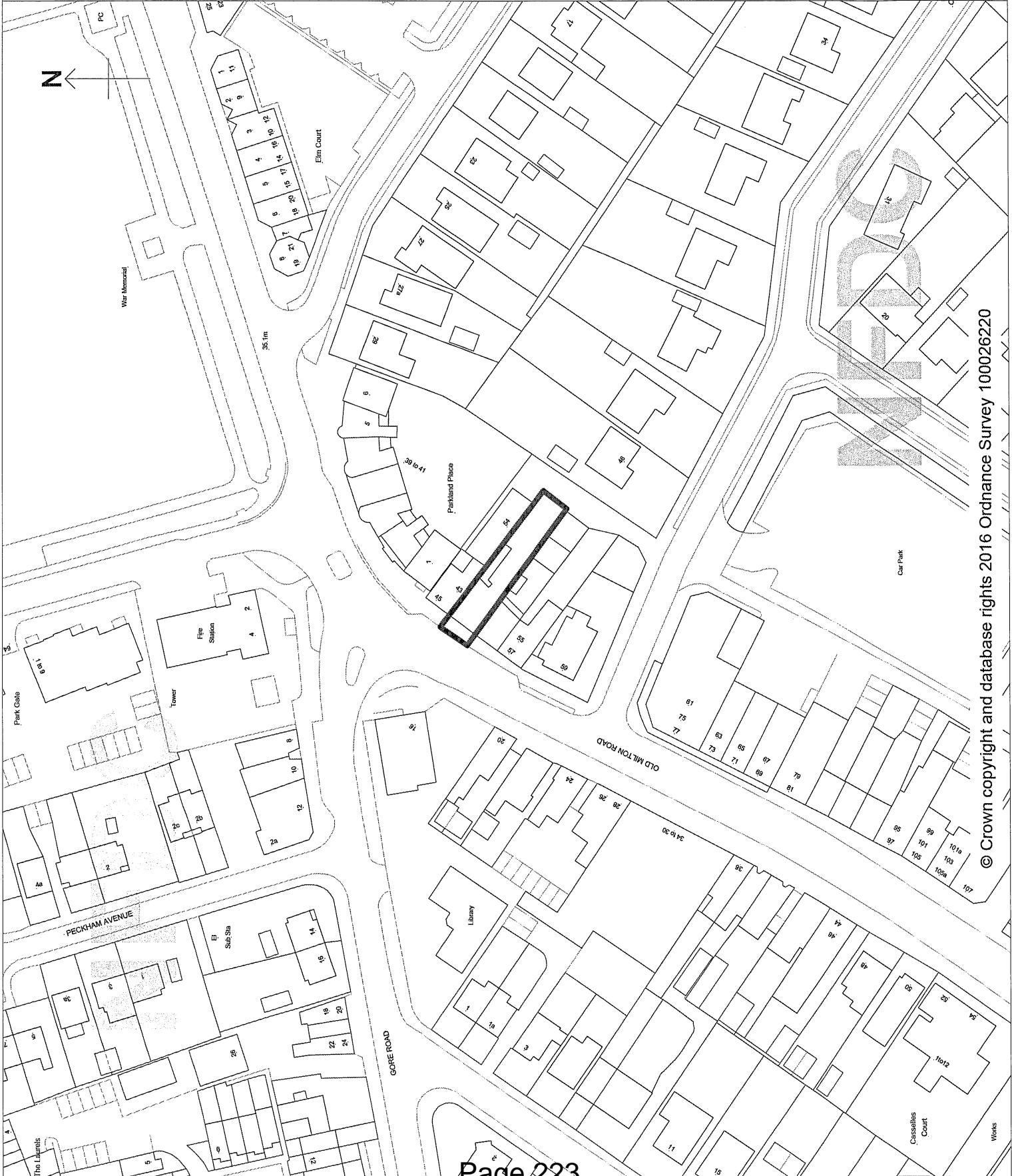
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49

Old Milton Road
New Milton
16/10626
SZ2494

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Application Number: 16/10658 Full Planning Permission

Site: 11 ST JOHNS STREET, HYTHE SO45 6BZ

Development: 2 outbuildings (retrospective)

Applicant: Mr & Mrs Harrison

Target Date: 07/07/2016

Extension Date: 12/08/2016

1 REASON FOR COMMITTEE CONSIDERATION

Contrary Member view

2 DEVELOPMENT PLAN, OBJECTIVES AND POLICIES

Core Strategy for New Forest District outside the National Park

CS2: Design quality

CS3: Protecting and enhancing our special environment (Heritage and Nature Conservation)

CS6: Flood risk

Local Plan Part 2 Sites and Development Management Development Plan Document

DM1: Heritage and Conservation

3 RELEVANT LEGISLATION AND GOVERNMENT ADVICE

Section 38 Development Plan

Planning and Compulsory Purchase Act 2004

National Planning Policy Framework NPPF Ch. 7 - Requiring good design

NPPF Ch. 12 - Conserving and enhancing the historic environment

Section 72 General duty as respects conservation areas in exercise of planning functions

Planning (Listed Buildings and Conservation Areas) Act 1990

Section 66 General duty as respects listed buildings in exercise of planning functions.

Planning (Listed Buildings and Conservation Areas) Act 1990

4 RELEVANT SITE HISTORY

16/10659: 2 outbuildings retrospective (Listed Building application) withdrawn

16/10570: Single storey rear extension granted consent subject to conditions 27/06/16

16/10571: Single storey rear extension (Listed Building application) granted consent subject to conditions 27/06/16

95/56439LB: external and internal alterations granted 20/04/1995

95/56440: Application for external and internal alterations permission not required 03/04/1995

5 COUNCILLOR COMMENTS

Cllr Bill Andrews:

I am in support of these applications, more especially so having visited the site and seen how both might compare with the various developments apparently permitted at the two immediately adjoining properties.

6 PARISH / TOWN COUNCIL COMMENTS

Hythe & Dibden Parish Council

As the applicant is a Member of this Council, the committee would like to offer the following comment: Happy to accept the decision reached by the DC Officers under their delegated powers.

7 CONSULTEE COMMENTS

Land Drainage, Appletree Court: comment Only

Natural England: no Objection

Conservation: objection

8 REPRESENTATIONS RECEIVED

8.1 Sanders Design, agent: additional comments in support of application

8.2 Occupiers of number 17 St Johns Street: Support
Sheds are standard garden sheds , and have limited life span, although visible above garden wall are not obstructive, structures could be painted matt black and perhaps garden wall could be raised a few courses to hide top of sheds.

9 CRIME & DISORDER IMPLICATIONS

None Relevant

10 LOCAL FINANCE CONSIDERATIONS

From the 6 April 2015 New Forest District Council began charging the Community Infrastructure Levy (CIL) on new residential developments.

Regulation 42 of the CIL Regulations 2010 (as amended) states that CIL will be applicable to all applications over 100sqm GIA and those that create a new dwelling. The development is under 100 sq metres and is not for a new dwelling and so there is no CIL liability in this case.

11 WORKING WITH THE APPLICANT/AGENT

In accordance with paragraphs 186 and 187 of the National Planning Policy Framework and Article 35 of the Town and Country Planning (Development Management Procedure) (England) Order 2015, New Forest District Council takes a positive and proactive approach, seeking solutions to any problems arising in the handling of development proposals so as to achieve, whenever possible, a positive outcome by giving clear advice to applicants.

Advice was given to the applicant that the recently erected outbuildings required planning consent as they are located within the curtilage of a Listed Building, and that in their current form they would not be acceptable. There are no changes to the outbuildings or the surrounding location that would change this view and the outbuildings in their current form are considered to form an unacceptable level of harm in the context of the host Listed Building.

12 ASSESSMENT

- 12.1 The two recently erected timber outbuildings require the benefit of planning permission as they are within the curtilage of a Grade II Listed Building. A Listed Building application was also submitted, but as the structures are free standing this form of consent was not required and was duly withdrawn.
- 12.2 The property has a long narrow rear garden which extends to Hythe Waterfront, and there is an original partition wall a third of the way down. The two outbuildings have been erected behind this partition wall. Both the outbuildings are of similar design and materials (though the furthest forward outbuilding has a smaller footprint). The buildings are positioned close together, one behind the other set just inside the exterior side wall. The side boundary is separated from the access road to Hythe Promenade by a planted verge, and this green screening does restrict views into the site.
- 12.3 Due to their position within the site, there are no neighbour amenity issues arising from the proposal.
- 12.4 By reason of this screening, the outbuildings are not overly prominent within the street scene. Nevertheless, limited views are achievable of these structures from public vantage points by reason of their height, as they extend above the external walls.
- 12.5.1 The principle of a single outbuilding serving this property is not unacceptable, but by virtue of it being in the curtilage of a Listed Building it must respect the character of the host dwelling. As such what is sought in this location is a structure of traditional form and materials, and good quality design, which neither of the current standard outbuildings achieve. Therefore, they are significantly harmful to the setting and context of the Listed Building. The offer to paint the outbuildings a recessive colour would not overcome the identified harm of the current structures.
- 12.5.2 The application site also lies within the Hythe Conservation Area. The purpose of a Conservation Area is to provide control over development in the interests of conserving and enhancing the historic character of an area. The sheds do not maintain the traditional building form and materials that would be expected in these areas and are therefore at odds with the historic character and appearance of the Hythe Conservation area. As such they have a negative impact upon the character and integrity of the Conservation Area.
- 12.5.3 The application site forms part of a terrace of 3 houses all of which are listed. The application site and its immediate neighbour were listed in 1976, while no.17 St Johns Street was listed separately in 1973. There appear to be outbuildings within the curtilages of these properties, but there is no information as to when these were erected (prior to the properties listings these would not necessarily have required planning consent anyway). Notwithstanding this, the outbuildings which are the

subject of this application have been judged on their own merits, and the existence of other timber outbuildings in neighbouring gardens does not form a precedent for further inappropriate and harmful development.

- 12.6 In coming to this recommendation, consideration has been given to the rights set out in Article 8 (Right to respect for private and family life) and Article 1 of the First Protocol (Right to peaceful enjoyment of possessions) of the European Convention on Human Rights. Whilst it is recognised that this recommendation, if agreed, may interfere with the rights and freedoms of the applicant to develop the land in the way proposed, the objections to the planning application are serious ones and cannot be overcome by the imposition of conditions. The public interest and the rights and freedoms of neighbouring property owners can only be safeguarded by the refusal of permission.

13. RECOMMENDATION

Refuse

Reason(s) for Refusal:

1. The two outbuildings by reason of their standard design, materials, height and siting are harmful to the character and setting of the Listed Building. Furthermore, by reason of their incompatible materials and untraditional form they are also harmful to the character and appearance of the Hythe Conservation Area. As such they would be contrary to policies CS2 and CS3 of the Core Strategy for the New Forest District outside the National Park, policy DM1 of the Sites and Development Management Development Plan and Chap 12 of the National Planning Policy Framework.

Notes for inclusion on certificate:

1. In accordance with paragraphs 186 and 187 of the National Planning Policy Framework and Article 35 of the Town and Country Planning (Development Management Procedure) (England) Order 2015, New Forest District Council takes a positive and proactive approach, seeking solutions to any problems arising in the handling of development proposals so as to achieve, whenever possible, a positive outcome by giving clear advice to applicants.

Advice was given to the applicant that the recently erected outbuildings required planning consent as they are located within the curtilage of a Listed Building, and that in their current form would not be acceptable. No changes were made to the outbuildings or the surrounding location that would change this view and the outbuildings in their current form were considered to form an unacceptable level of harm in the context of the host Listed Building.

Further Information:

Householder Team
Telephone: 023 8028 5345 (Option 1)



New Forest
DISTRICT COUNCIL

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David Groom
Service Manager
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New Forest District Council
Appletree Court
Lyndhurst
SO43 7PA

**Planning Development
Control Committee
August 2016**

Item No: 3t

11

St Johns Street

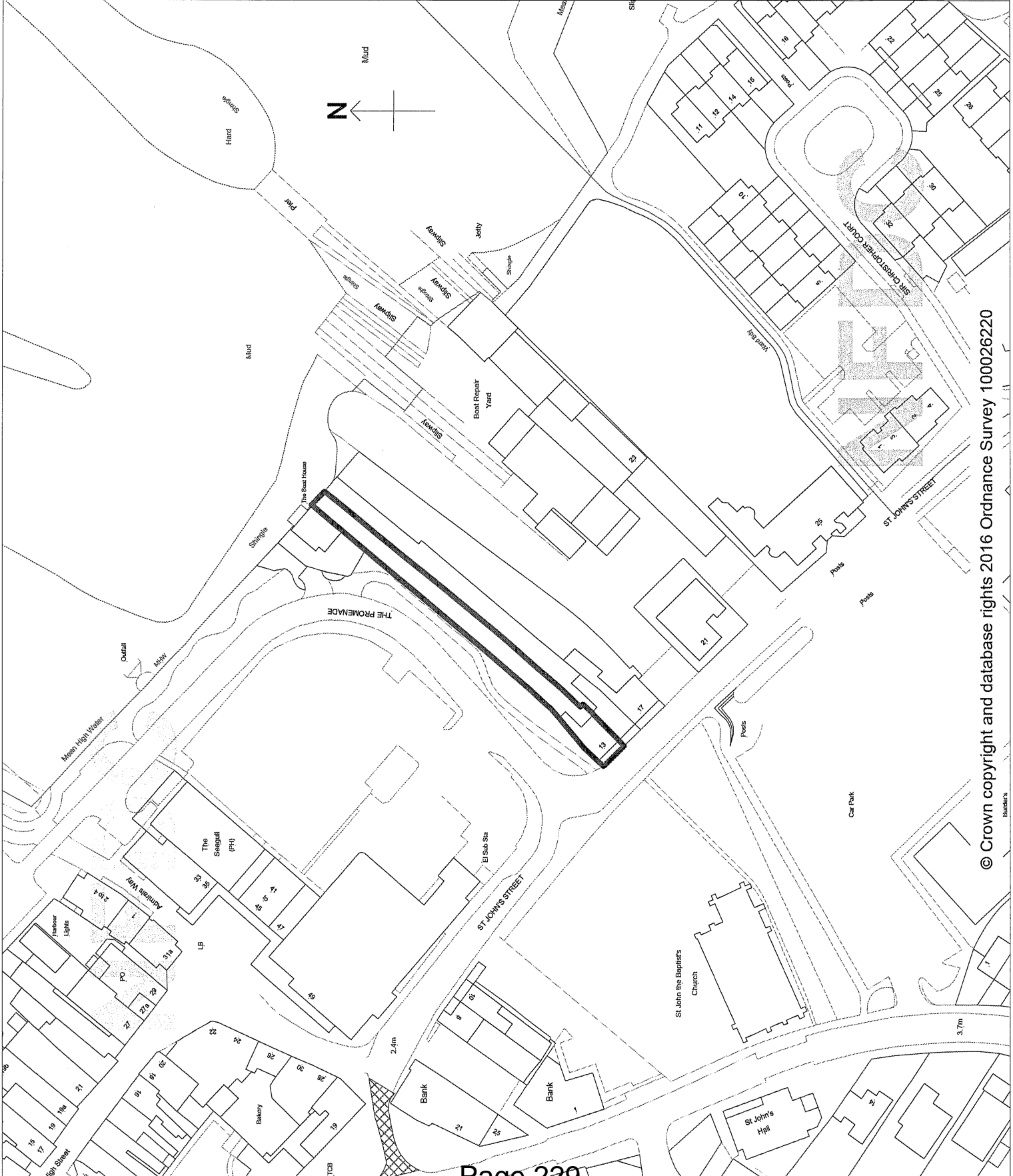
Hythe

16/10658

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Application Number: 16/10681 Full Planning Permission

Site: LAND AT FLAXFIELDS END, FORDINGBRIDGE SP6 1RT

Development: 2 pairs of link-attached houses; bike stores; associated parking

Applicant: Mr Ward

Target Date: 12/07/2016

1 REASON FOR COMMITTEE CONSIDERATION

Contrary to Policy.

2 DEVELOPMENT PLAN AND OTHER CONSTRAINTS

Built-up area
Flood Zone 2

3 DEVELOPMENT PLAN, OBJECTIVES AND POLICIES

Core Strategy

CS1: Sustainable development principles

CS2: Design quality

CS6: Flood Risk

CS10: The spatial strategy

CS15: Affordable housing contribution requirements from developments

CS25: Developers contributions

Local Plan Part 2 Sites and Development Management Development Plan Document

DM3: Mitigation of impacts on European nature conservation sites

4 RELEVANT LEGISLATION AND GOVERNMENT ADVICE

Section 38 Development Plan
Planning and Compulsory Purchase Act 2004
National Planning Policy Framework

5 RELEVANT SUPPLEMENTARY PLANNING GUIDANCE AND DOCUMENTS

SPD - Mitigation Strategy for European Sites
SPD - Parking Standards
SPD - Fordingbridge Town Design Statement

6 RELEVANT PLANNING HISTORY

- 6.1 16/10111 - Two pairs of semi-detached houses and associated parking - refused March 2016, due to concerns regarding overdevelopment, adjoining amenity, lack of affordable housing contribution and highway safety.
- 6.2 12/99301 - One pair of semi-detached houses; 1 detached house (affordable housing) (Outline Application with details only of access) - approved September 2013

7 PARISH / TOWN COUNCIL COMMENTS

Fordingbridge Town Council - recommend refusal due to concerns over loss of amenity of existing properties, parking, overdevelopment of the site and flood risk.

8 COUNCILLOR COMMENTS

None

9 CONSULTEE COMMENTS

- 9.1 Land Drainage Engineer: There has been internal flooding of property from the Ashford Water, so a flood risk assessment must be provided to show that existing properties or proposed properties or gardens will not suffer flooding as a result of the proposals or from any external source, for the expected life of the proposed construction. No objections, subject to flood risk conditions and informatives.
- 9.2 Environmental Health (Contaminated Land): No objection subject to conditions.
- 9.3 Hampshire County Council Highway Engineer: The site would be accessed through an existing parking area which would result in the loss of approximately 2 existing car parking spaces. On street parking in Flaxfields End is currently oversubscribed and therefore any parking provision for the new development should be in accordance with the 'Parking Standards Supplementary Planning Document' (SPD) adopted in October 2012, and also seek to replace those spaces lost within the existing parking area used to gain access onto the site. The SPD provides an average car parking provision of 2 spaces for each of the 2 bedroom dwellings where parking is allocated / on plot or 1.5 spaces where parking is unallocated. The proposals seek to provide 8 parking spaces, however it is not clear from the plans if any of the 8 spaces will be un-allocated and for the use of the existing dwellings on the adjacent site in Flaxfield End. The applicant should therefore provide additional details indicating which spaces if any will be allocated to each of the new dwellings and any spaces that will be unallocated and therefore available to any existing or proposed dwelling in Flaxfield End. This will enable the highway authority to fully evaluate the suitability of the proposed parking arrangements. Recommend refusal as it has not been demonstrated that the development can be accommodated in a manner that would not cause increased danger and inconvenience to highway users.
- 9.4 MoD – no comments received
- 9.5 Natural England - no objections

10 REPRESENTATIONS RECEIVED

Correspondence has been received from three separate parties objecting to the proposal on the following grounds:

- Proximity to neighbouring properties;
- Flood risk;
- Land ownership is disputed;
- Loss of off street parking spaces;
- Disturbance caused by building operations

In addition a petition of 36 signatures has been received raising similar concerns.

11 CRIME & DISORDER IMPLICATIONS

None

12 LOCAL FINANCE CONSIDERATIONS

If this development is granted permission and the dwellings built, the Council will receive £4,608 in each of the following six years from the dwellings' completion, and as a result, a total of £27,648 in government grant under the New Homes Bonus will be received.

From the 6 April 2015 New Forest District Council began charging the Community Infrastructure Levy (CIL) on new residential developments. Based on the information provided at the time of this report this development has a CIL liability of £29,351.38. Tables setting out all contributions are at the end of this report.

13 WORKING WITH THE APPLICANT/AGENT

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This is achieved by

- Strongly encouraging those proposing development to use the very thorough pre application advice service the Council provides.
- Working together with applicants/agents to ensure planning applications are registered as expeditiously as possible.
- Advising agents/applicants early on in the processing of an application (through the release of a Parish Briefing Note) as to the key issues relevant to the application.
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- Working together with applicants/agents to closely manage the planning application process to allow an opportunity to negotiate and accept amendments on applications (particularly those that best support the Core Strategy Objectives) when this can be done without compromising government performance requirements.

- Advising applicants/agents as soon as possible as to concerns that cannot be dealt with during the processing of an application allowing for a timely withdrawal and re-submission or decision based on the scheme as originally submitted if this is what the applicant/agent requires.
- When necessary discussing with applicants/agents proposed conditions especially those that would restrict the use of commercial properties or land when this can be done without compromising government performance requirements.

In this instance no pre-application advice was sought by the applicant from the Planning Authority in seeking to overcome the concerns raised in refusing the application for four dwellings in March 2016, in relation to the form of development proposed. The concerns of the Council, consultees and notified parties regarding character, amenity and highway impacts were made available online, with no response from the applicant seeking to address those concerns. In view of the limited time constraints imposed on Planning Authorities to determine applications within specified timeframes, in this instance, due to the unacceptable plans and the level of justifiable harm the scheme would cause, it is reasonable to refuse the application.

14 ASSESSMENT

- 14.1.1 The site is rectangular in shape, and has recently been cleared of trees and vegetation. It occupies some 0.064 hectares and is no longer associated with any residential property. It used to be associated with No 24 West Street, but was always physically remote from that property, being connected only by a narrow track that runs for some distance to the rear of development in Flaxfields End. The land lies at a slightly lower ground level than the neighbouring sites. Rear gardens of the neighbouring residential properties back onto the application site, although the site directly fronts onto an area of green open space and car parking courtyard. The development of Flaxfields End has, to all intents and purposes, rendered the site land-locked and it is now only readily accessible by vehicles crossing other private land, as it has no highway frontage itself. The site lies within the built up area of Fordingbridge.
- 14.1.2 The context of the area is residential, which predominantly comprises terraced two storey dwellings, although there are some residential flats in the area and semi-detached dwellings. The surrounding residential area is a planned development of closely knit dwellings positioned around short cul-de-sacs with intervening parking spaces, courtyards, gardens and landscaping. Property types are fairly uniform in their design, style and use of materials.
- 14.1.3 This planning application proposes four two-storey link-attached dwellings on the site, of similar design and appearance to those at Flaxfields End. Access into the site would be gained through an existing car parking courtyard, which would result in the loss of two car parking spaces for existing residents. The proposed layout of the site, shows that the proposed dwellings would be provided to the east and west flanks of the site, at right angles to existing dwellings to the north and south. Off street parking for eight vehicles would be provided within the site (two fewer than the previously refused scheme).

- 14.1.4 In terms of the principle of development for residential use, given that the site lies within the built up area and is situated within a predominantly residential area, there is no objection. However, the main issues to consider are whether the site can accommodate the proposed number of residential units (four) and whether it is shown to be achieved without compromising the living conditions of the adjoining neighbouring properties or highway safety.
- 14.1.5 Careful consideration needs to be given to the impact of the proposed development on the character and appearance of the area, in the context of Policy CS2 and the Fordingbridge Town Design Statement. Policy CS2 of the Core Strategy, stipulates that new development will be required to be well designed to respect the character, identity and context of the area's towns and countryside. The layout of the site would result in a considerable level of built development and hardsurfacing, indeed the level of built form is greater than that proposed by the previously refused scheme, as oversailing first floor accommodation is now proposed over the parking spaces for Plots 2 and 4. Notwithstanding the reduction in parking spaces from the previously refused scheme, the access road and dwellings would dominate the site with little space for soft landscaping or for front gardens, although small rear garden areas are provided. The frontage of the development would be dominated by parking, access and turning arrangements with little space provided for soft landscaping that would be out of character with the area and create a poor environment. The rear gardens would be extremely shallow, ranging from 5 to 7m in depth. In these respects the proposal is considered to be overdevelopment of the site, with very limited opportunities for green space (both landscaping and private amenity space), which would be harmful to the character of the area, contrary to Policy CS2 of the Core Strategy.
- 14.1.6 Policy CS2 also requires the impact of development proposals upon adjoining amenity to be considered. In terms of the physical relationship of the proposed buildings, the dwellings would be very close to the rear gardens of the surrounding neighbouring properties to the south. While situated at a lower ground level, the two storey nature of the development proposed in such close proximity to the common boundary (particularly Plot 1) is considered to be unacceptable in relation to its impact on the outlook from properties to the south. The first floor fenestration arrangements in the rear of Plot 3 would present overlooking opportunities into the rear curtilage of the dwelling to the east (within 8.5m) and is considered unacceptable in this respect. By virtue of its two storey form, siting, cramped form, orientation and fenestration arrangements, the proposal would present overlooking opportunities and have an overbearing and oppressive impact on adjoining occupiers, contrary to the amenity related provisions of Policy CS2.
- 14.1.7 With regard to highway impacts, the Highway Authority requires further information in respect of parking allocation, as the proposal would result in the loss of at least two parking spaces for existing residents of Flaxfields End. The initially approved outline application for three dwellings included spaces within the development for existing residents, but through the course of subsequent applications on this site, parking provision for existing residents has been eroded. The parking provision for the three units approved by the outline

application was 8, for the last application for 4 units it was 10 spaces and now it is proposed to provide 8 spaces. The applicant has not responded to the Highway Authority's concerns on parking allocation and it is concluded that the development cannot be accommodated in a manner that would not cause increased danger and inconvenience to highway users, due to the loss of off-street parking provision for existing residents.

- 14.1.8 The proposal will be CIL liable and the applicant will also be required to make a habitat mitigation contribution. In accordance with the Habitat Regulations 2010 an assessment has been carried out of the likely significant effects associated with the recreational impacts of the residential development provided for in the Local Plan on both the New Forest and the Solent European Nature Conservation Sites. It has been concluded that likely significant adverse effects cannot be ruled out without appropriate mitigation projects being secured. Had planning permission been granted for the proposed development, a condition would have been recommended that would prevent the development from proceeding until the applicant has secured appropriate mitigation, either by agreeing to fund the Council's Mitigation Projects or otherwise providing mitigation to an equivalent standard. The CIL contribution would be paid following determination and prior to commencement.
- 14.9 On 19th May 2016 the Government issued planning guidance setting out the specific circumstances in which contributions for affordable housing and tariff style planning obligations (section 106 agreements) should not be sought from small scale and self-build development. This guidance has been reissued following the order of the Court of Appeal dated 13th May 2016 (*West Berkshire District Council and Another v The Secretary of State for Communities and Local Government*). The planning guidance specifies the circumstances in which contributions should not be sought as follows:
- “Contributions should not be sought from developments of 10 units or less and which have a maximum combined gross floorspace of no more than 1,000 sqm; In designated rural areas, local planning authorities may choose to apply a lower threshold of 5 units or less...;”*
- 14.10 Affordable housing and tariff style contributions should not be sought from any development consisting only of the construction of a residential annex or extension to an existing house” This national guidance is at odds with Policy CS15 of the Council's Core Strategy which requires many small scale housing developments including the current application proposals to make affordable housing provision.
- 14.11 The presumption in favour of the development plan remains, in that the decision should be taken in accordance with the plan unless material considerations indicate otherwise. The new guidance is a material consideration which post-dates the adoption of the Local Plan. It is for the Council to decide which should prevail in the determination of a planning application. However, the Secretary of State, through his Inspectors, can be anticipated to give greater weight to the Government's national guidance unless there are reasons to make an exception.

- 14.12 While the need for affordable housing in this District is pressing, this in itself is unlikely to be considered by the Secretary of State as sufficient reason for the Council to apply its own development plan policy rather than applying national policy. Therefore it is recommended that no affordable housing or tariff style contributions are sought from this development, in accordance with national Planning Practice Guidance, contrary to the provisions of Policy CS15 of the Core Strategy.
- 14.13 Only a small portion of the access road is within Flood Zone 2, which the Environment Agency did not previously raise concerns over. The Land Drainage Section do not have any concerns with the proposed development subject to surface water conditions. Consequently, it is not considered that a reason for refusal can be substantiated on flood risk grounds.
- 14.14 With regard to the comments of notified parties regarding boundary disputes, this is a private legal matter for resolution between the parties involved. Disturbance caused by building operations is an inevitable consequence of any development. It is not envisaged that the proposal is likely to give rise to significant levels of disturbance and this reason cannot be used to substantiate a reason for refusal.
- 14.15 In conclusion, while the site lies within the built up area, it is considered that it cannot satisfactorily accommodate the proposed number of residential dwellings without compromising the character and appearance of the area, adjoining amenity and highway safety. Accordingly it is recommended for refusal.
- 14.16 In coming to this recommendation, consideration has been given to the rights set out in Article 8 (Right to respect for private and family life) and Article 1 of the First Protocol (Right to peaceful enjoyment of possessions) of the European Convention on Human Rights. Whilst it is recognised that this recommendation, if agreed, may interfere with the rights and freedoms of the applicant to develop the land in the way proposed, the objections to the planning application are serious ones and cannot be overcome by the imposition of conditions. The public interest can only be safeguarded by the refusal of permission.

Section 106 Contributions Summary Table

Proposal:			
Type of Contribution	NFDC Policy Requirement	Developer Proposed Provision	Difference
Habitats Mitigation			
Financial Contribution	£12,200	£12,200	0

CIL Summary Table

Description of Class	GIA New	GIA Existing	GIA Net Increase	CIL Liability
Dwelling houses	352		352	£29,351.38 *

15. RECOMMENDATION

Refuse

Reason(s) for Refusal:

1. The proposed development would be harmful to the character of the area, due to the overly large dwelling footprints, domination of the site by access, parking and turning arrangements, with no opportunity for meaningful landscaping and green space. Consequently the proposed development would be contrary to the provisions of Policy CS2 of the Core Strategy for the New Forest District outside the National Park (2009) and the Fordingbridge Town Design Statement.
2. The proposed development has a close relationship to the boundaries of existing dwellings, to the south and east and would create unacceptable impacts upon the amenity of adjoining and future occupiers, by virtue of its two storey form, siting, cramped form, orientation and fenestration arrangements, which would present overlooking opportunities and have an overbearing and oppressive impact upon adjoining occupiers, contrary to the amenity related provisions of Policy CS2 of the Core Strategy for the New Forest District outside the National Park (2009).
3. The development cannot be accommodated in a manner that would not cause increased danger and inconvenience to highway users, by virtue of the reduced off street car parking arrangements for existing residents, contrary to the provisions of Policy CS2 and CS24 of the Core Strategy for the New Forest District outside the National Park (2009).

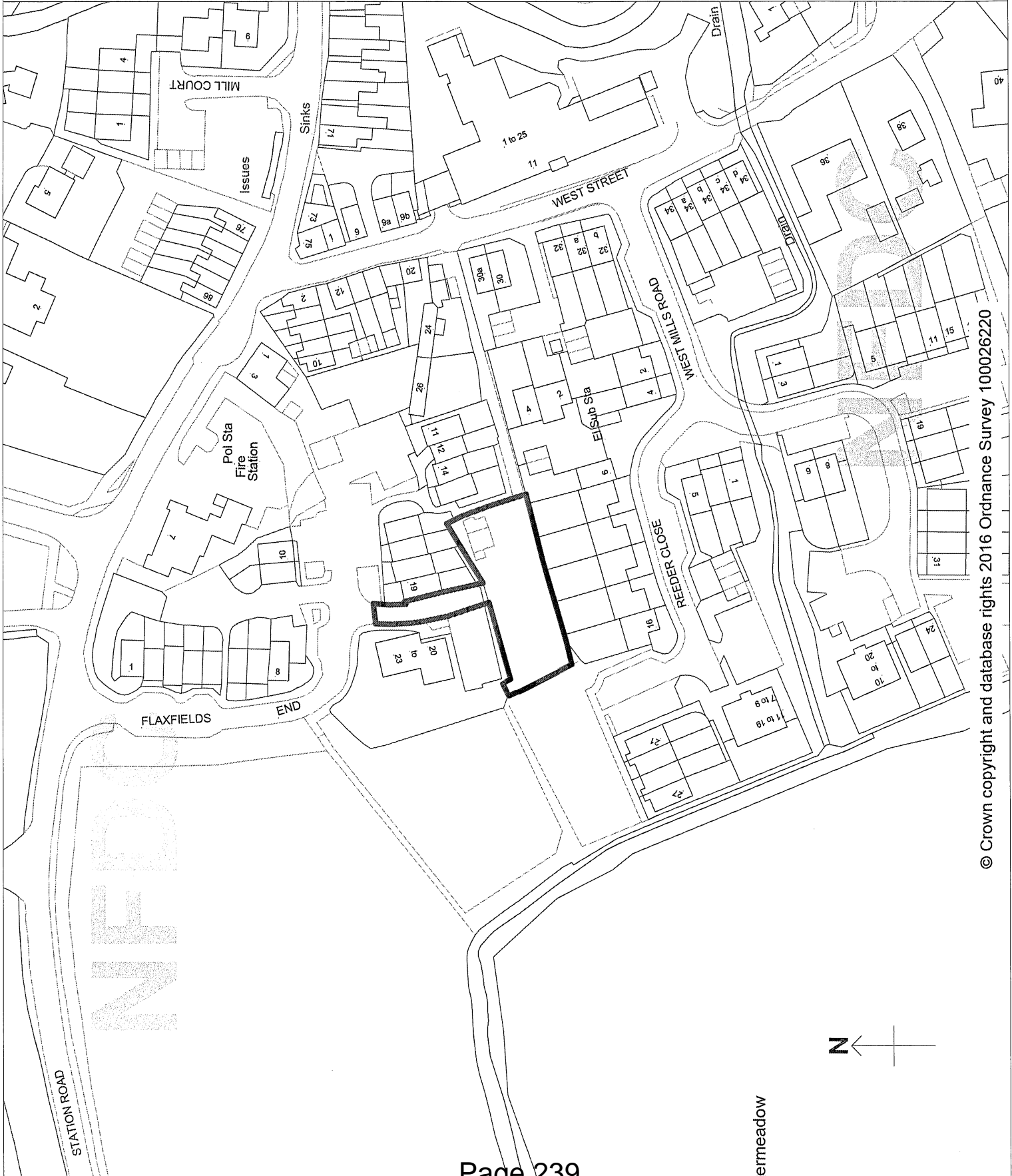
Notes for inclusion on certificate:

1. In accordance with paragraphs 186 and 187 of the National Planning Policy Framework and Article 35 of the Town and Country Planning (Development Management Procedure) (England) Order 2015, New Forest District Council takes a positive and proactive approach, seeking solutions to any problems arising in the handling of development proposals so as to achieve, whenever possible, a positive outcome by giving clear advice to applicants.

In this instance no pre-application advice was sought by the applicant from the Planning Authority in seeking to overcome the concerns raised in refusing the application for four dwellings in March 2016, in relation to the form of development proposed. The concerns of the Council, consultees and notified parties regarding character, amenity and highway impacts were made available online, with no response from the applicant seeking to address those concerns. In view of the limited time constraints imposed on Planning Authorities to determine applications within specified timeframes, in this instance, due to the unacceptable plans and the level of justifiable harm the scheme would cause, it is reasonable to refuse the application.

Further Information:

Major Team
Telephone: 023 8028 5345 (Option 1)



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Application Number: 16/10748 Full Planning Permission

Site: Land adjacent 30 BARRS WOOD ROAD,
NEW MILTON BH25 5HS

Development: Bungalow with associated parking; access; landscaping

Applicant: Antelope Homes Ltd

Target Date: 22/07/2016

Extension Date: 11/08/2016

1 REASON FOR COMMITTEE CONSIDERATION

Contrary to Town Council view

2 DEVELOPMENT PLAN, OBJECTIVES AND POLICIES

Constraints

Planning Agreement
Plan Area

Plan Policy Designations

Built-up Area

Core Strategy

CS2: Design quality
CS10: The spatial strategy
CS15: Affordable housing contribution requirements from developments
CS24: Transport considerations
CS25: Developers contributions

Local Plan Part 2 Sites and Development Management Development Plan Document

DM3: Mitigation of impacts on European nature conservation sites

Supplementary Planning Guidance And Documents

SPD - Parking Standards
SPD - Housing Design, Density and Character
SPD - Parking Standards
SPD - Mitigation Strategy for European Sites

3 RELEVANT LEGISLATION AND GOVERNMENT ADVICE

Section 38 Development Plan
Planning and Compulsory Purchase Act 2004
National Planning Policy Framework

4 RELEVANT SITE HISTORY

Proposal	Decision Date	Decision Description	Status	Appeal Description
16/10230 Bungalow; parking, access; landscaping	14/04/2016	Refused	Appeal Received	

5 COUNCILLOR COMMENTS

No Comments Received

6 PARISH / TOWN COUNCIL COMMENTS

New Milton Town Council: Object (non delegated):

- (1) Contrary to policy CS2 (Design Quality) of the NFDC Core Strategy
- (2) Contrary to the New Milton Local Distinctiveness Study pages 12, 20 and 43 regarding plot width (particularly in relation to cul-de-sac) and spatial setting.

7 CONSULTEE COMMENTS

- 7.1 **Land Drainage:** Recommend condition requiring the submission of details of the means of surface water disposal.
- 7.2 **Southern Gas Networks (previously National Grid Transco):** Advise regarding the undertaking of works in proximity to the gas network pipelines.
- 7.3 **Hampshire County Council Highway Engineer:** No objection subject to conditions requiring the layout and retention of on site parking prior to use of the development and details of cycle storage provision.

8 REPRESENTATIONS RECEIVED

- 8.1 Three letters of representation have been received from residents at No 24 and 26 Barrs Wood Road and No 15 Ferndale Road raising objections on the following grounds;
 - The development would be out of keeping with the character of development in the area, only minor changes have been made from the previous submission.
 - Loss of light and contrary to Human Rights Act in the right to peaceful enjoyment of possessions, respect for privacy and family life.
 - Could set an unwanted precedent for other similar inappropriate development.

9 CRIME & DISORDER IMPLICATIONS

None relevant

10 LOCAL FINANCE CONSIDERATIONS

From the 6 April 2015 New Forest District Council began charging the Community Infrastructure Levy (CIL) on new residential developments.

Based on the information provided at the time of this report this development has a CIL liability of £10,006.15.

Tables setting out all contributions are at the end of this report.

11 WORKING WITH THE APPLICANT/AGENT

In accordance with paragraphs 186 and 187 of the National Planning Policy Framework and Article 35 of the Town and Country Planning (Development Management Procedure) (England) Order 2015, New Forest District Council takes a positive and proactive approach, seeking solutions to any problems arising in the handling of development proposals so as to achieve, whenever possible, a positive outcome by giving clear advice to applicants.

In this case the above apply and as the application was acceptable as submitted no specific further actions were required.

12 ASSESSMENT

- 12.1 The site is located within the built up area of New Milton and comprises the side garden area of an existing bungalow. The area is characterised by C20 residential development with two storey development giving way to lower bungalow style development at this far end of Barrs Wood Road. As a result of the set back from the road frontage and relationship between properties, this affords a sense of suburban spaciousness to the appearance of the street scene at this end of the road. Generous garden areas serving the properties also contribute to the character of development in this area.
- 12.2 The application site is currently the side garden area serving No.30. The area is open with a hedgerow affording separation from the road and fencing delineating the boundaries with No.30 and adjacent neighbouring premises No.26, and those along Ferndale Road to the east.
- 12.3 This application proposes the addition of a detached three bedroom bungalow, with integral garage served from a new vehicular access. The property would be externally clad in brick and render under a tile roof. This application follows a previously refused scheme over which there were concerns regarding the impacts on visual amenity, and that a cramped relationship would exist with surrounding development. An appeal against this decision is currently being considered by the Planning Inspectorate. In respect of changes with regard to the previous scheme, these see a reduction in the width (by 0.9m) and depth (by 1.5m) and a small reduction in the maximum height. The extent of fenestration on the front and side elevations has also been reduced. Overall the footprint has been reduced by 22m².
- 12.4 It is recognised that the resulting plot size would be modest in comparison with those surrounding, along Barrs Wood Road. However it is considered to be of sufficient size to accommodate a new dwelling and would not result in such density of development that would necessarily be inappropriate in this residential area. In respect of the previous application, concerns over the cramped appearance were on the basis of the size of the dwelling in relation to its plot, and adjacent development.

- 12.5 The applicants have sought to reduce the size of the dwelling proposed in this case, with reductions in width, depth and height which overall result in a significant diminution in the size of the dwelling. Separation from the site's side boundaries and neighbouring premises is increased and additional rear garden space afforded, such that the proposed dwelling now provides a more comfortable relationship with its plot and surrounding development. The proposed bungalow style of the dwelling would be consistent with the prevailing form of development along the road and although marginally higher than an adjacent neighbouring property, there is some variety here such that it would not appear out of place. The materials would respond to the local palette, and a condition could be used to secure the use of appropriate finished samples.
- 12.6 Letters of objection has been received raising concerns over impacts on the living conditions of the residents at No 26 and 30 Barrs Wood Road, and No 11 and 15 Ferndale Road. It is recognised that there would be impacts on these residents with the introduction of a new dwelling in this currently open area. However, given the scale of the proposed dwelling, relative separation and orientation, it is considered that an acceptable relationship would be maintained in terms of light and outlook. Furthermore owing to the single storey nature of the proposed development and levels relationship with neighbouring premises, views into neighbouring sites would be limited by the presence of boundary treatments. As such this would not lead to any harm to the living conditions of these or other adjacent neighbouring occupiers through loss of privacy. A closer relationship would exist with No.30 Barrs Wood Road and direct overshadowing of its south elevation windows would see a significant loss of light to these individual windows. However these are secondary windows serving those rooms. Although the outlook to the rear of No.30 would be affected this aspect of the property already has limited outlook given its proximity to the rear boundary and the property would continue to be served by a larger side garden area.
- 12.7 The Council's adopted Parking Standards SPD recommends an average provision of 2.5 spaces for a three-bedroom dwelling where parking is on plot. The level of parking to be provided would fall below this with a total of 2 spaces being proposed. However, the Highways Officer has advised that in this instance this shortfall in off street parking provision would not result in any detrimental effect on users of the local highway network. As such the Highway Authority has raised no objection to the proposals, subject to planning conditions relating to the provision and retention of on-site parking and details of cycle storage provision. These matters can be addressed by condition.
- 12.8 On 19th May 2016 the Government issued planning guidance setting out the specific circumstances in which contributions for affordable housing and tariff style planning obligations (section 106 agreements) should not be sought from small scale and self-build development. This guidance has been reissued following the order of the Court of Appeal dated 13th May 2016 (*West Berkshire District Council and Another v The Secretary of State for Communities and Local Government*). The planning guidance specifies the circumstances in which contributions should not be sought as follows:

“Contributions should not be sought from developments of 10 units or less and which have a maximum combined gross floorspace of no more than 1,000 sqm; In designated rural areas, local planning authorities may choose to apply a lower threshold of 5 units or less...; Affordable housing and tariff style contributions should not be sought from any development consisting only of the construction of a residential annex or extension to an existing house”

This national guidance is at odds with Policy CS15 of the Council’s Core Strategy which requires many small scale housing developments including the current application proposals, to make affordable housing provision.

The presumption in favour of the development plan remains, in that the decision should be taken in accordance with the plan unless material considerations indicate otherwise. The new guidance is a material consideration which post-dates the adoption of the Local Plan. It is for the Council to decide which should prevail in the determination of a planning application. However, the Secretary of State, through his Inspectors, can be anticipated to give greater weight to the Government’s national guidance unless there are reasons to make an exception.

While the need for affordable housing in this District is pressing, this in itself is unlikely to be considered by the Secretary of State as sufficient reason for the Council to apply its own development plan policy rather than applying national policy. Therefore it is recommended that no affordable housing or tariff style contributions are sought from this development, in accordance with national Planning Practice Guidance, contrary to the provisions of Policy CS15 of the Core Strategy

- 12.9 In accordance with the Habitat Regulations 2010 an assessment has been carried out of the likely significant effects associated with the recreational impacts of the residential development provided for in the Local Plan on both the New Forest and the Solent European Nature Conservation Sites. It has been concluded that likely significant adverse effects cannot be ruled out without appropriate mitigation projects being secured. In the event that planning permission is granted for the proposed development, a condition is recommended that would prevent the development from proceeding until the applicant has secured appropriate mitigation, either by agreeing to fund the Council's Mitigation Projects or otherwise providing mitigation to an equivalent standard. In this case, the full mitigation contribution that would be required would be £4,250 which could potentially be met in part through CIL payments.
- 12.10 In conclusion this proposal, subject to conditions, is considered to be acceptable in its impacts on visual amenity, the living conditions of neighbouring occupiers, highway safety and would contribute to the mitigation of the impacts of new development on nature conservation sites. This accords with the Local Plan Policies and objectives and on this basis approval is recommended.
- 12.11 In coming to this recommendation, consideration has been given to the rights set out in Article 8 (Right to respect for private and family life) and Article 1 of the First Protocol (Right to peaceful enjoyment of possessions) of the European Convention on Human Rights. Whilst it is

recognised that there may be an interference with these rights and the rights of other third parties, such interference has to be balanced with the like rights of the applicant to develop the land in the way proposed. In this case it is considered that the protection of the rights and freedoms of the applicant outweigh any possible interference that may result to any third party

Section 106 Contributions Summary Table

Proposal:			
Type of Contribution	NFDC Policy Requirement	Developer Proposed Provision	Difference
Affordable Housing			
No. of Affordable dwellings	0	0	0
Financial Contribution			
Habitats Mitigation	£4250	£4250	0
Financial Contribution			

Type	Proposed Floorspace (sq/m)	Existing Floorspace (sq/m)	Net Floorspace (sq/m)	Chargable Floorspace (sq/m)	Rate	Total
Dwelling-houses	120	0	120	120	£80/sqm	£10,006.15 *

Subtotal: £10,006.15
 Relief: £0.00
 Total Payable: £10,006.15

* The formula used to calculate the amount of CIL payable allows for changes in building costs over time and is Index Linked using the All-in Tender Index Price published by the Build Cost Information Service (BICS) and is:

Net additional new build floor space (A) x CIL Rate (R) x Inflation Index (I)

13. RECOMMENDATION

Grant Subject to Conditions

Proposed 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. The development permitted shall be carried out in accordance with the following approved plans: 5334-PL-001 A; 5334-PL-002 B; 533-PL-200 A; 5334-PL-201 A; 5334-PL-202 A; 5334.PL.300 A.

Reason: To ensure satisfactory provision of the development.

3. Before development commences, samples or exact details of the facing and roofing materials to be used shall be submitted to and approved in writing by the Local Planning Authority. The development shall only be implemented in accordance with the approved details.

Reason: To ensure an acceptable appearance of the building in accordance with policy CS2 of the Core Strategy for the New Forest District outside the National Park.

4. Before the commencement of development, cycle parking details shall be submitted to and approved in writing by the Local Planning Authority. These approved cycle parking details shall be provided before the development is first occupied, and shall be retained thereafter.

Reason: To promote sustainable travel and to comply with Policies CS2 and CS24 of the Core Strategy for New Forest District outside of the National Park.

5. The development hereby permitted shall not be first occupied until the arrangements for the parking of vehicles on site, including the driveway and integral garage, have been provided. Once provided, these vehicles parking arrangements shall be retained for these purposes thereafter.

Reason: To ensure adequate parking provision is made in the interest of highway safety and in accordance with Policy CS2 and CS24 of the Local Plan for the New Forest outside of the National Park (Core Strategy).

6. Before development commences, details of the means of disposal of surface water from the site shall be submitted to and approved in writing by the Local Planning 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 CS6 of the Local Plan for the New Forest District outside the National Park (Core Strategy) and the New Forest District Council and New Forest National Park Authority Strategic Flood Risk Assessment for Local Development Frameworks.

7. No development shall be carried out until proposals for the mitigation of the impact of the development on the New Forest and Solent Coast European Nature Conservation Sites have been submitted to and approved in writing by the local planning authority, and the local planning authority has confirmed in writing that the provision of the proposed mitigation has been secured. Such proposals must:
 - (a) Provide for mitigation in accordance with the New Forest District Council Mitigation Strategy for European Sites SPD, adopted in June 2014 (or any amendment to or replacement for this document in force at the time), or for mitigation to at least an equivalent effect;
 - (b) Provide details of the manner in which the proposed mitigation is to be secured. Details to be submitted shall include arrangements for the ongoing maintenance and monitoring of any Suitable Alternative Natural Green Spaces which form part of the proposed mitigation measures together with arrangements for permanent public access thereto.
 - (c) The development shall be carried out in accordance with and subject to the approved proposals.

Reason: The impacts of the proposed development must be mitigated before any development is carried out in order to ensure that there will be no adverse impacts on the New Forest and Solent Coast Nature Conservation Sites in accordance with Policy DM3 of the Local Plan Part 2 and the New Forest District Council Mitigation Strategy for European Sites Supplementary Planning Document.

Notes for inclusion on certificate:

1. In accordance with paragraphs 186 and 187 of the National Planning Policy Framework and Article 35 of the Town and Country Planning (Development Management Procedure) (England) Order 2015, New Forest District Council takes a positive and proactive approach, seeking solutions to any problems arising in the handling of development proposals so as to achieve, whenever possible, a positive outcome by giving clear advice to applicants.

In this case the above apply and as the application was acceptable as submitted no specific further actions were required.

2. In discharging condition No.8 above the Applicant is advised that appropriate mitigation is required before the development is commenced, either by agreeing to fund the Council's Mitigation Projects or otherwise providing mitigation to an equivalent standard. Further information about how this can be achieved can be found here <http://www.newforest.gov.uk/article/16478/>

Further Information:

Householder Team
Telephone: 023 8028 5345 (Option 1)



New Forest
DISTRICT COUNCIL

Tel: 023 8028 5000
www.newforest.gov.uk

David Groom
Service Manager
Planning and Building Control
New Forest District Council
Appletree Court
Lynchhurst
SO43 7PA

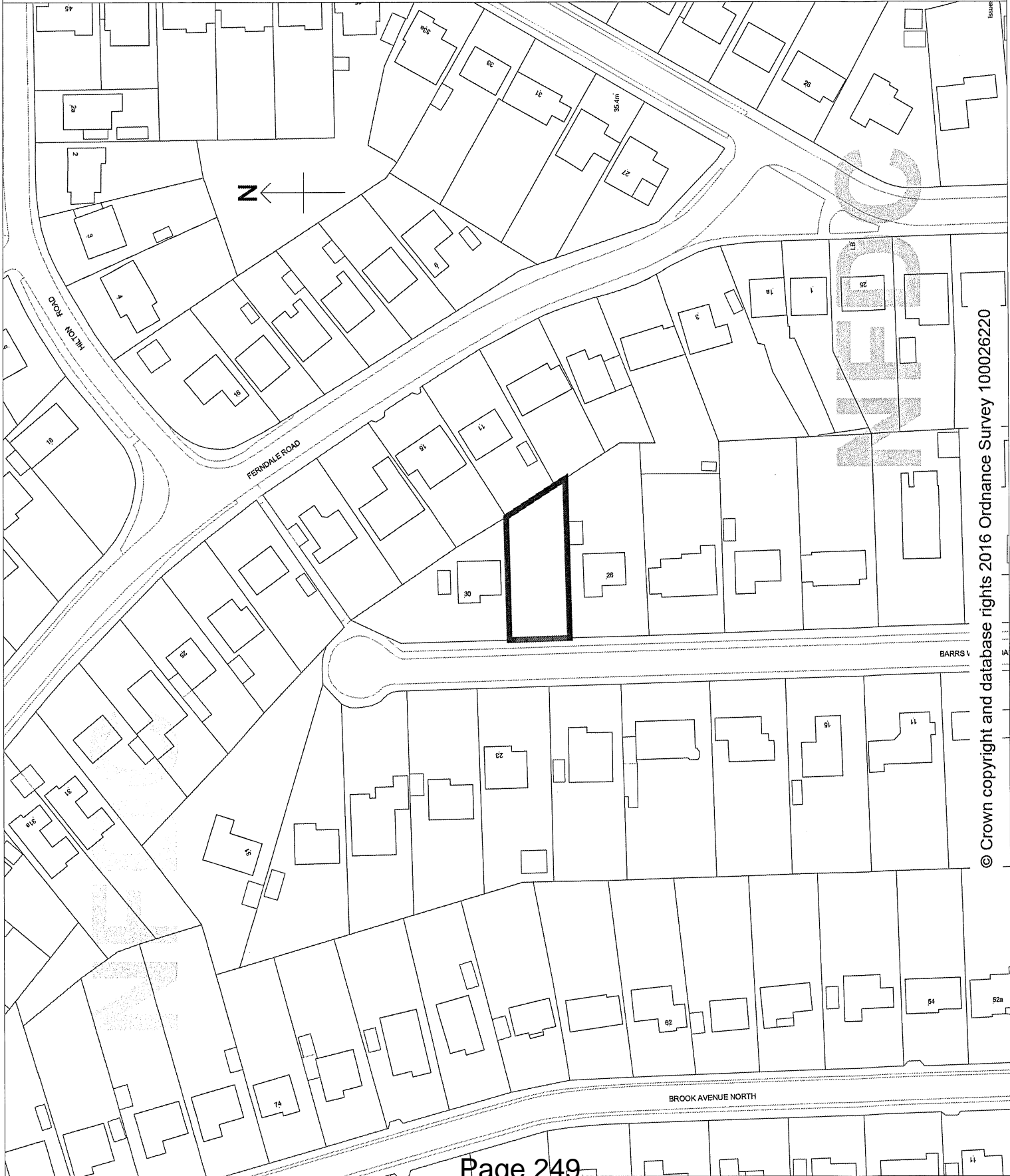
**Planning Development
Control Committee
August 2016**

Item No: 3v

Land adj
30 Barrs Woods Road
New Milton
16/10748
SZ2495

Scale 1:1250

N.B. If printing this plan from
the internet, it will not be to
scale.



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Application Number: 16/10753 Full Planning Permission

Site: 1 KNOWLAND DRIVE, MILFORD-ON-SEA SO41 0RH

Development: 2 detached houses; demolition of existing

Applicant: Mr & Mrs Wills

Target Date: 02/08/2016

Extension Date: 12/08/2016

1 REASON FOR COMMITTEE CONSIDERATION

Contrary to Policy

2 DEVELOPMENT PLAN AND OTHER CONSTRAINTS

Built-up area

3 DEVELOPMENT PLAN, OBJECTIVES AND POLICIES

Core Strategy

Objectives

1. Special qualities, local distinctiveness and a high quality living environment
3. Housing
6. Towns, villages and built environment quality

Policies

- CS2: Design quality
- CS15: Affordable housing contribution requirements from developments
- CS24: Transport considerations
- CS25: Developers contributions

Local Plan Part 2 Sites and Development Management Development Plan Document

DM3: Mitigation of impacts on European nature conservation sites

4 RELEVANT LEGISLATION AND GOVERNMENT ADVICE

Section 38 Development Plan
Planning and Compulsory Purchase Act 2004
National Planning Policy Framework

5 RELEVANT SUPPLEMENTARY PLANNING GUIDANCE AND DOCUMENTS

SPD - Housing Design, Density and Character
SPD - Mitigation Strategy for European Sites
SPD - Parking Standards

6 RELEVANT PLANNING HISTORY

- 6.1 House (demolition of existing); outbuilding (14/10721) - refused 30/7/14
- 6.2 2 detached houses (demolition of existing) (15/10664) - refused 14/7/15 - appeal dismissed 26/1/16

7 PARISH / TOWN COUNCIL COMMENTS

Milford-on-Sea Parish Council:- recommend refusal but would accept a delegated decision - concerned about the bulk and mass of the proposed houses. The scale is too large, particularly the horizontal line of the first floor, and will impact negatively on the streetscene.

8 COUNCILLOR COMMENTS

None

9 CONSULTEE COMMENTS

- 9.1 Hampshire County Council Highway Engineer:- No objection subject to conditions on parking
- 9.2 Land Drainage:- No objection subject to conditions
- 9.3 Southern Gas:- Advise of site's proximity to gas main

10 REPRESENTATIONS RECEIVED

- 10.1 2 letters of objection from local residents:- overdevelopment of plot; adverse impact on character and appearance of area; unsympathetic design that does not address findings in recent appeal decision
- 10.2 15 letters of support from residents (mainly) of Milford:- Feel the existing property is rundown and unattractive and feel the proposal would improve the character of the area, providing much needed family housing.

11 CRIME & DISORDER IMPLICATIONS

No relevant considerations

12 LOCAL FINANCE CONSIDERATIONS

If this development is granted permission and the dwellings built, the Council will receive £1152 in each of the following six years from the dwellings' completion, and as a result, a total of £6912 in government grant under the New Homes Bonus will be received.

From the 6 April 2015 New Forest District Council began charging the Community Infrastructure Levy (CIL) on new residential developments.

Based on the information provided at the time of this report this development has a CIL liability of £16,977.11.

Tables setting out all contributions are at the end of this report.

13 WORKING WITH THE APPLICANT/AGENT

In accordance with paragraphs 186 and 187 of the National Planning Policy Framework and Article 35 of the Town and Country Planning (Development Management Procedure) (England) Order 2015, New Forest District Council take a positive and proactive approach, seeking solutions to any problems arising in the handling of development proposals so as to achieve, whenever possible, a positive outcome.

This is achieved by

- Strongly encouraging those proposing development to use the very thorough pre application advice service the Council provides.
- Working together with applicants/agents to ensure planning applications are registered as expeditiously as possible.
- Advising agents/applicants early on in the processing of an application (through the release of a Parish Briefing Note) as to the key issues relevant to the application.
- Updating applicants/agents of issues that arise in the processing of their applications through the availability of comments received on the web or by direct contact when relevant.
- Working together with applicants/agents to closely manage the planning application process to allow an opportunity to negotiate and accept amendments on applications (particularly those that best support the Core Strategy Objectives) when this can be done without compromising government performance requirements.
- Advising applicants/agents as soon as possible as to concerns that cannot be dealt with during the processing of an application allowing for a timely withdrawal and re-submission or decision based on the scheme as originally submitted if this is what the applicant/agent requires.
- When necessary discussing with applicants/agents proposed conditions especially those that would restrict the use of commercial properties or land when this can be done without compromising government performance requirements.

In this case, despite the refusal of a previous application and the dismissal of a subsequent appeal, no pre-application advice was sought from the Local Planning Authority, and given the concerns that have been identified (as set out in the assessment report below) it is not felt possible to recommend this application for permission.

14 ASSESSMENT

- 14.1 The application site is a detached chalet bungalow that is set within a generous sized garden plot. Along the site's front boundary is a low wall with a hedge behind. The wider area is characterised by detached buildings set within generous sized garden plots. Most nearby properties are either single-storey bungalows or chalet bungalows, although there are some taller 2-storey dwellings within the adjacent cul-de-sac section of Knowland Drive. Dwellings in the local area are mainly constructed of brick and tile. The area has an attractively spacious character.
- 14.2 An application for a single replacement dwelling was refused at this site in 2014 on account of the dwelling's excessive scale and massing and its inappropriate design. More recently, an application to demolish the existing dwelling and replace it with 2 detached houses was refused by the Local Planning Authority due to the development's adverse impact

on the character and appearance of the area. A subsequent appeal was dismissed. The appeal inspector felt the proposed dwellings would be "starkly different in appearance to the uniform pattern of bungalows / chalet bungalows, with their simple, low roof profiles that make up the main run through Knowland Drive". He felt that the roof profiles of the proposed dwellings would have a bulky and dominating appearance, and he concluded that the dwellings would be "overtly and incongruously two-storey in scale and thereby not in keeping with the area". The inspector also felt that the proposed hard-standings and wide access points would augment the incongruous appearance of the development. He concluded that the development would be materially harmful to the character and appearance of the local area.

- 14.3 Like the application dismissed on appeal earlier this year, this application seeks to demolish the existing property and replace it with 2 detached houses. The houses would be 2 storeys high, albeit that the first floor accommodation would be set partly into the roof of the proposed dwellings. The application proposes a new access onto Knowland Drive and new areas of hardstanding.
- 14.4 The dwellings now proposed are lower than those which were dismissed on appeal earlier this year, but not significantly so. The dwellings proposed previously were 7.2 metres in height, whereas those now proposed would be 6.8 metre high, which would still be materially higher than the 5 metre ridge heights that the previous appeal inspector identified as being typical of the local streetscene. The dwellings now proposed would have a more obvious subordinate element than the previously refused dwellings, but even these subordinate elements would be quite tall when viewed from the road (6.5 metres high), with the dormer windows to the front serving to emphasise the dwelling's rather incongruous 2-storey scale. It is felt that the changes to the design of the 2 dwellings has not gone far enough to secure a development that would be contextually appropriate. The dwellings would still be of an excessive scale in this location, the partly elevated eaves being uncharacteristic and the large and relatively deep roofs appearing too dominant in the streetscene.
- 14.5 The application plans show the profile of an unbuilt building at 3 Knowland Drive granted planning permission in 2009. This permission (granted under a different policy context) was never implemented and has lapsed. It can carry no weight in determining what would now be acceptable on the application site. As a lapsed permission, it should not be shown on the plans.
- 14.6 The access points would be narrower than before resulting in less hardstanding to the fronts of the dwellings than was the case with the previous proposal. On balance, with appropriate landscaping, the access and parking arrangements would now be visually acceptable.
- 14.7 Many of the local people who have written in support of the application have suggested that the existing dwelling detracts from the character of the area. This is not accepted. While the dwelling, like many dwellings of its age, may need some maintenance work, it is typical of this part of Knowland Drive. The character and condition of the existing dwelling in no way justifies development of the scale and design proposed.

- 14.8 The dwellings proposed would not have any first floor side windows facing neighbouring dwellings, while first floor rear windows would be set an acceptable distance away from the neighbouring properties to the rear. As such, the development would not have any material impact on the privacy of neighbouring dwellings. The development would have limited impact on the light and outlook of neighbouring dwellings. Overall, it is considered that the development would not be harmful to the amenities of neighbouring dwellings.
- 14.9 The Highway Authority have confirmed that the proposed access and parking arrangements would be acceptable from a highway safety perspective.
- 14.10 On 19th May 2016 the Government issued planning guidance setting out the specific circumstances in which contributions for affordable housing and tariff style planning obligations (section 106 agreements) should not be sought from small scale and self-build development. This guidance has been reissued following the order of the Court of Appeal dated 13th May 2016 (*West Berkshire District Council and Another v The Secretary of State for Communities and Local Government*). The planning guidance specifies the circumstances in which contributions should not be sought as follows:
- “Contributions should not be sought from developments of 10 units or less and which have a maximum combined gross floorspace of no more than 1,000 sqm;*
- In designated rural areas, local planning authorities may choose to apply a lower threshold of 5 units or less...;*
- Affordable housing and tariff style contributions should not be sought from any development consisting only of the construction of a residential annex or extension to an existing house”*
- This national guidance is at odds with Policy CS15 of the Council’s Core Strategy which requires many small scale housing developments including the current application proposals to make affordable housing provision.
- 14.11 The presumption in favour of the development plan remains, in that the decision should be taken in accordance with the plan unless material considerations indicate otherwise. The new guidance is a material consideration which post-dates the adoption of the Local Plan. It is for the Council to decide which should prevail in the determination of a planning application. However, the Secretary of State, through his Inspectors, can be anticipated to give greater weight to the Government’s national guidance unless there are reasons to make an exception.
- 14.12 While the need for affordable housing in this District is pressing, this in itself is unlikely to be considered by the Secretary of State as sufficient reason for the Council to apply its own development plan policy rather than applying national policy. Therefore, it is recommended that no affordable housing or tariff style contributions are sought from this development, in accordance with national Planning Practice Guidance, contrary to the provisions of Policy CS15 of the Core Strategy.

- 14.13 In accordance with the Habitat Regulations 2010 an assessment has been carried out of the likely significant effects associated with the recreational impacts of the residential development provided for in the Local Plan on both the New Forest and the Solent European Nature Conservation Sites. It has been concluded that likely significant adverse effects cannot be ruled out without appropriate mitigation projects being secured. In the event that planning permission were to be granted for the proposed development, a condition would be required that would prevent the development from proceeding until the applicant has secured appropriate mitigation, either by agreeing to fund the Council's Mitigation Projects or otherwise providing mitigation to an equivalent standard.
- 14.14 Overall, the proposed development is considered to be inconsistent with Local Plan policies and objectives. It is not considered the development has satisfactorily addressed the key objections to the previously refused scheme. The dwellings would not be of a contextually appropriate design. They would not be a positive response to local distinctiveness, and would detract from the character and appearance of the area. As such, the application is recommended for refusal.
- 14.15 In coming to this recommendation, consideration has been given to the rights set out in Article 8 (Right to respect for private and family life) and Article 1 of the First Protocol (Right to peaceful enjoyment of possessions) of the European Convention on Human Rights. Whilst it is recognised that this recommendation, if agreed, may interfere with the rights and freedoms of the applicant to develop the land in the way proposed, the objections to the planning application are serious ones and cannot be overcome by the imposition of conditions. The public interest and the rights and freedoms of neighbouring property owners can only be safeguarded by the refusal of permission.

Section 106 Contributions Summary Table

Proposal:			
Type of Contribution	NFDC Policy Requirement	Developer Proposed Provision	Difference
Affordable Housing			
No. of Affordable dwellings			
Financial Contribution			
Habitats Mitigation			
Financial Contribution			

Type	Proposed Floorspace (sq/m)	Existing Floorspace (sq/m)	Net Floorspace (sq/m)	Chargeable Rate Floorspace (sq/m)	Total
Dwelling houses	402.6	199	203.6	£80/sqm	£16,977.11 *
Subtotal:	£16,977.11				
Relief:	£0.00				
Total Payable:	£16,977.11				

**The formula used to calculate the amount of CIL payable allows for changes in building costs over time and is Index Linked using the All-in Tender Index Price published by the Build Cost Information Service (BICS) and is:*

Net additional new build floor space (A) x CIL Rate (R) x Inflation Index (I)

15. RECOMMENDATION

Refuse

Reason(s) for Refusal:

1. As a result of their excessive scale and height and their rather bulky roof forms, the proposed dwellings would be unsympathetic and inappropriate to their context, appearing unduly dominant and intrusive in the streetscene, and materially out of keeping with the more low-key scale and relatively harmonious character of other adjacent development, to the detriment of local distinctiveness and the character and appearance of the area. As such, the proposal would be a poor design that would be contrary to Policy CS2 of the Core Strategy for New Forest District outside of the National Park.

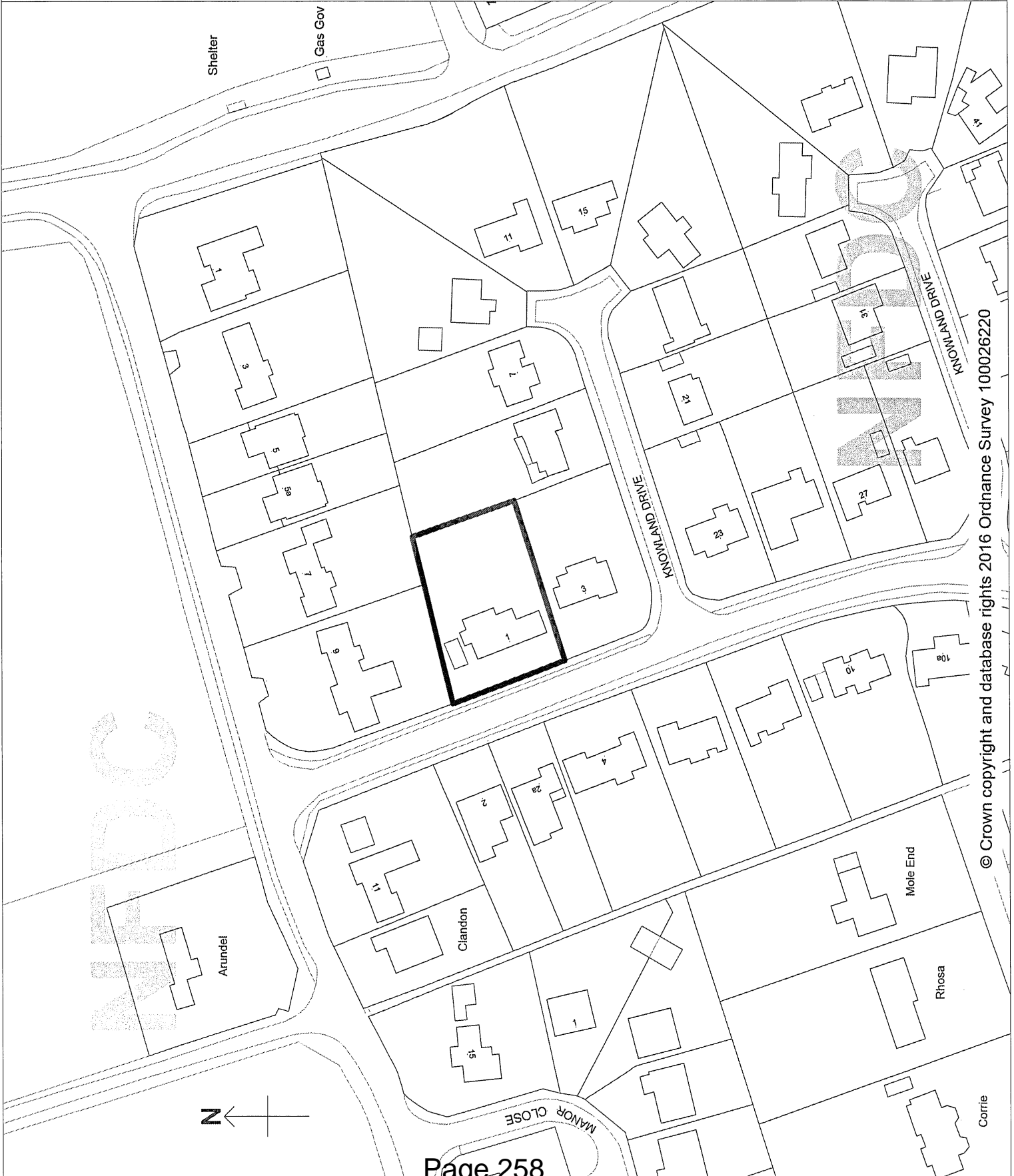
Notes for inclusion on certificate:

1. In accordance with paragraphs 186 and 187 of the National Planning Policy Framework and Article 35 of the Town and Country Planning (Development Management Procedure) (England) Order 2015, New Forest District Council takes a positive and proactive approach, seeking solutions to any problems arising in the handling of development proposals so as to achieve, whenever possible, a positive outcome by giving clear advice to applicants.

In this case despite the refusal of a previous application and the dismissal of a subsequent appeal, no pre-application advice was sought from the Local Planning Authority, and given the concerns that have been identified it was not felt possible to recommend this application for permission.

Further Information:

Major Team
Telephone: 023 8028 5345 (Option 1)



Application Number: 16/10758 Full Planning Permission

Site: 45 BARTON COURT AVENUE, BARTON-ON-SEA,
NEW MILTON BH25 7ET

Development: 2 two-storey detached houses; detached garage; access; parking;
fencing; landscaping; demolition of existing

Applicant: Bisterne Developments Limited

Target Date: 02/08/2016

1 REASON FOR COMMITTEE CONSIDERATION

Contrary to Town Council View

2 DEVELOPMENT PLAN AND OTHER CONSTRAINTS

Built up area

3 DEVELOPMENT PLAN, OBJECTIVES AND POLICIES

Core Strategy

Objectives

1. Special qualities, local distinctiveness and a high quality living environment
3. Housing
6. Towns, villages and built environment quality

Policies

- CS2: Design quality
- CS4: Energy and resource use
- CS7: Open spaces, sport and recreation
- CS10: The spatial strategy
- CS24: Transport considerations
- CS25: Developers contributions

Local Plan Part 2 Sites and Development Management Development Plan Document

- DM2: Nature conservation, biodiversity and geodiversity
- DM3: Mitigation of impacts on European nature conservation sites

4 RELEVANT LEGISLATION AND GOVERNMENT ADVICE

- Section 38 Development Plan
- Planning and Compulsory Purchase Act 2004
- National Planning Policy Framework

5 RELEVANT SUPPLEMENTARY PLANNING GUIDANCE AND DOCUMENTS

SPD - Mitigation Strategy for European Sites
SPD - New Milton Local Distinctiveness
SPD - Parking Standards
SPD - Housing Design, Density and Character

6 RELEVANT PLANNING HISTORY

- 6.1 2 detached houses, detached garage, boundary wall (11567) Refused on the 18th December 2015
- 6.2 1 block of 4 flats, 1.8 metre high boundary wall (10713) Refused on the 8th July 2015. Appeal dismissed
- 6.3 One terrace of 3 houses (10047) Refused on the 11th March 2015
- 6.4 Bungalow - demolition of existing (11244) Granted with conditions on the 29th November 2013

7 PARISH / TOWN COUNCIL COMMENTS

New Milton Town Council: object for the following reasons:

- (1) Lack of parking
- (2) Overdevelopment, due to its two storey nature
- (3) Out of character
- (4) Contrary to NFDC Core Strategy policy CS2 (Design Quality) due to its continued use of a flat roof.

8 COUNCILLOR COMMENTS

None

9 CONSULTEE COMMENTS

- 9.1 Hampshire County Council Highway Engineer: no highway objections
- 9.2 Land Drainage: No objection subject to condition

10 REPRESENTATIONS RECEIVED

7 letters of objection concerned that the proposal would be out of character with the area, and an inappropriate form of development. The proposal is an overdevelopment of the site and the plot size is insufficient. The proposal would create a poor living environment for future residents. The proposal would impact on public highway safety, there are inadequate parking spaces and turning facilities within the site. The proposal would result in unacceptable overlooking. Concerns over drainage. Lack of visibility onto Dilly Lane. There is no pavement along Dilly Lane. Incorrect details in relation to CIL. It is more appropriate to construct a bungalow. Height of boundary fence is unacceptable.

11 CRIME & DISORDER IMPLICATIONS

No relevant considerations

12 LOCAL FINANCE CONSIDERATIONS

If this development is granted permission and the dwellings built, the Council will receive £1152 in each of the following six years from the dwellings' completion, and as a result, a total of £6912 in government grant under the New Homes Bonus will be received.

From the 6 April 2015 New Forest District Council began charging the Community Infrastructure Levy (CIL) on new residential developments.

Based on the information provided at the time of this report this development has a CIL liability of £3,585.54.

Tables setting out all contributions are at the end of this report.

13 WORKING WITH THE APPLICANT/AGENT

In accordance with paragraphs 186 and 187 of the National Planning Policy Framework and Article 35 of the Town and Country Planning (Development Management Procedure) (England) Order 2015, New Forest District Council take a positive and proactive approach, seeking solutions to any problems arising in the handling of development proposals so as to achieve, whenever possible, a positive outcome.

This is achieved by

- Strongly encouraging those proposing development to use the very thorough pre application advice service the Council provides.
- Working together with applicants/agents to ensure planning applications are registered as expeditiously as possible.
- Advising agents/applicants early on in the processing of an application (through the release of a Parish Briefing Note) as to the key issues relevant to the application.
- Updating applicants/agents of issues that arise in the processing of their applications through the availability of comments received on the web or by direct contact when relevant.
- Working together with applicants/agents to closely manage the planning application process to allow an opportunity to negotiate and accept amendments on applications (particularly those that best support the Core Strategy Objectives) when this can be done without compromising government performance requirements.
- Advising applicants/agents as soon as possible as to concerns that cannot be dealt with during the processing of an application allowing for a timely withdrawal and re-submission or decision based on the scheme as originally submitted if this is what the applicant/agent requires.
- When necessary discussing with applicants/agents proposed conditions especially those that would restrict the use of commercial properties or land when this can be done without compromising government performance requirements.

In this case all the above apply and as the application was acceptable as submitted no specific further actions were required.

14 ASSESSMENT

- 14.1 The site contains a low profile detached bungalow located at the junction of Barton Court Avenue with Dilly Lane. The site is irregular in shape with a wide frontage, but due to the positioning of Dilly Lane the depth of the site reduces considerably. The existing bungalow is of no architectural merit and fronts onto Barton Court Avenue and has a front, side and rear garden area. There is a relatively high timber fence enclosing the front of the site along Barton Court Avenue but there is vegetation and a hedgerow adjacent to Dilly Lane. Access and car parking is gained from Barton Court Avenue.
- 14.2 Barton Court Avenue is a long tree-lined suburban road which connects New Miltons main shopping street with the sea front. In the vicinity of the site in particular, the dwellings are mostly two storey detached buildings of a similar size and age, dating from the early to mid 20th Century. The dwellings vary in design but many exhibit common features in terms of elevational treatment, roof form and materials. The dwellings are set in ample plots of similar size with reasonably regular spacing between the them .On the whole the dwellings are set back a similar distance from the street, their generous landscape planted gardens often fronted by low walls backed by hedging. Although some modern infill development has taken place further along the road, these attributes all contribute to the environs of the site exhibiting a pleasant and coherent suburban, sylvan character.
- 14.3 There is a significant planning history on the site. Planning permission has been granted for a replacement dwelling, which has not been implemented. Separate proposals for a block of three houses, a block of four flats and two detached dwellings have all been refused on this site, and the block of four flats was subsequently dismissed on appeal. The main issues raised in the refused applications were on the grounds of the impact on the character and appearance of the area, and the lack of suitable living conditions provided for future occupiers, having regard to the garden spaces provided.
- 14.4 This current application proposes to demolish the existing dwelling and to construct two detached houses and a single detached garage. Both proposed dwellings would front onto Barton Court Avenue with rear garden areas backing onto Dilly Lane. A single detached garage would be sited adjacent to Dilly Lane. Access and car parking would be from Barton Court Avenue. Visually the proposed dwellings would rise to two storeys, but most of the first floor accommodation would be provided within the roof space. Both the dwellings are designed with different roof forms, materials and footprints, but they would be sited within the existing building line along Barton Court Avenue. In comparison to the 2 additional dwellings refused under 11567, this current proposal has significantly reduced the footprint and scale of the building. Plot 1 has been reduced in size adjacent to Dilly Lane and the attached garage has been omitted and the detached garage has been amended from a double to a single size.
- 14.5 In assessing the effect on the character and appearance of the area, it is considered that the proposed development would respect the spatial character of the area. The proposed dwellings would be set back from both Barton Court Avenue (around 12 metres distance from the road to the front of the dwellings) and Dilly Lane (around 8 metres from the side

elevation of plot one to the road) with a reasonable amount of space around the buildings. Indeed, a generous gap to the north side of the plot would be created that would also enable the existing vegetation along Dilly Lane to be retained. The proposed footprints of the dwellings would be comparable with the majority of properties in the locality and it is also considered that reasonably sized front and rear garden areas (both dwellings achieve a minimum rear garden depth of 10 metres) would be provided.

- 14.6 Rising to around 7.7 metres in height, the proposed dwellings would be no taller than the neighbouring buildings in Barton Court Avenue. Indeed, the majority of the dwellings along the street are full two storey dwellings and, the proposed dwellings would reflect this scale. Although the dwellings design and roof form is varied, this would be appropriate in this location which consist of a mixture of property types and styles. Plot one has been designed with a single storey side element adjacent to Dilly Lane to reduce the extent of built form when viewing the site from the north. In terms of the flat roof to be created on plot two, this is unfortunate. However, the flat roof would partly be disguised by the pitched roof of the proposed house and the actual extent of the flat roof is relatively small. Overall it is considered that the proposed development would not harm the spatial characteristics of the area or the character of the area.
- 14.7 With regard to residential amenity, the proposed development would have an acceptable relationship to the neighbouring properties. Proposed plot one would be sited a sufficient distance away from the neighbouring properties. While proposed plot two would be sited adjacent to No 47, the first floor window on the side elevation would serve a bathroom and this window can be fitted with obscure glass to maintain a reasonable level of privacy. The physical relationship of the building is acceptable with respect to No 47.
- 14.8 The proposed layout of the site shows adequate car parking and turning within the site, which accords with the recommended guidance set out in the Councils adopted Supplementary Planning Document. The proposed three bedroom dwellings would have two car parking spaces and a detached garage for plot 2 which would be acceptable. The Highway Authority does not raise any objections and considers that the proposal would not prejudice public highway safety.
- 14.9 In accordance with the Habitat Regulations 2010 an assessment has been carried out of the likely significant effects associated with the recreational impacts of the residential development provided for in the Local Plan on both the New Forest and the Solvent European Nature Conservation Sites. It has been concluded that likely significant adverse effects cannot be ruled out without appropriate mitigation projects being secured. In the event that planning permission is granted for the proposed development, a condition is recommended that would prevent the development from proceeding until the applicant has secured appropriate mitigation, either by agreeing to fund the Council's Mitigation Projects or otherwise providing mitigation to an equivalent standard.
- 14.10 In conclusion it is considered that the site can acceptably accommodate two dwellings in the layout proposed without appearing cramped or overdeveloped. Although the buildings rise to two storeys, the scale of the buildings would be lower than the neighbouring properties and the design and use of materials of the buildings would be of a good standard which would be in keeping with the street scene.

14.11 In coming to this recommendation, consideration has been given to the rights set out in Article 8 (Right to respect for private and family life) and Article 1 of the First Protocol (Right to peaceful enjoyment of possessions) of the European Convention on Human Rights. Whilst it is recognised that there may be an interference with these rights and the rights of other third parties, such interference has to be balanced with the like rights of the applicant to develop the land in the way proposed. In this case it is considered that the protection of the rights and freedoms of the applicant outweigh any possible interference that may result to any third party.

Section 106 Contributions Summary Table

Proposal:			
Type of Contribution	NFDC Policy Requirement	Developer Proposed Provision	Difference
Affordable Housing			
No. of Affordable dwellings	0	0	0
Financial Contribution	0	0	0
Habitats Mitigation			
Financial Contribution			

CIL Summary Table

Description of Class	GIA New	GIA Existing	GIA Net Increase	CIL Liability
Dwelling houses	298	255	43	£3,585.54 *

15. RECOMMENDATION

Grant Subject to Conditions

Proposed 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. The development permitted shall be carried out in accordance with the following approved plans: 8502/400, 8502/401, 8502/402.

Reason: To ensure satisfactory provision of the development.

3. Before development commences, samples or exact details of the facing and roofing materials to be used shall be submitted to and approved in writing by the Local Planning Authority. The development shall only be implemented in accordance with the approved details.

Reason: To ensure an acceptable appearance of the building in accordance with policy CS2 of the Core Strategy for the New Forest District outside the National Park.

4. The development hereby permitted shall not be occupied until the spaces shown on plan 8502/400 for the parking and garaging of motor vehicles have been provided. The spaces shown on plan 8502/400 for the parking and garaging of motor vehicles shall be retained and kept available for the parking and garaging of motor vehicles for the dwellings hereby approved at all times.

Reason: To ensure adequate parking provision is made in the interest of highway safety and in accordance with Policy CS2 and CS24 of the Local Plan for the New Forest outside of the National Park (Core Strategy).

5. Before development commences a scheme of landscaping of the site shall be submitted for approval in writing by the Local Planning Authority. This scheme shall include :

- (a) the existing trees and shrubs 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 prevent inappropriate car parking to comply with Policy CS2 of the Local Plan for the New Forest District outside the National Park (Core Strategy).

6. Before development commences, details of the means of disposal of surface water from the site shall be submitted to and approved in writing by the Local Planning 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 CS2 of the Local Plan for the New Forest District outside the National Park (Core Strategy) and the New Forest District Council and New Forest National Park Authority Strategic Flood Risk Assessment for Local Development Frameworks.

7. No development shall be carried out until proposals for the mitigation of the impact of the development on the New Forest and Solent Coast European Nature Conservation Sites have been submitted to and approved in writing by the local planning authority, and the local planning authority has confirmed in writing that the provision of the proposed mitigation has been secured. Such proposals must:
- (a) Provide for mitigation in accordance with the New Forest District Council Mitigation Strategy for European Sites SPD, adopted in June 2014 (or any amendment to or replacement for this document in force at the time), or for mitigation to at least an equivalent effect;
 - (b) Provide details of the manner in which the proposed mitigation is to be secured. Details to be submitted shall include arrangements for the ongoing maintenance and monitoring of any Suitable Alternative Natural Green Spaces which form part of the proposed mitigation measures together with arrangements for permanent public access thereto.
 - (c) The development shall be carried out in accordance with and subject to the approved proposals.

Reason: The impacts of the proposed development must be mitigated before any development is carried out in order to ensure that there will be no adverse impacts on the New Forest and Solent Coast Nature Conservation Sites in accordance with Policy DM3 of the Local Plan Part 2 and the New Forest District Council Mitigation Strategy for European Sites Supplementary Planning Document.

8. The first floor window on the side [south] elevation of the approved building identified as Plot 2 shall at all times be glazed with obscure glass.

Reason: To safeguard the privacy of the adjoining neighbouring properties in accordance with policy CS2 of the Local Plan for the New Forest District outside the National Park (Core Strategy).

Notes for inclusion on certificate:

1. In accordance with paragraphs 186 and 187 of the National Planning Policy Framework and Article 35 of the Town and Country Planning (Development Management Procedure) (England) Order 2015, New Forest District Council takes a positive and proactive approach, seeking solutions to any problems arising in the handling of development proposals so as to achieve, whenever possible, a positive outcome by giving clear advice to applicants.

In this case all the above apply and as the application was acceptable as submitted no specific further actions were required.

2. In discharging condition No 8 above the Applicant is advised that appropriate mitigation is required before the development is commenced, either by agreeing to fund the Council's Mitigation Projects or otherwise providing mitigation to an equivalent standard. Further information about how this can be achieved can be found here <http://www.newforest.gov.uk/article/16478/>

Further Information:

Major Team

Telephone: 023 8028 5345 (Option 1)



Application Number: 16/10759 Full Planning Permission

Site: CHURCH, FORDINGBRIDGE ROAD, WHITSBURY SP6 3QB

Development: Use as 1 residential dwelling; windows; rooflights; minor external alterations; partial demolition

Applicant: Mrs Mann

Target Date: 26/07/2016

Extension Date: 12/08/2016

1 REASON FOR COMMITTEE CONSIDERATION

Contrary to Policy; To agree the waiving of the affordable housing contribution

2 DEVELOPMENT PLAN AND OTHER CONSTRAINTS

Countryside, Conservation Area, Area of Outstanding Natural Beauty

3 DEVELOPMENT PLAN, OBJECTIVES AND POLICIES

Core Strategy

Objectives

1. Special qualities, local distinctiveness and a high quality living environment
3. Housing
6. Towns, villages and built environment quality
7. The countryside

Policies

CS2: Design quality

CS3: Protecting and enhancing our special environment (Heritage and Nature Conservation)

CS8: Community services and infrastructure

CS10: The spatial strategy

CS15: Affordable housing contribution requirements from developments

CS24: Transport considerations

CS25: Developers contributions

Local Plan Part 2 Sites and Development Management Development Plan Document

DM1: Heritage and Conservation

DM3: Mitigation of impacts on European nature conservation sites

DM20: Residential development in the countryside

DM24: Loss of rural employment sites, shops, public houses and community facilities

4 RELEVANT LEGISLATION AND GOVERNMENT ADVICE

Section 38 Development Plan
Planning and Compulsory Purchase Act 2004
National Planning Policy Framework

5 RELEVANT SUPPLEMENTARY PLANNING GUIDANCE AND DOCUMENTS

SPD - Mitigation Strategy for European Sites
SPD - Parking Standards

6 RELEVANT PLANNING HISTORY

6.1 Use as 1 residential unit (Use Class C3); associated external alterations (14/11749) - withdrawn 12/2/15

6.2 Use as 1 residential unit (Use Class C3); associated external alterations (15/10198) - refused 11/6/15

7 PARISH / TOWN COUNCIL COMMENTS

Whitsbury Parish Council:- Recommends permission - wholeheartedly supports, which will resuscitate an important and prominent building which has become an eyesore in a beautiful village; considers the conversion would be sympathetic to this historic building

8 COUNCILLOR COMMENTS

Cllr Edward Heron:- Supports - considers the site is suitable for conversion to a single dwelling; considers there to be a lack of demand for potential alternative uses, which would be inappropriate in this location given the specific character of the site / village. Feels the loss of the yew tree would be an acceptable, if regrettable, cost for ensuring the future use of the building; Considers the proposal would not detract from the building's setting within the Conservation Area.

9 CONSULTEE COMMENTS

9.1 Hampshire County Council Highway Engineer:- No objection subject to parking conditions

9.2 Tree Officer:- Would support a refusal of planning permission due to the unnecessary removal of a protected yew tree that could be retained and contribute to the area for many years to come.

9.3 Conservation Officer:- Supports. Proposal is appropriate when balancing the positive changes made and considering the proposal would create a long term sustainable use for the building.

9.4 Ecologist:- No objection subject to condition

9.5 Land Drainage:- No comment

9.6 Southern Gas:- No objection

9.7 Estates & Valuation:- Concludes that residential conversion for holiday usage would not be viable.

10 REPRESENTATIONS RECEIVED

10.1 1 letter of support from adjacent property

11 CRIME & DISORDER IMPLICATIONS

No relevant considerations

12 LOCAL FINANCE CONSIDERATIONS

If this development is granted permission and the dwelling built, the Council will receive £1152 in each of the following six years from the dwelling's completion, and as a result, a total of £6912 in government grant under the New Homes Bonus will be received.

From the 6 April 2015 New Forest District Council began charging the Community Infrastructure Levy (CIL) on new residential developments.

Based on the information provided at the time of this report this development has a CIL liability of £1,920.35.

Tables setting out all contributions are at the end of this report.

13 WORKING WITH THE APPLICANT/AGENT

In accordance with paragraphs 186 and 187 of the National Planning Policy Framework and Article 35 of the Town and Country Planning (Development Management Procedure) (England) Order 2015, New Forest District Council take a positive and proactive approach, seeking solutions to any problems arising in the handling of development proposals so as to achieve, whenever possible, a positive outcome.

This is achieved by

- Strongly encouraging those proposing development to use the very thorough pre application advice service the Council provides.
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- Working together with applicants/agents to closely manage the planning application process to allow an opportunity to negotiate and accept amendments on applications (particularly those that best support the Core Strategy Objectives) when this can be done without compromising government performance requirements.
- Advising applicants/agents as soon as possible as to concerns that cannot be dealt with during the processing of an application allowing for a timely withdrawal and re-submission or decision based on the scheme as originally submitted if this is what the applicant/agent requires.
- When necessary discussing with applicants/agents proposed conditions especially those that would restrict the use of commercial properties or land when this can be done without compromising government performance requirements.

In this case, the application proposals have been the subject of discussion and negotiation with the applicant / agent and this has enabled an appropriate proposal to be submitted, thereby enabling a positive recommendation to be made.

14 ASSESSMENT

- 14.1 The application site is a redundant Methodist chapel that dates from 1901. The building, which fronts onto Whitsbury's main highway, is located within a relatively modest plot that is bounded by the large and mature gardens of 2 adjacent dwellinghouses. There is a low wall with railings along the front boundary of the site, while to the rear of the site there are a number of mature trees, including trees that are protected by a Tree Preservation Order. Beyond the site, the nearby highway is mainly bounded by mature hedgerows, and the area generally has an attractive rural character. The site is located within the Whitsbury Conservation Area and within a designated Area of Outstanding Natural Beauty.
- 14.2 In June 2015 planning permission was refused for the conversion of the former chapel to a single dwellinghouse. The creation of a new dwelling in this countryside location was considered to be contrary to policy and without justification in view of the potentially more acceptable uses that the chapel could be converted to. The application was also considered harmful to the character and appearance of the Whitsbury Conservation Area due to the relocation of the front boundary wall and railings and because some of the proposed alterations to the building were deemed to be inappropriate. The application was also felt to be unacceptable as it would have resulted in the unjustified loss of a significant protected yew tree. The proposal also failed to secure any habitat mitigation contributions.
- 14.3 The application that has now been submitted also seeks to convert the redundant chapel to a single dwellinghouse. The proposal is broadly similar to the previously refused application. However, there has been a change to some of the proposed external alterations to the building as well as a change to the position of the relocated front boundary. The application is also accompanied by a greater level of supporting information that seeks to justify the proposal in the light of the Council's policies and the previous reason for refusal.
- 14.4 The proposed residential conversion would result in the loss of an existing community facility. Local Plan Part 2 Policy DM24 only allows for the loss of rural community facilities where certain criteria are met. In this case, none of the relevant criteria would be met and therefore the proposed development would not be in accordance with Policy DM24. However, the chapel has been redundant for a few years, and there seems to be little prospect that the building would continue to function as a place of worship. Although the possibility of using the building for an alternative community uses does not appear to have been actively explored, it seems unlikely that using the building for alternative community uses would be viable in this specific rural location, taking into account the absence of that dedicated parking area. In these circumstances, it is felt permitting the loss of the existing community use would be justified, notwithstanding an apparent conflict with Local Plan Part 2 Policy DM24.

- 14.5 Policy DM20 of the Local Plan Part 2 only allows for new dwellings in the countryside where they are replacement dwellings, dwellings to meet local affordable housing need or dwellings for agricultural workers. The residential conversion that is proposed would not meet a local affordable housing need, and nor would it be a dwelling for an agricultural worker. As such, the residential conversion that is proposed would be contrary to Local Plan Part 2 Policy DM20.
- 14.6 The applicant's agent has sought to justify the proposal on the basis that the proposal would assist in boosting housing supply; would through re-using a redundant building enhance the immediate area; would make a positive contribution to the Whitsbury Conservation Area; and would be the most practical and viable use. The applicant's agent considers their proposals to be consistent with national planning policies, even though the proposal would not be consistent with Local Plan Policy DM20.
- 14.7 Whitsbury Chapel is a building of historic interest that contributes positively to the character and appearance of the Whitsbury Conservation Area. It is important that a new use is found for the building. However, given the restrictions imposed by Local Plan Part 2 Policy DM20, it must first be considered whether the building could be put to a more policy compliant alternative use, appropriate to the site's context. In this respect, the applicant's agent has sought to argue that the building is unsuitable for conversion to other uses. Specifically, the applicant's agent considers that the building is not suitable for conversion to an employment or community use due to a lack of external parking, a lack of demand, and due to the chapel's unsuitable location. The applicant's agent also considers that conversion to a holiday let would not be an economically viable business proposition, and has submitted a detailed assessment to support this view.
- 14.8 With the previously refused application, the Council's Senior Valuer felt that the applicants had not put forward adequate evidence to demonstrate that the building could not reasonably and viably be used for alternative uses. The Council's Senior Valuer has reviewed his position in the light of the additional evidence that has now been put forward. For a holiday let conversion, the Council's Senior Valuer now feels that the development site value would be below the Current Use Value, and in these circumstances he has concluded that residential conversion to holiday accommodation would not be viable.
- 14.9 A holiday let conversion is felt to be the most appropriate policy compliant use in this particular context. From a practical perspective, and given the site's location and constraints it is considered that conversion of the chapel to an employment use would be a less attractive proposition, and one that would raise amenity concerns. The applicants have not demonstrated that an employment use would be unviable (through, for example, an appropriate marketing exercise). However, it does not seem particularly likely that a positive employment use would be found for the building if it were to be marketed again.
- 14.10 Given the lack of likelihood that the chapel would be converted to an alternative use to a permanent dwelling, and given the amenity issues arising from certain employment uses, it is felt that the principle of conversion to a permanent dwelling would now be acceptable, notwithstanding the conflict with Policy DM20. Having regard to all of the available evidence, it would appear that conversion to a dwelling is the

only viable and realistic use to which this valued local building can now be put. In reaching the conclusion that the proposed conversion is acceptable regard has been had to the National Planning Policy Framework, which is broadly supportive of the conversion of redundant buildings in the countryside to new homes where there would be an enhancement to the immediate setting. The fact that many other types of building in the countryside can now be converted to a permanent dwelling under permitted development rights is also a material consideration that weighs in favour of this application.

- 14.11 Most of the physical alterations to the chapel building are low-key, well-considered, and sympathetic to the site's historic context. The application now seeks to retain the Chapel name plaque on the front gable, albeit that the plaque would be relocated to a slightly higher position in order to facilitate a new window. Windows to the front elevation are no longer proposed for replacement, but would be retained with secondary glazing. Since the application has been registered, amended / additional details have been submitted to address a concern that the new first floor structure could appear visually awkward relative to the front windows. It appears that this amendment / information has satisfactorily addressed this point, (subject to confirmation from the Council's Conservation Officer, which is still awaited).
- 14.12 The previously refused application gave rise to a concern that the Conservation Area would be harmed by the relocation of the existing historic front wall railings back towards the chapel so as to facilitate a parking space. This application still seeks to relocate the front boundary railings in order to facilitate the creation of a parking space, which would still cause some erosion of the frontage space. However, the railings would not be set so far back as was proposed previously and a change in surfacing is proposed in front of the relocated railings, which would help to provide some definition to this frontage space. This change to the position of the railings is not ideal, but when balanced against the positive changes that have been made elsewhere, it is considered that it would be a reasonable and justified change that would not cause material harm to the character and appearance of the Whitsbury Conservation Area.
- 14.13 Situated in the rear south-western corner of the site is a group of 3 yew trees protected by a Tree Preservation Order. The application seeks to remove all 3 trees. The removal of 2 of these trees (T2 and T3) is considered to be justified as neither tree provides public amenity value. However, by contrast, the remaining tree (T1) is considered to provide a good level of public amenity. Removing this tree would be detrimental to the visual amenities of the area and would have an adverse impact on the character and appearance of the Whitsbury Conservation Area. The applicant recognises that the loss of this tree would be harmful, but views it as necessary to provide adequate drainage to the property, there being no drainage to the property at the current time. In their supporting statement, the applicant indicates that they have given consideration to providing drainage (a sewage treatment plant) to the front of the property, but have had to rule it out as the necessary treatment plants are not designed to withstand the loadings which would be imposed if positioned close to the highway or below parking areas, whilst a siting too close to the front of the building would require significant engineering work / underpinning, making a siting here economically unviable. The applicant considers that siting the requisite

sewage treatment plant to the rear of the building (thereby necessitating the removal of the yew tree) is the only economical and safe position in which to meet the property's drainage needs.

- 14.14 It is accepted that the property must be served with an appropriate drainage scheme, and there is no good reason to doubt the applicant's assertion that providing the necessary sewage plant to the front of the building would be economically unviable / unworkable. Therefore, accepting that drainage must be provided to the rear of the building, it would appear that the removal of the yew tree is an inevitable consequence of converting the building to a permanent dwelling. As such, there is a need to weigh up the benefits of the conversion against the harm arising from the proposed tree loss. The tree in question is a good quality yew tree, and its loss would be visually harmful. However, the tree is set to the rear of the building, and it is not especially prominent within the wider landscape, which being rural has a green and verdant character with many other noteworthy trees. The building is a unique building within the village, and its continued vacancy is undesirable. Putting the building into use again will secure the long-term future of a building that is prominent within the local streetscene, and which contributes positively to the character and appearance of the Conservation Area. On balance, it is felt that the benefits of securing a positive new use for the building would outweigh the harm arising from the tree's removal. Therefore, it is felt the removal of the tree would be justified.
- 14.15 The proposal would see the introduction of first floor accommodation. The rooflights on the respective side-elevations would not result in undue overlooking of neighbouring dwellings, given their distance from those neighbouring dwellings and given the modest size and design of the rooflights. Overall, it is considered the proposed conversion could take place without detriment to the amenities of neighbouring dwellings.
- 14.16 The application is accompanied by an ecological report. The Ecologist is satisfied that the proposed conversion would not harm any protected species and therefore, subject to conditions, the proposal is one that would not harm biodiversity interests.
- 14.17 On 19th May 2016 the Government issued planning guidance setting out the specific circumstances in which contributions for affordable housing and tariff style planning obligations (section 106 agreements) should not be sought from small scale and self-build development. This guidance has been reissued following the order of the Court of Appeal dated 13th May 2016 (*West Berkshire District Council and Another v The Secretary of State for Communities and Local Government*). The planning guidance specifies the circumstances in which contributions should not be sought as follows:
- "Contributions should not be sought from developments of 10 units or less and which have a maximum combined gross floorspace of no more than 1,000 sqm; In designated rural areas, local planning authorities may choose to apply a lower threshold of 5 units or less...;*
- Affordable housing and tariff style contributions should not be sought from any development consisting only of the construction of a residential annex or extension to an existing house"*

This national guidance is at odds with Policy CS15 of the Council's Core Strategy which requires many small scale housing developments including the current application proposals to make affordable housing provision.

- 14.18 The presumption in favour of the development plan remains, in that the decision should be taken in accordance with the plan unless material considerations indicate otherwise. The new guidance is a material consideration which post-dates the adoption of the Local Plan. It is for the Council to decide which should prevail in the determination of a planning application. However, the Secretary of State, through his Inspectors, can be anticipated to give greater weight to the Government's national guidance unless there are reasons to make an exception.
- 14.19 While the need for affordable housing in this District is pressing, this in itself is unlikely to be considered by the Secretary of State as sufficient reason for the Council to apply its own development plan policy rather than applying national policy. Therefore, it is recommended that no affordable housing or tariff style contributions are sought from this development, in accordance with national Planning Practice Guidance, contrary to the provisions of Policy CS15 of the Core Strategy. In any event, it should be noted that in this instance, the applicants submitted a viability appraisal, which concluded that any affordable housing contribution would make the scheme unviable, a conclusion that has been accepted by the Council's estates and valuation team. Therefore, irrespective of the latest government advice, the scheme is one where the affordable housing requirement should be reasonably waived.
- 14.20 In accordance with the Habitat Regulations 2010 an assessment has been carried out of the likely significant effects associated with the recreational impacts of the residential development provided for in the Local Plan on both the New Forest and the Solent European Nature Conservation Sites. It has been concluded that likely significant adverse effects cannot be ruled out without appropriate mitigation projects being secured. In the event that planning permission is granted for the proposed development, a condition is recommended that would prevent the development from proceeding until the applicant has secured appropriate mitigation, either by agreeing to fund the Council's Mitigation Projects or otherwise providing mitigation to an equivalent standard.
- 14.21 Overall, the proposed development would not be wholly consistent with Local Plan policies. However, having regard to National Planning policies and the specific benefits associated with this proposed residential conversion and the lack of viability associated with a holiday let conversion, it is felt that conversion to a permanent dwelling would be justified. The new use and the proposed building works would have an acceptable impact on the Whitsbury Conservation Area. Removal of a protected yew tree would be regrettable, but seemingly unavoidable if a beneficial new use is to be found for the building, and therefore justified. Contributions to affordable housing could be reasonably waived. Accordingly, it is considered appropriate to recommend this application for permission subject to appropriate conditions.
- 14.22 In coming to this recommendation, consideration has been given to the rights set out in Article 8 (Right to respect for private and family life) and Article 1 of the First Protocol (Right to peaceful enjoyment of

possessions) of the European Convention on Human Rights. Whilst it is recognised that there may be an interference with these rights and the rights of other third parties, such interference has to be balanced with the like rights of the applicant to develop the land in the way proposed. In this case it is considered that the protection of the rights and freedoms of the applicant outweigh any possible interference that may result to any third party.

Section 106 Contributions Summary Table

Proposal:			
Type of Contribution	NFDC Policy Requirement	Developer Proposed Provision	Difference
Affordable Housing			
No. of Affordable dwellings	0	0	0
Financial Contribution	£43,400	0	-£43,400
Habitats Mitigation			
Financial Contribution	£3050		

CIL Summary Table

Description of Class	GIA New	GIA Existing	GIA Net Increase	CIL Liability
Dwelling houses	84.75	61.72	23.03	£1,920.35 *

15. RECOMMENDATION

Grant Subject to Conditions

Proposed 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. The development permitted shall be carried out in accordance with the following approved plans: 1239-00, 1239-04B, 1239-03 rev B, 1239-05, 1239-06, 1239-02, 1239-01, 1239-08.

Reason: To ensure satisfactory provision of the development.

3. No development shall be carried out until proposals for the mitigation of the impact of the development on the New Forest and Solent Coast European Nature Conservation Sites have been submitted to and approved in writing by the local planning authority, and the local planning authority has confirmed in writing that the provision of the proposed mitigation has been secured. Such proposals must:
- (a) Provide for mitigation in accordance with the New Forest District Council Mitigation Strategy for European Sites SPD, adopted in June 2014 (or any amendment to or replacement for this document in force at the time), or for mitigation to at least an equivalent effect;
 - (b) Provide details of the manner in which the proposed mitigation is to be secured. Details to be submitted shall include arrangements for the ongoing maintenance and monitoring of any Suitable Alternative Natural Green Spaces which form part of the proposed mitigation measures together with arrangements for permanent public access thereto.
 - (c) The development shall be carried out in accordance with and subject to the approved proposals.

Reason: The impacts of the proposed development must be mitigated before any development is carried out in order to ensure that there will be no adverse impacts on the New Forest and Solent Coast Nature Conservation Sites in accordance with Policy DM3 of the Local Plan Part 2 and the New Forest District Council Mitigation Strategy for European Sites Supplementary Planning Document.

4. The development hereby permitted shall not be occupied until the space shown on the approved plans for the parking of motor vehicles has been provided, and the space shall thereafter be retained for its intended purpose at all times.

Reason: To ensure adequate parking provision is made in the interest of highway safety and in accordance with Policy CS2 and CS24 of the Local Plan for the New Forest outside of the National Park (Core Strategy).

5. Before the commencement of development (including any demolition / tree removal), details of bat mitigation and compensation measures, based on an up to date survey of the site, shall be submitted to and approved in writing by the Local Planning Authority. Development shall only proceed in accordance with the approved details.

Reason: To safeguard ecological interests in accordance with Policy CS3 of the Core Strategy for New Forest District outside of the National Park.

6. Before development commences, samples of the new bricks and slate roofing tiles to be used in the approved conversion of the building shall be submitted to and approved in writing by the Local Planning Authority. Development shall only be implemented in accordance with the approved details.

Reason: To ensure an acceptable appearance of the development and to safeguard the character and appearance of the Whitsbury Conservation Area in accordance with policy CS3 of the Core Strategy for the New Forest District outside the National Park, and Policy DM1 of the Local Plan Part 2: Sites and Development Management.

7. Before development commences, the following details shall be submitted to, and approved in writing by the Local Planning Authority:-
- a) A detailed set of drawings (elevations and sections) showing all of the proposed new windows and doors;
 - b) A detailed specification for the rooflights, lead roll ridge, bargeboards and flue.

Development shall only take place in accordance with those details which have been approved.

Reason: To ensure an acceptable appearance of the development and to safeguard the character and appearance of the Whitsbury Conservation Area in accordance with policy CS3 of the Core Strategy for the New Forest District outside the National Park, and Policy DM1 of the Local Plan Part 2: Sites and Development Management.

8. The dwelling hereby approved shall not be occupied until the existing front boundary railings and associated pillars / dwarf wall, which are to be relocated, have been moved into their approved new position, with details of any new brickwork being submitted to and approved in writing before the Local Planning Authority before the new front boundary line is first formed.

Reason: To ensure an acceptable appearance of the development and to safeguard the character and appearance of the Whitsbury Conservation Area in accordance with policy CS3 of the Core Strategy for the New Forest District outside the National Park, and Policy DM1 of the Local Plan Part 2: Sites and Development Management.

9. Before development commences a scheme of landscaping of the site shall be submitted for approval in writing by the Local Planning Authority. This scheme shall include :
- (a) a specification for the proposed new planting (species, size, spacing and location);
 - (b) a specification for the hard surfaced areas to the front of the existing building.
 - (c) 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 prevent inappropriate car parking to comply with Policy CS2 of the Local Plan for the New Forest District outside the National Park (Core Strategy).

10. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) 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 small size of the plot and the site's sensitive historic context, this is a site where small scale alterations could potentially have a significant impact, and the Local Planning Authority would therefore wish to ensure that any future development proposals do not adversely affect the amenities of the area and the site's historic context, contrary to Policy CS3 of the Core Strategy for New Forest District outside of the National Park and Policies DM1 and DM20 of the Local Plan Part 2: Sites and Development Management.

Notes for inclusion on certificate:

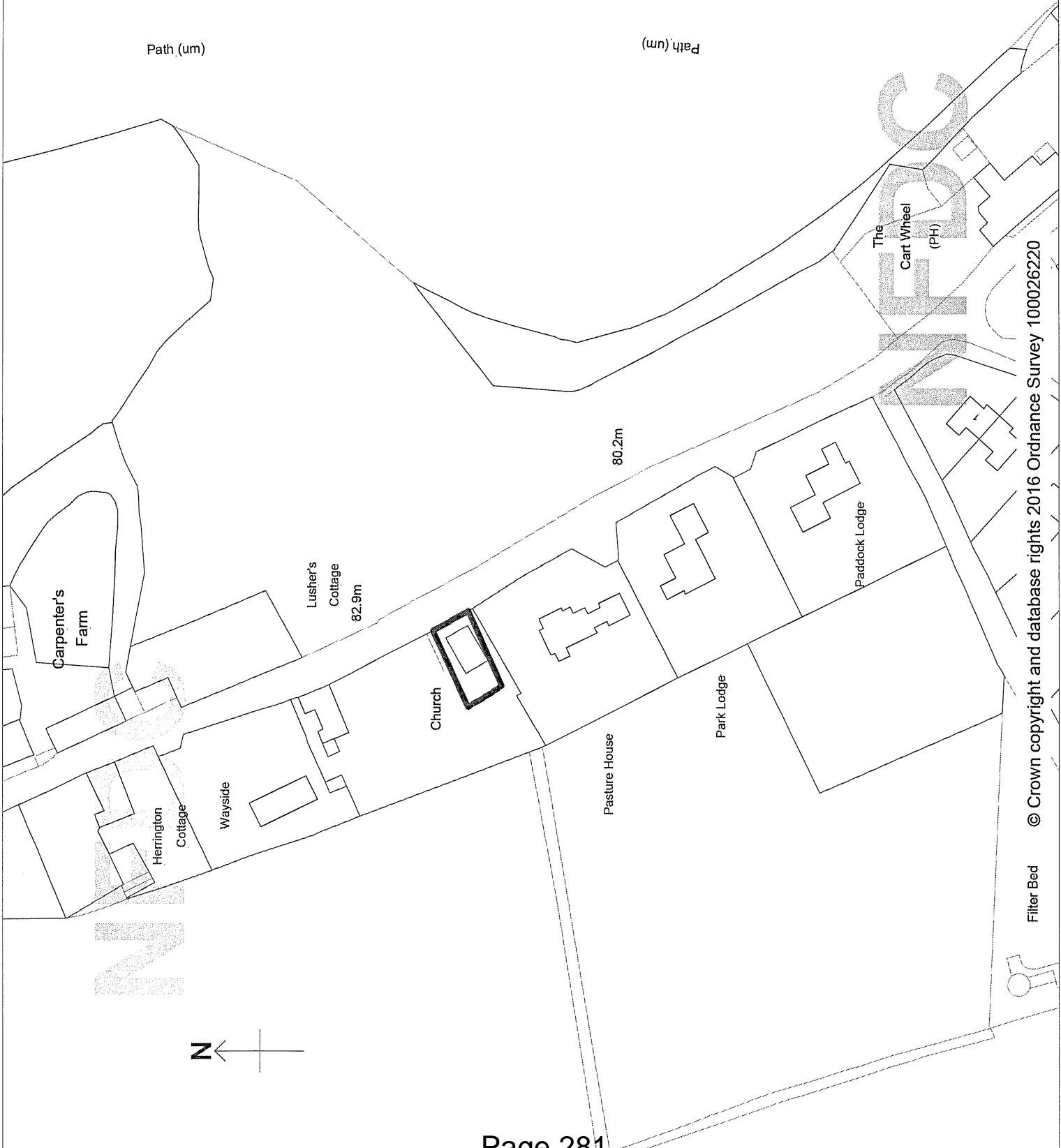
1. In accordance with paragraphs 186 and 187 of the National Planning Policy Framework and Article 35 of the Town and Country Planning (Development Management Procedure) (England) Order 2015, New Forest District Council takes a positive and proactive approach, seeking solutions to any problems arising in the handling of development proposals so as to achieve, whenever possible, a positive outcome by giving clear advice to applicants.

In this case, the application proposals have been the subject of discussion and negotiation with the applicant / agent and this has enabled an appropriate proposal to be submitted, thereby enabling a positive recommendation to be made.

Further Information:

Major Team

Telephone: 023 8028 5345 (Option 1)



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Application Number: 16/10767 Full Planning Permission

Site: 52 DOE COPSE WAY, NEW MILTON BH25 5GN

Development: Fence (Retrospective)

Applicant: Mrs McNair

Target Date: 28/07/2016

Extension Date: 10/08/2016

1 REASON FOR COMMITTEE CONSIDERATION

Contrary Town Council View

2 DEVELOPMENT PLAN, OBJECTIVES AND POLICIES

Constraints

Plan Area

Plan Policy Designations

Built-up Area

Core Strategy

CS2: Design quality

CS24: Transport considerations

Local Plan Part 2 Sites and Development Management Development Plan Document

No relevant policies

Supplementary Planning Guidance And Documents

No relevant documents

3 RELEVANT LEGISLATION AND GOVERNMENT ADVICE

Section 38 Development Plan
Planning and Compulsory Purchase Act 2004

National Planning Policy Framework
NPPF Ch. 7 - Requiring good design

4 RELEVANT SITE HISTORY

Proposal / Site

95/NFDC/57626:
Erect 90 dwellings, gges, prkg, roads, sewers & new
access

Decision Date Status

14/02/1996
Granted Subject to
Conditions

5 COUNCILLOR COMMENTS

No Comments Received

6 PARISH / TOWN COUNCIL COMMENTS

New Milton Town Council: object (Non delegated)

- (1) Out of character due to its height
- (2) It would set a precedent.

7 CONSULTEE COMMENTS

7.1 **Land Drainage, Appletree Court:** comment Only

7.2 **Hampshire County Council Highways Engineer:** no objection (no conditions)

8 REPRESENTATIONS RECEIVED

8.1 One letter of objection: fence is too high and out of character

8.2 Three letters of support: fence is well designed and enhances the area

9 CRIME & DISORDER IMPLICATIONS

None Relevant

10 LOCAL FINANCE CONSIDERATIONS

From the 6 April 2015 New Forest District Council began charging the Community Infrastructure Levy (CIL) on new residential developments.

Local financial considerations are not material to the decision on this application

11 WORKING WITH THE APPLICANT/AGENT

In accordance with paragraphs 186 and 187 of the National Planning Policy Framework and Article 35 of the Town and Country Planning (Development Management Procedure) (England) Order 2015, New Forest District Council takes a positive and proactive approach, seeking solutions to any problems arising in the handling of development proposals so as to achieve, whenever possible, a positive outcome by giving clear advice to applicants.

In this case all the above apply and as the application was acceptable as submitted no specific further actions were required.

12 ASSESSMENT

12.1 The boundary treatments on the estate are generally defined with hedges and low fences although there is some example higher fences and railings on the estate.

- 12.2 The main consideration when assessing this application is the impact on the street scene.
- 12.3 The picket fence which is in situ has an undulating and open design which allows views through to the front garden which contains a lot of planting. The wide driveway is still open for access to parking to the front of the house and therefore the fence does not fully enclose the front garden. The design of fence, along with its modest height, has a limited impact on the street scene and local distinctiveness.
- 12.4 The original planning approval for the estate did not contain any conditions restricting the erection of fences and therefore a fence of up to 1 metre in height in this location would be considered as Permitted Development.
- 12.5 The Town Council are concerned that the fence would set a precedent, however any further boundary treatments in the area would need to be considered under their own merits.
- 12.6 In conclusion the fence, is of a relatively low height and allows views into the front garden. As such it is not visually intrusive or harmful to the character and appearance of the area. Therefore the application is recommended for approval.
- 12.7 In coming to this recommendation, consideration has been given to the rights set out in Article 8 (Right to respect for private and family life) and Article 1 of the First Protocol (Right to peaceful enjoyment of possessions) of the European Convention on Human Rights. Whilst it is recognised that there may be an interference with these rights and the rights of other third parties, such interference has to be balanced with the like rights of the applicant to develop the land in the way proposed. In this case it is considered that the protection of the rights and freedoms of the applicant outweigh any possible interference that may result to any third party.

13. RECOMMENDATION

Grant Subject to Conditions

Proposed Conditions:

1. The development permitted shall be carried out in accordance with the following approved plans: 1, 2 & 3

Reason: To ensure satisfactory provision of the development.

Notes for inclusion on certificate:

1. In accordance with paragraphs 186 and 187 of the National Planning Policy Framework and Article 35 of the Town and Country Planning (Development Management Procedure) (England) Order 2015, New Forest District Council takes a positive and proactive approach, seeking solutions to any problems arising in the handling of development proposals so as to achieve, whenever possible, a positive outcome by giving clear advice to applicants.

In this case all the above apply and as the application was acceptable as submitted no specific further actions were required.

Further Information:

Householder Team

Telephone: 023 8028 5345 (Option 1)



New Forest
DISTRICT COUNCIL

Tel: 023 8028 5000
www.newforest.gov.uk

David Groom
Service Manager
Planning and Building Control
New Forest District Council
Appletree Court
Lyndhurst
SO43 7PA

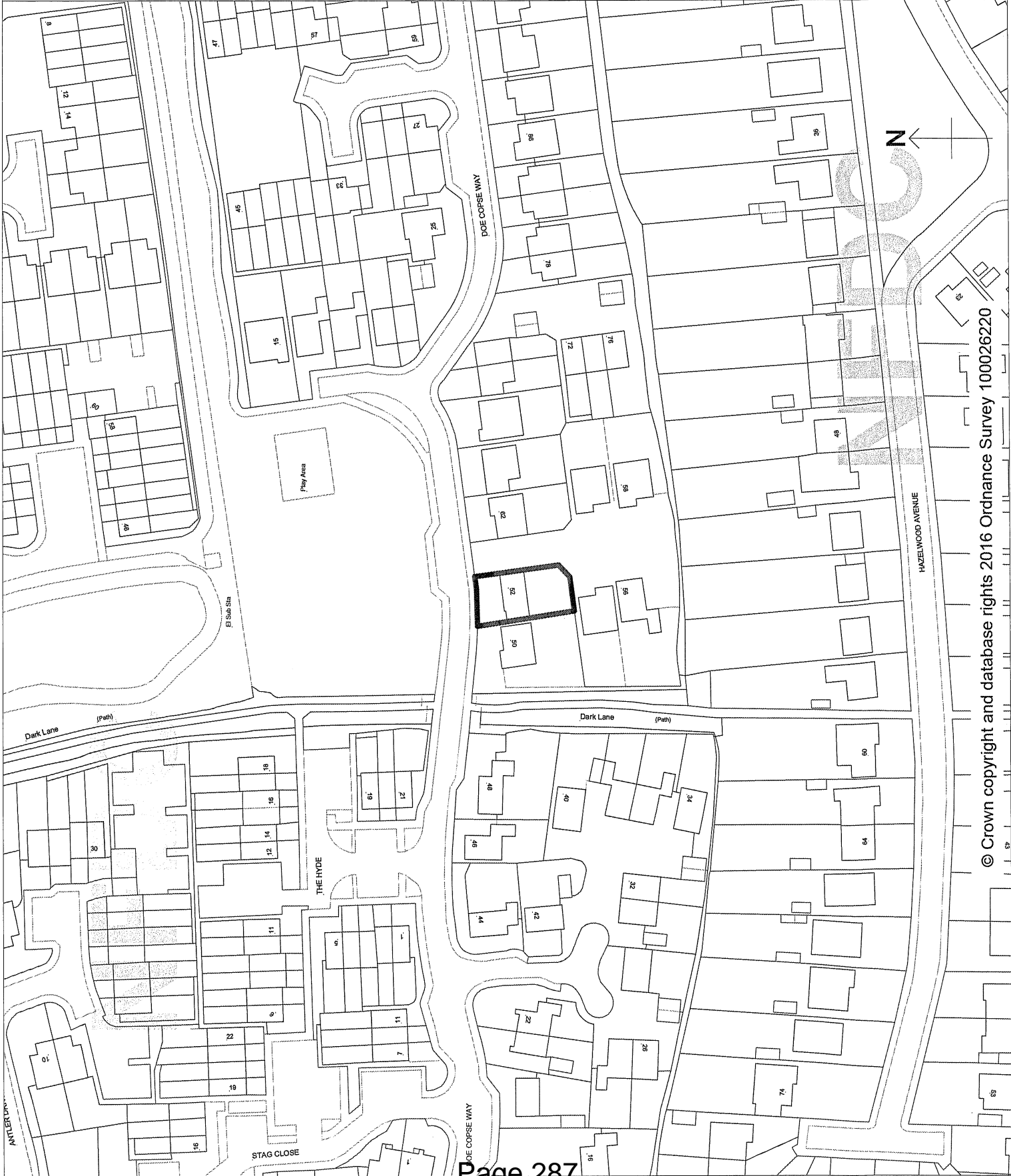
**Planning Development
Control Committee
August 2016**

Item No: 3z

52
Doe Copse Way
New Milton
16/10767
SZ2395

Scale 1:1250

N.B. If printing this plan from
the internet, it will not be to
scale.



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Application Number: 16/10792 Full Planning Permission

Site: 13B JUNCTION ROAD, TOTTON SO40 9HG

Development: Use as dwelling; associated external alterations (retrospective)

Applicant: Mr Harding

Target Date: 02/08/2016

Extension Date: 12/08/2016

1 REASON FOR COMMITTEE CONSIDERATION

Contrary to Policy

2 DEVELOPMENT PLAN AND OTHER CONSTRAINTS

Built-up area, Town Centre Boundary

3 DEVELOPMENT PLAN, OBJECTIVES AND POLICIES

Core Strategy

Objectives

1. Special qualities, local distinctiveness and a high quality living environment
3. Housing
4. Economy
6. Towns, villages and built environment quality

Policies

- CS2: Design quality
- CS15: Affordable housing contribution requirements from developments
- CS20: Town, district, village and local centres
- CS24: Transport considerations
- CS25: Developers contributions

Local Plan Part 2 Sites and Development Management Development Plan Document

DM3: Mitigation of impacts on European nature conservation sites

4 RELEVANT LEGISLATION AND GOVERNMENT ADVICE

Section 38 Development Plan
Planning and Compulsory Purchase Act 2004
National Planning Policy Framework

5 RELEVANT SUPPLEMENTARY PLANNING GUIDANCE AND DOCUMENTS

SPD - Housing Design, Density and Character
SPG - Totton Town Centre - Urban Design Framework
SPD - Mitigation Strategy for European Sites

6 RELEVANT PLANNING HISTORY

- 6.1 1 block of 4 flats; 1 retail unit; demolition of existing; access off Osborne Road (08/91992) refused 6/5/08
- 6.2 4 flats; cycle and bin store; demolition of warehouse (11/96713) - refused 3/5/11
- 6.3 Use of 13 Junction Road as 1 residential unit; associated alterations (15/10211) - prior approval refused 20/4/15

7 PARISH / TOWN COUNCIL COMMENTS

Totton & Eling Town Council:- Recommend permission but would accept a delegated decision - do not believe proposal would be harmful to shop frontage or commercial interests.

8 COUNCILLOR COMMENTS

None

9 CONSULTEE COMMENTS

- 9.1 Hampshire County Council Highway Engineer:- No objection
- 9.2 Land Drainage:- No comment
- 9.3 Southern Gas Networks:- Advise of site's proximity to gas main

10 REPRESENTATIONS RECEIVED

None

11 CRIME & DISORDER IMPLICATIONS

No relevant considerations

12 LOCAL FINANCE CONSIDERATIONS

If this development is granted permission and the dwelling built, the Council will receive £1152 in each of the following six years from the dwelling's completion, and as a result, a total of £ 6912 in government grant under the New Homes Bonus will be received.

From the 6 April 2015 New Forest District Council began charging the Community Infrastructure Levy (CIL) on new residential developments.

Based on the information provided at the time of this report this development has a CIL liability of £0.00.

Tables setting out all contributions are at the end of this report.

13 WORKING WITH THE APPLICANT/AGENT

In accordance with paragraphs 186 and 187 of the National Planning Policy Framework and Article 35 of the Town and Country Planning (Development Management Procedure) (England) Order 2015, New Forest District Council

take a positive and proactive approach, seeking solutions to any problems arising in the handling of development proposals so as to achieve, whenever possible, a positive outcome.

This is achieved by

- Strongly encouraging those proposing development to use the very thorough pre application advice service the Council provides.
- Working together with applicants/agents to ensure planning applications are registered as expeditiously as possible.
- Advising agents/applicants early on in the processing of an application (through the release of a Parish Briefing Note) as to the key issues relevant to the application.
- Updating applicants/agents of issues that arise in the processing of their applications through the availability of comments received on the web or by direct contact when relevant.
- Working together with applicants/agents to closely manage the planning application process to allow an opportunity to negotiate and accept amendments on applications (particularly those that best support the Core Strategy Objectives) when this can be done without compromising government performance requirements.
- Advising applicants/agents as soon as possible as to concerns that cannot be dealt with during the processing of an application allowing for a timely withdrawal and re-submission or decision based on the scheme as originally submitted if this is what the applicant/agent requires.
- When necessary discussing with applicants/agents proposed conditions especially those that would restrict the use of commercial properties or land when this can be done without compromising government performance requirements.

In this case all the above apply and as the application was acceptable as submitted no specific further actions were required.

14 ASSESSMENT

- 14.1 The submitted application relates to a single-storey building which is attached to the rear of a retail shop at 13 Junction Road, but which is accessed from Osborne Road to the rear. The building in question was previously used as an ancillary storage space in connection with the retail shop. However, within the past 4 years the building has been converted for use as a single dwelling without planning permission. The conversion has entailed recladding the original building in timber and the insertion of new windows and doors. This application seeks to regularise the unauthorised change of use and building works.
- 14.2 The retail shop at 13 Junction Road is within a Secondary Shopping Frontage where Local Plan Part 2 Policy DM15 applies. This policy does not allow for residential development within the defined frontage. Because the application building is to the rear of the main frontage, and with rear access, it is not felt that there would be any conflict with Policy DM15, noting that the retained retail unit would still be of an adequate size to remain viable.
- 14.3 As the application building is not a frontage building, but is still within a town centre, it is felt that Policy DM16 is more relevant to this application than Policy DM15. Policy DM16 allows for residential development outside Primary Shopping Areas and Secondary Shopping Frontages

where the proposal does not result in the loss of retail, appropriate non-retail, or other employment or business uses, or sites which are capable of being satisfactorily used for alternative business or employment uses appropriate to a town centre location. In this case, the proposal has resulted in the loss of an ancillary retail use and therefore the proposal is not wholly consistent with Policy DM16. However, it is not felt this inconsistency would be so harmful as to justify refusal of the application because, as noted above, it is not considered that the change of use has compromised the frontage commercial use. Furthermore, Osborne Road, which the application building most closely relates to, is a mainly residential road, and therefore the residential conversion that has taken place is in keeping with the residential character of that road. The recent relaxation of permitted development rights for residential conversions also weighs heavily in favour of granting planning permission.

- 14.4 The dwelling that has been created is of a modest scale and appearance. It does not have any adverse impact on the amenities of adjacent properties. The dwelling does not have an especially attractive outlook and the external amenity area is small. However, given the site's town centre location, it is felt that the levels of amenity afforded to the proposed dwelling are adequate. Given the plot's small size, it is felt that permitted development rights for future extensions / outbuildings should be removed.
- 14.5 The external alterations that have been carried out to the building are considered to be sympathetic. They have resulted in an improvement to the original building, which was metal clad.
- 14.6 Given the nature and scale of the proposal and the existence of good public transport links and local amenities close by, the Highway Authority are satisfied that the change of use does not give rise to any adverse implications for highway safety.
- 14.7 On 19th May 2016 the Government issued planning guidance setting out the specific circumstances in which contributions for affordable housing and tariff style planning obligations (section 106 agreements) should not be sought from small scale and self-build development. This guidance has been reissued following the order of the Court of Appeal dated 13th May 2016 (*West Berkshire District Council and Another v The Secretary of State for Communities and Local Government*). The planning guidance specifies the circumstances in which contributions should not be sought as follows:

“Contributions should not be sought from developments of 10 units or less and which have a maximum combined gross floorspace of no more than 1,000 sqm; In designated rural areas, local planning authorities may choose to apply a lower threshold of 5 units or less...;”

“Affordable housing and tariff style contributions should not be sought from any development consisting only of the construction of a residential annex or extension to an existing house”

This national guidance is at odds with Policy CS15 of the Council's Core Strategy which requires many small scale housing developments including the current application proposals to make affordable housing provision.

- 14.8 The presumption in favour of the development plan remains, in that the decision should be taken in accordance with the plan unless material considerations indicate otherwise. The new guidance is a material consideration which post-dates the adoption of the Local Plan. It is for the Council to decide which should prevail in the determination of a planning application. However, the Secretary of State, through his Inspectors, can be anticipated to give greater weight to the Government's national guidance unless there are reasons to make an exception.
- 14.9 While the need for affordable housing in this District is pressing, this in itself is unlikely to be considered by the Secretary of State as sufficient reason for the Council to apply its own development plan policy rather than applying national policy. Therefore it is recommended that no affordable housing or tariff style contributions are sought from this development, in accordance with national Planning Practice Guidance. In any event, in this particular case, the applicants have submitted a viability appraisal, which has enabled the Council's estates and valuation team to conclude (as part of a pre-application enquiry) that any affordable housing contribution would render the scheme unviable. Therefore, even without the government's latest guidance, it would be appropriate to waive the affordable housing contribution in this instance.
- 14.10 An application for a new dwelling would normally need to be subject to a condition requiring the applicant to secure appropriate habitat mitigation contributions in line with the requirements of Local Plan Part 2 Policy DM3. However, in this case, because the application is retrospective, and because the dwelling is already occupied, the matter needs to be resolved before planning permission is granted and not after. The applicant has been asked to enter into a Section 106 legal agreement to secure a habitat mitigation contribution of £2050 (which will need to be payable on completion of the agreement). If such an agreement is satisfactorily completed then the requirements of Policy DM3 would be satisfied. It is understood that the applicant is agreeable to entering into a legal agreement, although at the time of writing the legal agreement remains to be completed. It should be noted that no CIL payments are required in this instance, and there is therefore no conflict with CIL requirements.
- 14.11 Overall, the proposed development is considered to be an acceptable proposal. It would be a sustainable development that would be justified having regard to all relevant national and local policies, and the particular site circumstances. The development would not have any adverse impact on the amenities of the wider area. The affordable housing requirement can be reasonably waived, and subject to securing the requisite habitat mitigation contribution, the proposal can reasonably be recommended for permission.
- 14.12 In coming to this recommendation, consideration has been given to the rights set out in Article 8 (Right to respect for private and family life) and Article 1 of the First Protocol (Right to peaceful enjoyment of possessions) of the European Convention on Human Rights. Whilst it is recognised that there may be an interference with these rights and the rights of other third parties, such interference has to be balanced with the like rights of the applicant to develop the land in the way proposed. In this case it is considered that the protection of the rights and freedoms of the applicant outweigh any possible interference that may result to any third party.

Section 106 Contributions Summary Table

Proposal:			
Type of Contribution	NFDC Policy Requirement	Developer Proposed Provision	Difference
Affordable Housing			
No. of Affordable dwellings	0	0	
Financial Contribution	£7610	0	-£7610
Habitats Mitigation			
Financial Contribution	£2050		

Type	Proposed Floorspace (sq/m)	Existing Floorspace (sq/m)	Net Floorspace (sq/m)	Chargeable Floorspace (sq/m)	Rate	Total
Dwelling houses	66.5	66.5	0	0	£80/sqm	£0.00 *
Subtotal:	£0.00					
Relief:	£0.00					
Total Payable:	£0.00					

*The formula used to calculate the amount of CIL payable allows for changes in building costs over time and is Index Linked using the All-in Tender Index Price published by the Build Cost Information Service (BICS) and is:

Net additional new build floor space (A) x CIL Rate (R) x Inflation Index (I)

15. RECOMMENDATION

That the Executive Head of Economy, Housing and Planning be **AUTHORISED TO GRANT PERMISSION** subject to:

- i) the completion, by 12th August 2016, of a planning obligation entered into by way of an Agreement pursuant to Section 106 of the Town and Country Planning Act 1990 to secure appropriate habitat mitigation measures
- ii) the imposition of the conditions set out below.

BUT, in the event that the Agreement is not completed by 12th August 2016, the Executive Head of Economy, Housing and Planning be **AUTHORISED TO REFUSE PERMISSION** for the reasons set out below.

Conditions to be attached to any consent:

1. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015 (or any re-enactment of that Order) no extension otherwise approved by Classes A, B or C of Part 1 of Schedule 2 to the Order, or garage or other outbuilding otherwise approved by Class E of Part 1 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 Local Planning 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 CS2 of the Local Plan for the New Forest District outside the National Park (Core Strategy).

Reason(s) for Refusal:

1. The recreational impacts of the proposed development on the New Forest Special Area of Conservation, the New Forest Special Protection Area, the New Forest Ramsar site, the Solent and Southampton Water Special Protection Area, the Solent and Southampton Water Ramsar site, and the Solent Maritime Special Area of Conservation would not be adequately mitigated and the proposed development would therefore be likely to unacceptably increase recreational pressures on these sensitive European nature conservation sites, contrary to Policy DM3 of the New Forest District Local Plan Part 2: Sites and Development Management.

Notes for inclusion on certificate:

1. In accordance with paragraphs 186 and 187 of the National Planning Policy Framework and Article 35 of the Town and Country Planning (Development Management Procedure) (England) Order 2015, New Forest District Council takes a positive and proactive approach, seeking solutions to any problems arising in the handling of development proposals so as to achieve, whenever possible, a positive outcome by giving clear advice to applicants.

In this case, as the application was acceptable as submitted (subject to completion of the necessary Section 106 legal agreement) no specific further actions were required.

Further Information:

Major Team

Telephone: 023 8028 5345 (Option 1)



New Forest
DISTRICT COUNCIL

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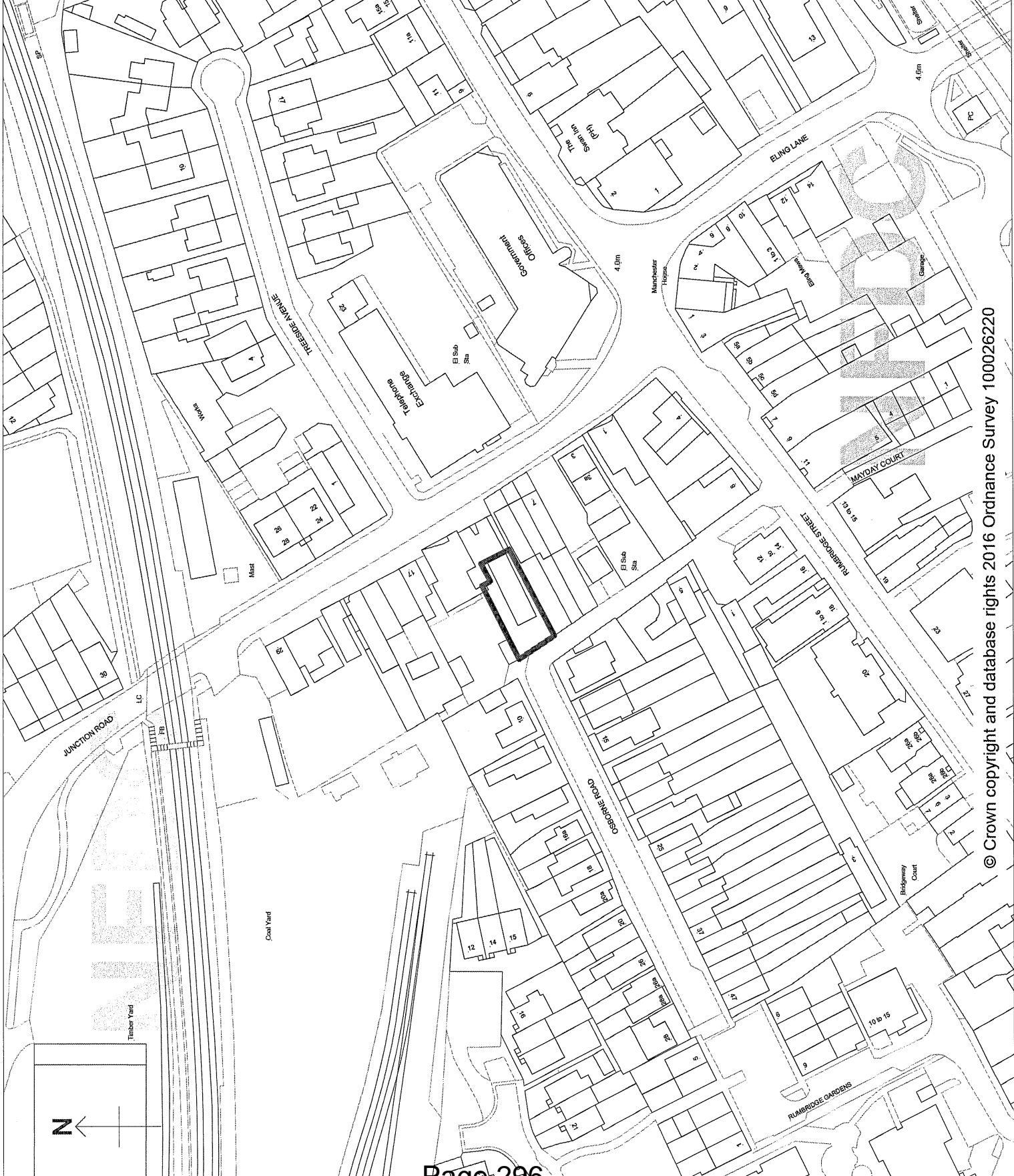
David Groom
Service Manager
Planning and Building Control
New Forest District Council
Appletree Court
Lyndhurst
SO43 7PA

**Planning Development
Control Committee
August 2016**

Item No: 3aa
13B
Junction Road
Totton
16/10792
SU3613

Scale 1:1250

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Application Number: 16/10820 Full Planning Permission

Site: 4 FOREST GATE GARDENS, PENNINGTON, LYMINGTON
SO41 8JG

Development: Use of garage as ancillary living accommodation; fenestration alterations; extend driveway

Applicant: Mr Quincey

Target Date: 08/08/2016

1 REASON FOR COMMITTEE CONSIDERATION

Contrary to Town Council view .

2 DEVELOPMENT PLAN, OBJECTIVES AND POLICIES

Constraints

Planning Agreement
Plan Area

Plan Policy Designations

Built-up Area

National Planning Policy Framework

Section 7

Core Strategy

CS2: Design quality
CS24: Transport considerations

Local Plan Part 2 Sites and Development Management Development Plan Document

None relevant

Supplementary Planning Guidance And Documents

SPD - Lymington Local Distinctiveness

3 RELEVANT LEGISLATION AND GOVERNMENT ADVICE

Section 38 Development Plan
Planning and Compulsory Purchase Act 2004
National Planning Policy Framework

4 RELEVANT SITE HISTORY

Proposal / Site	Decision Date	Decision Description	Status
15/11678: Detached single garage; use of existing garage as ancillary living accommodation; fenestration alterations; new vehicular access	23/12/2015	Withdrawn by Applicant	Withdrawn
02/73973: Create 2 windows in west flank lounge wall	04/03/2002	Granted Subject to Conditions	Decided
98/NFDC/63319: Conservatory	03/04/1998	Granted	Decided
93/NFDC/52975: Erect 20 det houses, garages & assoc works (sub house types)	25/10/1993	Granted Subject to Conditions	Decided

5 COUNCILLOR COMMENTS

No Comments Received

6 PARISH / TOWN COUNCIL COMMENTS

Lymington & Pennington Town Council: recommend refusal.
In support of issues raised by several neighbours regarding the special characteristics of the estate enshrined in covenants.

7 CONSULTEE COMMENTS

7.1 Land Drainage, Appletree Court: no comments

7.2 Hampshire County Council Highway Engineer: no objection

8 REPRESENTATIONS RECEIVED

Ten letters of representation have been received from residents at Nos. 3, 5, 8, 9, 11, 14, 15,16 and 18 Forest Gate Gardens objecting to the proposals on the following grounds;

- Concerns over the proposed gate which would result in visual harm to this feature wall and could set a precedent for others;
- Issues concerning the future use of the land at the side of the property and covenants; which stipulate the use of this land for the enjoyment and general amenity of all estate, this area should remain unenclosed and be replanted;
- Loss of garage and garage door would be contrary to the original permission and out of keeping with the prevailing character of development, would set a precedent for others;

- Highway safety implications from loss of garage and parking arrangements;
- New windows would not be in keeping with the development and be contrary to the original permission.

9 CRIME & DISORDER IMPLICATIONS

None Relevant

10 LOCAL FINANCE CONSIDERATIONS

From the 6 April 2015 New Forest District Council began charging the Community Infrastructure Levy (CIL) on new residential developments.

Regulation 42 of the CIL Regulations 2010 (as amended) states that CIL will be applicable to all applications over 100sqm GIA and those that create a new dwelling. The development is under 100 sq metres and is not for a new dwelling and so there is no CIL liability in this case.

11 WORKING WITH THE APPLICANT/AGENT

In accordance with paragraphs 186 and 187 of the National Planning Policy Framework and Article 35 of the Town and Country Planning (Development Management Procedure) (England) Order 2015, New Forest District Council takes a positive and proactive approach, seeking solutions to any problems arising in the handling of development proposals so as to achieve, whenever possible, a positive outcome by giving clear advice to applicants.

In this case the applicant has sought advice from the Council following the withdrawal of the previous scheme and this proposal accords with the advice provided.

12 ASSESSMENT

- 12.1 The site is located within the built up area of Lymington, part of a late C20 residential development. The site occupies a corner plot with the road sweeping around its western side. Adjacent neighbouring properties are located to the east and south of the site.
- 12.2 This proposal details the conversion of the existing integral garage to provide additional habitable accommodation, in conjunction with other associated internal alterations. Two new windows are proposed in the south west elevation wall and the substitution of the existing bay window on this side for a conventional casement type. The existing garage door would be replaced with a window and the existing driveway widened. Planning permission is required for these alterations as the original planning consent for the development sought the retention of the garage for parking, and controlled any future windows on the side of the property.
- 12.3 This application follows a previous scheme under PA 15/11678 which was withdrawn due to concerns over the visual and highway safety impacts of a proposed new garage at the rear of the site. This element has now been removed from the proposal.
- 12.4 The original consent for this development specified that the integral garage provided shall;

'be retained and maintained for that purpose only and shall not incorporated into the house as part of the habitable domestic accommodation. To ensure that sufficient off street car parking is available as part of the development, in the interests of highway safety and the general amenity of the area'.

- 12.5 The proposal would see the loss of a parking space on site however the application has detailed a proposed increase in the parking area at the front of the property. The Highways Officer has been consulted and considers this to be acceptable, such that an adequate level of parking for 3 vehicles would be available on site. With reference to the Councils adopted Parking Standards SPD this recommends an average provision of 3 on plot parking spaces for dwellings with 4 or more bedrooms, which would be met in this instance. As such it is considered that sufficient off street parking serving the property would be maintained and this would not result in harm to highway safety or general amenity of the area. This would of course be subject to the creation and retention of this additional parking area, and as such a condition to this effect is recommended.
- 12.6 The proposed new windows would represent modest alterations to the building and it is noted that the introduction of the two additional side windows was approved under PA 02/73973 in 2002. In their design and detailing they would respond to the appearance of the existing dwelling and although a degree of regularity in the design of dwellings is noted, it is not considered that these sympathetically designed and modest alterations would result in wider visual harm. The condition of the original permission restricting the addition of new windows in the flank elevation of the building, was imposed in the interests of the amenity and privacy of adjoining properties. Considering the aspect of the proposed new windows and in the case of those on the side elevation, distance from neighbouring premises it is not considered that this would result in any harmful impacts through loss of privacy to neighbouring occupiers.
- 12.7 The proposed enlargement of the parking area would see an additional tarmac strip added to the side of that existing. This would be a limited change and in maintaining the remaining grassed area would not be harmful to the wider appearance of the development.
- 12.8 In response to matters raised through representation, the side access gate has been removed from the proposal. Prevailing covenants are a private civil matter and as such are not a material consideration in respect of this application for planning permission. It is noted that the original planning consent did not control the planting of the land to the side of the property and as such, it would be unreasonable to require re-planting through condition.
- 12.9 In conclusion it is considered that the proposal would have an acceptable impact on visual amenity and would not result in harm to the living conditions of neighbouring occupiers or highway safety. It would meet with the objectives of the original permission and accord with the policies and objectives of the Local Plan and as such, approval is recommended.
- 12.10 In coming to this recommendation, consideration has been given to the rights set out in Article 8 (Right to respect for private and family life) and Article 1 of the First Protocol (Right to peaceful enjoyment of possessions) of the European Convention on Human Rights. Whilst it is

recognised that there may be an interference with these rights and the rights of other third parties, such interference has to be balanced with the like rights of the applicant to develop the land in the way proposed. In this case it is considered that the protection of the rights and freedoms of the applicant outweigh any possible interference that may result to any third party.

13. RECOMMENDATION

Grant Subject to Conditions

Proposed 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. The development permitted shall be carried out in accordance with the following approved plans: 8756-E-001-01; Planting Scheme; 8756-P-201-03 C; 8756-P-201-01 G; 8756-E-201-01.

Reason: To ensure satisfactory provision of the development.

3. Before works commence on the conversion of the existing garage the additional parking area shall have been provided in accordance with the details on the approved plans. Thereafter this area shall be retained and kept available for the parking of vehicles at all times.

Reason: To ensure adequate parking provision is made in the interest of highway safety and in accordance with Policy CS2 and CS24 of the Local Plan for the New Forest outside of the National Park (Core Strategy).

Notes for inclusion on certificate:

1. In accordance with paragraphs 186 and 187 of the National Planning Policy Framework and Article 35 of the Town and Country Planning (Development Management Procedure) (England) Order 2015, New Forest District Council takes a positive and proactive approach, seeking solutions to any problems arising in the handling of development proposals so as to achieve, whenever possible, a positive outcome by giving clear advice to applicants.

In this case the applicant sought advice from the Council following the withdrawal of the previous scheme and the proposal accorded with the advice provided.

2. This decision relates to amended plans received by the Local Planning Authority on 26/07/2016

Further Information:

Householder Team

Telephone: 023 8028 5345 (Option 1)



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David Groom
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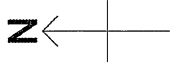
**Planning Development
Control Committee
August 2016**

Item No: 3bb

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Forest Gate Gardens
Pennington Lymington
16/10820
SZ3194

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scale.



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Application Number: 16/10332 Full Planning Permission

Site: HARLEYS, 1 SHAFTESBURY STREET,
FORDINGBRIDGE SP6 1JF

Development: Ancillary smoking area and temporary parasols

Applicant: Mr Ashford

Target Date: 28/07/2016

1 REASON FOR COMMITTEE CONSIDERATION

Contrary to Town Council view

2 DEVELOPMENT PLAN AND OTHER CONSTRAINTS

Built-up Area
Primary Shopping Area
Town Centre Boundary
Fordingbridge Conservation Area

3 DEVELOPMENT PLAN, OBJECTIVES AND POLICIES

Core Strategy

CS2: Design Criteria
CS3: Protecting and enhancing our special environment

Local Plan Part 2 Sites and Development Management Development Plan Document

DM1: Heritage and Conservation

4 RELEVANT LEGISLATION AND GOVERNMENT ADVICE

Section 38 Development Plan
Planning and Compulsory Purchase Act 2004
National Planning Policy Framework

5 RELEVANT SUPPLEMENTARY PLANNING GUIDANCE AND DOCUMENTS

Fordingbridge Conservation Area Appraisal
Village and Town Design Statement Fordingbridge

6 RELEVANT PLANNING HISTORY

6.1 14/11743 - Use as garden and supervised children's play area - refused
March 2015 - not appealed

6.2 11/97065 – continued use of land as beer garden, retention of pergola,
decking and smoking shelter – refused June 2011 – appeal dismissed

- 6.3 09/93833 - retention of pergola and decking, relief of condition 4 of 16327. Refused 13.5.09, appeal dismissed
- 6.4 07/91423 - retention of pergola and decking, relief of condition 4 of 16327. Refused 22.5.08, appeal invalid
- 6.5 EN/07/0627 - Enforcement Notice issued 2.6.09. No appeal. The notice required cessation of the use of the land for the purposes of a garden/courtyard area and removal of seating, tables, decking and pergola for use by patrons of the premises.

7 PARISH / TOWN COUNCIL COMMENTS

Fordingbridge Town Council - recommend refusal as concern is raised over the potential negative impact on neighbouring properties from noise, bad language and smoke.

8 COUNCILLOR COMMENTS

None

9 CONSULTEE COMMENTS

- 9.1 Conservation Officer - The scheme is much reduced from the previous proposals and now does not include pergola, outdoor seating and smoking shelter. The proposal is for two much lower impact fixed parasols, which has a much more limited impact on the conservation area and the host building than previous schemes. The application still has limited information to illustrate how the parasols sit adjacent to the building and no elevational drawings showing height and relationships. This said, the dimensions shown for the parasols that these will have a much reduced impact visually and have limited views from the street. The scheme as submitted would have a less than significant impact upon the conservation area and would appear as a simple low key addition to the rear of this focal historic building. No significant concerns are raised about the proposed application.
- 9.2 Environmental Health (Pollution) - The use of the rear area at this premises has been the subject of complaint and planning restriction in the past. Given the proximity to noise sensitive premises and the level of intensification of the rear yard which this development represents, it is recommended that any permission is granted on a temporary basis, to enable assessment of alleged nuisance, in particular from smoke reaching nearby property; and in any event the use of the outside area by customers and staff should cease by 21:30hrs.
- 9.3 Environmental Health (Commercial) - no objections
- 9.4 Land Drainage Section - no objections
- 9.5 Southern Gas Networks - give informatives

10 REPRESENTATIONS RECEIVED

Two letters have been received from neighbouring occupiers, objecting to the proposal on grounds on noise and smoke nuisance.

11 CRIME & DISORDER IMPLICATIONS

None

12 LOCAL FINANCE CONSIDERATIONS

Local financial considerations are not material to the decision on this application

13 WORKING WITH THE APPLICANT/AGENT

In accordance with paragraphs 186 and 187 of the National Planning Policy Framework and Article 35 of the Town and Country Planning (Development Management Procedure) (England) Order 2015, New Forest District Council take a positive and proactive approach, seeking solutions to any problems arising in the handling of development proposals so as to achieve, whenever possible, a positive outcome.

This is achieved by

- Strongly encouraging those proposing development to use the very thorough pre application advice service the Council provides.
- Working together with applicants/agents to ensure planning applications are registered as expeditiously as possible.
- Advising agents/applicants early on in the processing of an application (through the release of a Parish Briefing Note) as to the key issues relevant to the application.
- Updating applicants/agents of issues that arise in the processing of their applications through the availability of comments received on the web or by direct contact when relevant.
- Working together with applicants/agents to closely manage the planning application process to allow an opportunity to negotiate and accept amendments on applications (particularly those that best support the Core Strategy Objectives) when this can be done without compromising government performance requirements.
- Advising applicants/agents as soon as possible as to concerns that cannot be dealt with during the processing of an application allowing for a timely withdrawal and re-submission or decision based on the scheme as originally submitted if this is what the applicant/agent requires.
- When necessary discussing with applicants/agents proposed conditions especially those that would restrict the use of commercial properties or land when this can be done without compromising government performance requirements.

In this case all the above apply and as the application was acceptable as submitted no specific further actions were required.

14 ASSESSMENT

- 14.1 The site lies within the built up area of Fordingbridge in the Fordingbridge Conservation Area and Primary Shopping Frontage. The premises is an established bar on the corner of Shaftesbury Street, Market Place and Provost Street. The proposal follows four previous applications and the serving of an Enforcement Notice. The Enforcement Notice was served requiring the removal of pergolas, decking, smoking shelter, fish pond, wall and picket fence together with the cessation of the use of the land as a garden area. The paraphernalia has now been

removed from the wider site, which is in a poor visual state, although the portion of yard area closest to the premises is tidier and appears to be in use as an outdoor smoking area. The site has a very close relationship to residential land uses to the south and west.

- 14.2 The proposal is toned down in respect of the extent of the site area, appearance of the shelters and the degree of permanence of structures proposed, by comparison with the proposal refused in March 2015. The proposal is now for 2 parasols within a yard area delineated by a greyed out area on drawing no. JA-022 (site plan). The proposal does not extend into land to the rear of nos. 5, 7 and 9 Shaftesbury Street as previously proposed. It is proposed to use part of the rear curtilage as an outdoor area in association with the main premises between the hours of 08:00 and 23:00.
- 14.3 The main issues remain the impact the proposal would have on the character and appearance of the Fordingbridge Conservation Area and the effect of the proposal on the living conditions of the occupiers of surrounding residential properties and in these respects the comments of the Council's Conservation Officer and Environmental Protection Section were sought.
- 14.4 The Conservation Officer acknowledges that the scheme is much reduced from the previous proposals and now does not include the pergola, outdoor seating and smoking shelter. The visual impact of parasols has a much more limited impact on the conservation area and the host building than previous schemes. No significant heritage concerns are raised about the proposed application, which complies with the provisions of Policies CS3 and DM1.
- 14.5 The Environmental Protection Section note that the use of the rear yard area at this premises has been the subject of complaint in the past. Given the proximity to noise sensitive premises and the level of intensification of the rear yard which this development represents, they recommended that any permission is granted on a temporary basis, to enable assessment of alleged nuisance impacts, in particular from smoke reaching nearby properties. In any event the use of the outside area by customers and staff should cease by 21:30hrs, which may be controlled by condition.
- 14.6 In coming to this recommendation, consideration has been given to the rights set out in Article 8 (Right to respect for private and family life) and Article 1 of the First Protocol (Right to peaceful enjoyment of possessions) of the European Convention on Human Rights. Whilst it is recognised that there may be an interference with these rights and the rights of other third parties, such interference has to be balanced with the like rights of the applicant to develop the land in the way proposed. In this case it is considered that the protection of the rights and freedoms of the applicant outweigh any possible interference that may result to any third party.

15. RECOMMENDATION

Grant Subject to Conditions

Proposed Conditions:

1. The use of the rear yard area for smoking purposes by customers of the premises shall cease on or before 12th August 2017, unless prior written approval has first been agreed by the Local Planning Authority.

Reason: In order to assess the environmental impacts of the proposed use on the amenity of adjoining occupiers, in accordance with Policy CS2 of the Local Plan for the New Forest District outside the National Park (Core Strategy).

2. The development permitted shall be carried out in accordance with the following approved plans: JA-001, JA-002 and JA-003

Reason: To ensure satisfactory provision of the development.

3. Use of the rear curtilage as an ancillary smoking area shall apply only to the greyed out area shown on drawing no. JA-002 and no other area within the curtilage of the application property, without the express planning permission of the Local Planning Authority.

Reason: In the interest of the amenities of the locality in accordance with policy CS2 of the Local Plan for the New Forest District outside the National Park (Core Strategy).

4. Use of the external smoking area to the rear of the premises by customers shall be limited to between the hours of 09:00 and 21:30 only.

Reason: To safeguard the amenities of nearby residential properties in accordance with Policy CS2 of the Local Plan for the New Forest District outside the National Park (Core Strategy).

Notes for inclusion on certificate:

1. In accordance with paragraphs 186 and 187 of the National Planning Policy Framework and Article 35 of the Town and Country Planning (Development Management Procedure) (England) Order 2015, New Forest District Council takes a positive and proactive approach, seeking solutions to any problems arising in the handling of development proposals so as to achieve, whenever possible, a positive outcome by giving clear advice to applicants.

In this case all the above apply and as the application was acceptable as submitted no specific further actions were required.

Further Information:

Major Team

Telephone: 023 8028 5345 (Option 1)



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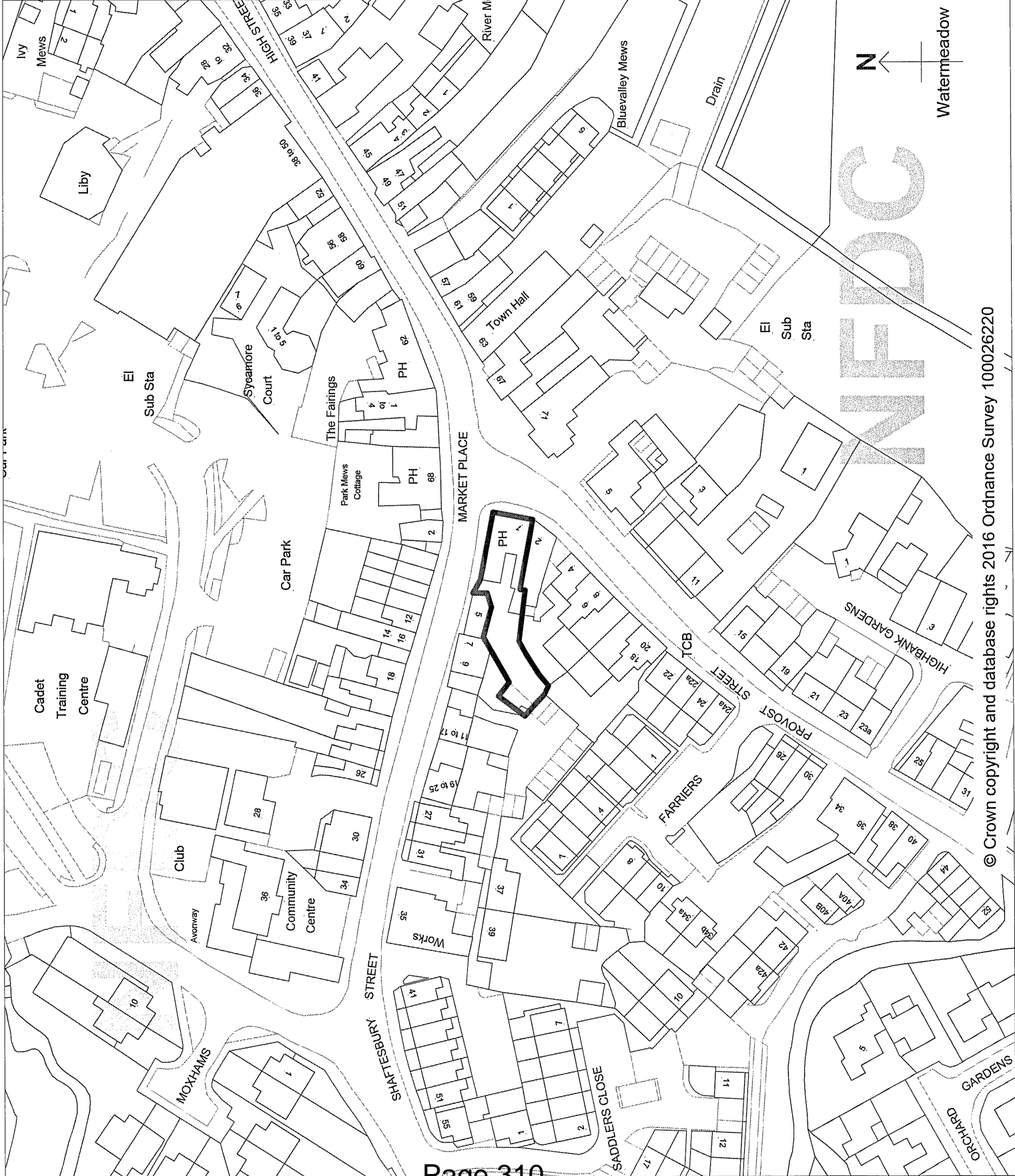
**Planning Development
Control Committee
August 2016**

Item No: 3cc

Harleys
1 Shaftesbury Street
Fordingbridge
16/10332
SU1414

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scale.



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Application Number: 16/10833 Full Planning Permission

Site: Land of 8 MALTHOUSE GARDENS, MARCHWOOD SO40 4XY

Development: Two-storey extension to form dwelling

Applicant: Mr & Mrs Bundy

Target Date: 10/08/2016

1 REASON FOR COMMITTEE CONSIDERATION

Contrary to Policy

2 DEVELOPMENT PLAN AND OTHER CONSTRAINTS

Built-up area

3 DEVELOPMENT PLAN, OBJECTIVES AND POLICIES

Core Strategy

Objectives

1. Special qualities, local distinctiveness and a high quality living environment
3. Housing
6. Towns, villages and built environment quality

Policies

- CS2: Design quality
CS15: Affordable housing contribution requirements from developments
CS24: Transport considerations
CS25: Developers contributions

Local Plan Part 2 Sites and Development Management Development Plan Document

DM3: Mitigation of impacts on European nature conservation sites

4 RELEVANT LEGISLATION AND GOVERNMENT ADVICE

Section 38 Development Plan
Planning and Compulsory Purchase Act 2004
National Planning Policy Framework

5 RELEVANT SUPPLEMENTARY PLANNING GUIDANCE AND DOCUMENTS

SPD - Mitigation Strategy for European Sites

6 RELEVANT PLANNING HISTORY

- 6.1 Two-storey side extension (14/11216) - granted 18/2/15
- 6.2 Two-storey extension to form dwelling (15/10409) - refused 9/7/15

7 PARISH / TOWN COUNCIL COMMENTS

Marchwood Parish Council:- Recommend refusal - development is out of character and will be detrimental to the street scene; over development of the site; inadequate amenity space for the dwellings; car parking areas and associated hard surfacing will give rise to a cramped appearance.

8 COUNCILLOR COMMENTS

None

9 CONSULTEE COMMENTS

9.1 Hampshire County Council Highway Engineer:- No objection subject to conditions

9.2 Land Drainage:- No comment

9.3 Southern Gas Networks:- advise of site's proximity to gas main

10 REPRESENTATIONS RECEIVED

10.1 3 letters of objection from local residents / neighbouring dwellings:- concerns over access and parking which will give rise to an additional highway hazard; overdevelopment of small plot; development would appear out of keeping in the streetscene; concerns about overlooking.

11 CRIME & DISORDER IMPLICATIONS

No relevant considerations

12 LOCAL FINANCE CONSIDERATIONS

If this development is granted permission and the dwelling built, the Council will receive £1152 in each of the following six years from the dwelling's completion, and as a result, a total of £6912 in government grant under the New Homes Bonus will be received.

From the 6 April 2015 New Forest District Council began charging the Community Infrastructure Levy (CIL) on new residential developments.

Based on the information provided at the time of this report this development has a CIL liability of £5,970.34.

Tables setting out all contributions are at the end of this report.

13 WORKING WITH THE APPLICANT/AGENT

In accordance with paragraphs 186 and 187 of the National Planning Policy Framework and Article 35 of the Town and Country Planning (Development Management Procedure) (England) Order 2015, New Forest District Council take a positive and proactive approach, seeking solutions to any problems arising in the handling of development proposals so as to achieve, whenever possible, a positive outcome.

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- Updating applicants/agents of issues that arise in the processing of their applications through the availability of comments received on the web or by direct contact when relevant.
- Working together with applicants/agents to closely manage the planning application process to allow an opportunity to negotiate and accept amendments on applications (particularly those that best support the Core Strategy Objectives) when this can be done without compromising government performance requirements.
- Advising applicants/agents as soon as possible as to concerns that cannot be dealt with during the processing of an application allowing for a timely withdrawal and re-submission or decision based on the scheme as originally submitted if this is what the applicant/agent requires.
- When necessary discussing with applicants/agents proposed conditions especially those that would restrict the use of commercial properties or land when this can be done without compromising government performance requirements.

In this case, the application proposals were not the subject of any discussion since the refusal of the same proposal last year. It is not considered that there is scope to work with the applicant to secure a positive recommendation on this application.

14 ASSESSMENT

- 14.1 8 Malthouse Gardens is a link detached dwelling that occupies a prominent plot in a residential cul-de-sac that dates from the early 1980s. The dwelling fronts onto the road at an angle, which consequently means that the property has a fairly long frontage to the highway. The areas to the front of the dwelling are fairly open, being enclosed by some low railings. Areas of garden to the side and to the rear of the dwelling are enclosed by wooden panel fencing, including a solid access gate onto Malthouse Gardens. There is a public footpath to the rear of the property. Other nearby houses in Malthouse Gardens are predominantly 2 storey link-detached dwellings with strong front gabled forms.
- 14.2 Planning permission was granted for a 2-storey extension to the side of the dwelling in February 2015. This was considered to have an acceptable impact on the character and appearance of the area. The permission remains extant, but has yet to be implemented.
- 14.3 In July 2015, planning permission was refused for a 2-storey extension, similar to the one that was granted in February 2015, the main difference being that the extension was to provide a separate self-contained dwelling. The proposal also differed from the February 2015 planning permission in that it included a lean-to porch canopy, and it proposed to widen the site's access onto Malthouse Gardens in order to provide 2 off-street car parking spaces for the new dwelling. The application refused in July 2015 had been recommended for permission by officers.

However, Committee members disagreed with the officer recommendation and refused the scheme on the basis that the increased level of car parking and hard surfacing would be out of character with the green, sylvan appearance of the area and would give rise to a cramped form of development.

- 14.4 The application that has now been submitted is identical to the application that was refused by the Local Planning Authority last year. There has not been any material change in design policies or site circumstances since July 2015. Therefore, there is not felt to be any reason to come to a different conclusion to that reached by Committee last year, namely that the proposal would be harmful to the character and appearance of the area due, primarily, to the increased level of car parking and associated hard surfacing.
- 14.5 The proposed dwelling would not have a materially greater impact on the amenities and privacy of neighbouring dwellings than the extension which was approved in February 2015. The properties to the rear at 6 and 7 Malthouse Gardens would be set an acceptable distance away from the proposed rear first floor windows. The rear garden of 6 Malthouse Gardens would be 16 metres away and the side of 7 Malthouse Gardens (a bungalow) would be 13 metres away. These properties would be separated from the site by a public footpath link.
- 14.6 One of the proposed parking bays would be within the Root Protection Area of 2 Norway Maple trees, which have significant amenity value and which are protected by a Tree Preservation Order. The Council's tree officer has previously confirmed that it would be feasible to install the parking bay without damaging these trees if a suitable non-dig engineered surface was used. As such, subject to an appropriate tree protection condition, it is considered the development could take place without harming important trees.
- 14.7 The level of car parking being provided accords with the Council's recommended standards. The Highway Authority are satisfied that the access and parking arrangements are acceptable and accordingly, there is no basis to conclude that this proposal would be harmful to highway safety.
- 14.8 On 19th May 2016 the Government issued planning guidance setting out the specific circumstances in which contributions for affordable housing and tariff style planning obligations (section 106 agreements) should not be sought from small scale and self-build development. This guidance has been reissued following the order of the Court of Appeal dated 13th May 2016 (*West Berkshire District Council and Another v The Secretary of State for Communities and Local Government*). The planning guidance specifies the circumstances in which contributions should not be sought as follows:

“Contributions should not be sought from developments of 10 units or less and which have a maximum combined gross floorspace of no more than 1,000 sqm;

In designated rural areas, local planning authorities may choose to apply a lower threshold of 5 units or less...;

Affordable housing and tariff style contributions should not be sought from any development consisting only of the construction of a residential annex or extension to an existing house”

This national guidance is at odds with Policy CS15 of the Council’s Core Strategy which requires many small scale housing developments including the current application proposals to make affordable housing provision.

- 14.9 The presumption in favour of the development plan remains, in that the decision should be taken in accordance with the plan unless material considerations indicate otherwise. The new guidance is a material consideration which post-dates the adoption of the Local Plan. It is for the Council to decide which should prevail in the determination of a planning application. However, the Secretary of State, through his Inspectors can be anticipated to give greater weight to the Government’s national guidance unless there are reasons to make an exception.
- 14.10 While the need for affordable housing in this District is pressing, this in itself is unlikely to be considered by the Secretary of State as sufficient reason for the Council to apply its own development plan policy rather than applying national policy. Therefore, it is recommended that no affordable housing or tariff style contributions are sought from this development, in accordance with national Planning Practice Guidance, contrary to the provisions of Policy CS15 of the Core Strategy.
- 14.11 In accordance with the Habitat Regulations 2010 an assessment has been carried out of the likely significant effects associated with the recreational impacts of the residential development provided for in the Local Plan on both the New Forest and the Solent European Nature Conservation Sites. It has been concluded that likely significant adverse effects cannot be ruled out without appropriate mitigation projects being secured. In the event that planning permission were to be granted for the proposed development, a condition would be required that would prevent the development from proceeding until the applicant has secured appropriate mitigation, either by agreeing to fund the Council’s Mitigation Projects or otherwise providing mitigation to an equivalent standard.
- 14.12 Overall, the proposed development would not be consistent with Local Plan policies and objectives. The development would be no different to the scheme refused by Committee last year. It would harm the character and appearance of the area, and the application can therefore only be recommended for refusal.
- 14.13 In coming to this recommendation, consideration has been given to the rights set out in Article 8 (Right to respect for private and family life) and Article 1 of the First Protocol (Right to peaceful enjoyment of possessions) of the European Convention on Human Rights. Whilst it is recognised that this recommendation, if agreed, may interfere with the rights and freedoms of the applicant to develop the land in the way proposed, the objections to the planning application are serious ones and cannot be overcome by the imposition of conditions. The public interest and the rights and freedoms of neighbouring property owners can only be safeguarded by the refusal of permission.

Section 106 Contributions Summary Table

Proposal:			
Type of Contribution	NFDC Policy Requirement	Developer Proposed Provision	Difference
Affordable Housing			
No. of Affordable dwellings			
Financial Contribution	£18,060	0	-£18,060
Habitats Mitigation			
Financial Contribution	£3050		

Type	Proposed Floorspace (sq/m)	Existing Floorspace (sq/m)	Net Floorspace (sq/m)	Chargeable Floorspace (sq/m)	Rate	Total
Dwelling houses	71.6		71.6	71.6	£80/sqm	£5,970.34 *
Subtotal:	£5,970.34					
Relief:	£0.00					
Total Payable:	£5,970.34					

* The formula used to calculate the amount of CIL payable allows for changes in building costs over time and is Index Linked using the All-in Tender Index Price published by the Build Cost Information Service (BICS) and is:

Net additional new build floor space (A) x CIL Rate (R) x Inflation Index (I)

15. RECOMMENDATION

Refuse

Reason(s) for Refusal:

1. The proposed development would, as a result of the increased level of car parking and associated hard surfacing, result in a form of development that would be out of character with the green, sylvan appearance of this area and give rise to a cramped form of development. As a result the proposal would be contrary to Policy CS2 of the Core Strategy for the New Forest District outside the National Park.

Notes for inclusion on certificate:

1. In accordance with paragraphs 186 and 187 of the National Planning Policy Framework and Article 35 of the Town and Country Planning (Development Management Procedure) (England) Order 2015, New Forest District Council takes a positive and proactive approach, seeking solutions to any problems arising in the handling of development proposals so as to achieve, whenever possible, a positive outcome by giving clear advice to applicants.

In this case, the application proposals were not the subject of any discussion since the refusal of the same proposal last year. It would not be considered that there was scope to work with the applicant to secure a positive recommendation on this application.

Further Information:

Major Team

Telephone: 023 8028 5345 (Option 1)



New Forest
DISTRICT COUNCIL

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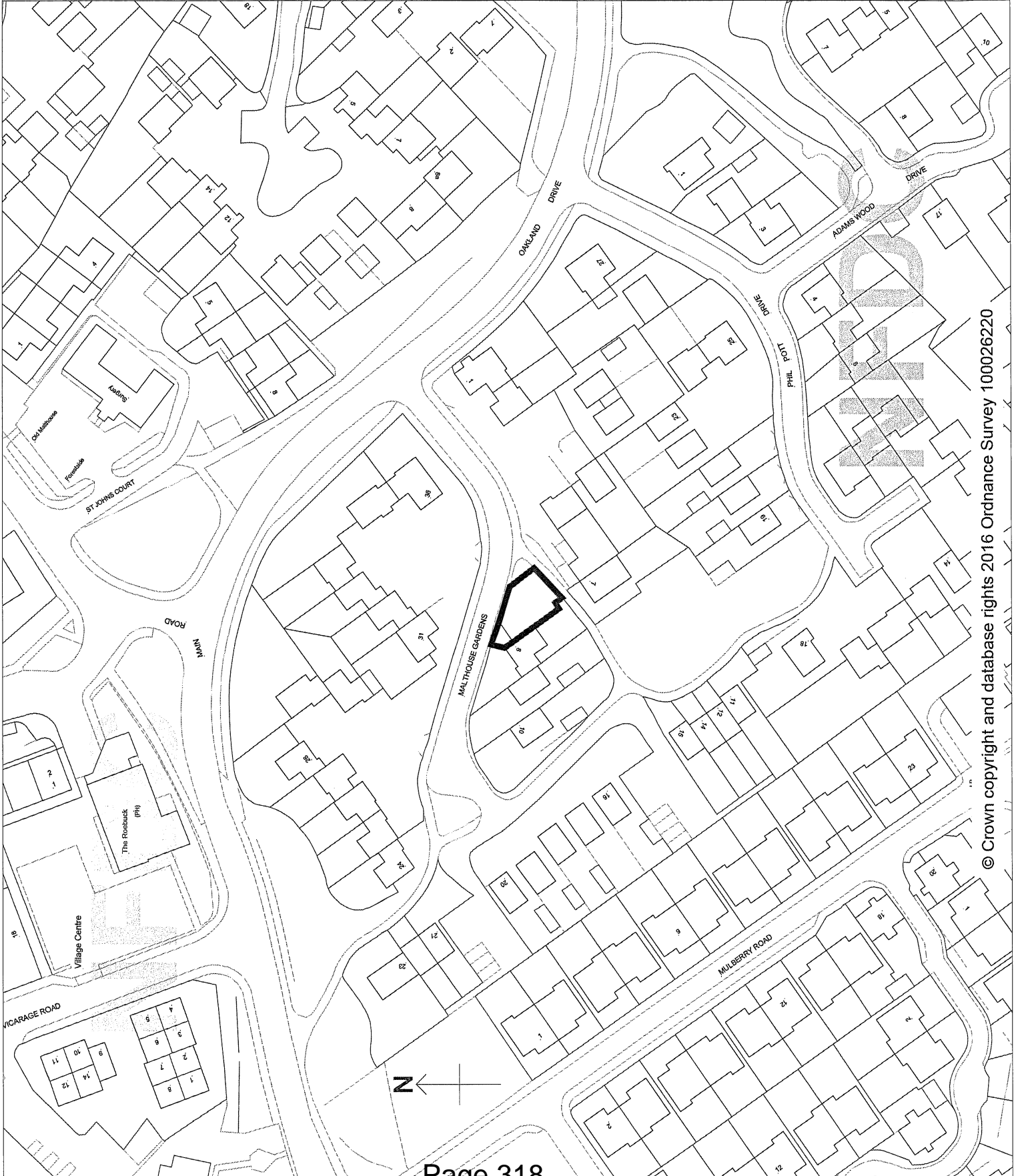
David Groom
Service Manager
Planning and Building Control
New Forest District Council
Appletree Court
Lyndhurst
SO43 7PA

**Planning Development
Control Committee
August 2016**

Item No: 3dd
Land of 8
Malthouse Gardens
Marchwood
16/10833
SU3810

Scale 1:1250

N.B. If printing this plan from
the internet, it will not be to
scale.



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Application Number: 16/10854 Full Planning Permission

Site: Rear of 117 CHRISTCHURCH ROAD, RINGWOOD BH24 3AQ

Development: House; parking; shed

Applicant: Mr & Mrs Pilbeam

Target Date: 15/08/2016

1 REASON FOR COMMITTEE CONSIDERATION

Contrary to Policy

2 DEVELOPMENT PLAN AND OTHER CONSTRAINTS

Built up area

3 DEVELOPMENT PLAN, OBJECTIVES AND POLICIES

Core Strategy

Objectives

1. Special qualities, local distinctiveness and a high quality living environment
3. Housing
6. Towns, villages and built environment quality

Policies

Core Strategy

- CS2: Design quality
- CS4: Energy and resource use
- CS7: Open spaces, sport and recreation
- CS10: The spatial strategy
- CS15: Affordable housing contribution requirements from developments
- CS24: Transport considerations
- CS25: Developers contributions

Local Plan Part 2 Sites and Development Management Development Plan Document

DM3: Mitigation of impacts on European Conservation Sites

4 RELEVANT LEGISLATION AND GOVERNMENT ADVICE

Section 38 Development Plan
Planning and Compulsory Purchase Act 2004
National Planning Policy Framework

5 RELEVANT SUPPLEMENTARY PLANNING GUIDANCE AND DOCUMENTS

SPD - Housing Design, Density and Character
SPD - Mitigation Strategy for European Sites
SPD - Parking Standards
SPD - Ringwood Local Distinctiveness

6 RELEVANT PLANNING HISTORY

6.1 House, parking, shed (10371) Refused on the 27th May 2016

6.2 House (11466) Refused on the 11th February 2015

7 PARISH / TOWN COUNCIL COMMENTS

Ringwood Town Council: No comment received to date

8 COUNCILLOR COMMENTS

None

9 CONSULTEE COMMENTS

9.1 Hampshire County Council Highway Engineer: no objection subject to condition

9.2 Land Drainage: no objection subject to condition

9.3 Environmental Health (historic land use): no objection subject to condition

10 REPRESENTATIONS RECEIVED

10.1 1 letter of objection from the owner of 1a Southfield, concerned that the proposal would block light to the western side of the house. The proposed building would be overbearing and result in overlooking from the proposed windows. Concerns are also expressed regarding lack of car parking

10.2 1 letter of objection concerned with the current state of the access along Southfield and the proposal would worsen the situation. Insufficient car parking provided. Concerns over construction access.

10.3 1 letter raising no objection

11 CRIME & DISORDER IMPLICATIONS

No relevant considerations

12 LOCAL FINANCE CONSIDERATIONS

If this development is granted permission and the dwellings built, the Council will receive £1152 in each of the following six years from the dwellings' completion, and as a result, a total of £6912 in government grant under the New Homes Bonus will be received.

From the 6 April 2015 New Forest District Council began charging the Community Infrastructure Levy (CIL) on new residential developments.

Based on the information provided at the time of this report this development has a CIL liability of £5,119.82.

Tables setting out all contributions are at the end of this report.

13 WORKING WITH THE APPLICANT/AGENT

In accordance with paragraphs 186 and 187 of the National Planning Policy Framework and Article 35 of the Town and Country Planning (Development Management Procedure) (England) Order 2015, New Forest District Council take a positive and proactive approach, seeking solutions to any problems arising in the handling of development proposals so as to achieve, whenever possible, a positive outcome.

This is achieved by

- Strongly encouraging those proposing development to use the very thorough pre application advice service the Council provides.
- Working together with applicants/agents to ensure planning applications are registered as expeditiously as possible.
- Advising agents/applicants early on in the processing of an application (through the release of a Parish Briefing Note) as to the key issues relevant to the application.
- Updating applicants/agents of issues that arise in the processing of their applications through the availability of comments received on the web or by direct contact when relevant.
- Working together with applicants/agents to closely manage the planning application process to allow an opportunity to negotiate and accept amendments on applications (particularly those that best support the Core Strategy Objectives) when this can be done without compromising government performance requirements.
- Advising applicants/agents as soon as possible as to concerns that cannot be dealt with during the processing of an application allowing for a timely withdrawal and re-submission or decision based on the scheme as originally submitted if this is what the applicant/agent requires.
- When necessary discussing with applicants/agents proposed conditions especially those that would restrict the use of commercial properties or land when this can be done without compromising government performance requirements.

In this case all the above apply and as the application was acceptable as submitted no specific further actions were required.

14 ASSESSMENT

- 14.1.1 This proposal is identical to two previous planning applications under reference 10371 and 11466 which were refused solely on the grounds that the necessary affordable housing contributions were not secured..
- 14.1.2 The site forms an area of land used for car parking to a commercial office building which fronts onto Christchurch Road. This is a traditional two storey building with a rear area that extends adjacent to a narrow cul de sac known as Southfield. The site is enclosed by wrought iron metal gates and the site is predominantly open and used for car parking in association with the office building and there is a small container stored on the land.

- 14.1.3 In assessing the character of the area, while the existing property fronts onto Christchurch Road, the site would be located along Southfield and, accordingly, it should be assessed within this context. Southfield is a narrow unmade road, with no footpaths, and very limited space for two vehicles to pass each other. The road is a short cul de sac serving 4 pairs of semi-detached houses. Three of the pairs of semi-detached dwellings are of similar design with traditional pitched roofs and side gables and the buildings are sited right up to the road frontage. At the end of the cul de sac, there is a further semi-detached pair which is set on a much wider and deeper plot and the building is set back from the road. On the opposite side of Southfield the side elevations and gardens of the dwellings at Southfield Mews form the road frontage. Southfield is a high density area and some of the properties are likely to have been built back in the Victorian period, although the properties adjoining the site at 1a and 1b were developed in the 1980s.
- 14.1.4 The proposed dwelling would be sited right up to the road edge and has been designed with a pitched roof and side gables to replicate the style of properties along Southfield. A small rear garden area would be provided, with space for one car to the side of the building. The proposed development would reflect the surrounding pattern of development although the plot would be marginally smaller than others nearby. In assessing the effect on the character and appearance of the area, on balance, it is considered that the proposed development would be compatible with the other properties along Southfield and has been designed to reflect the street scene.
- 14.1.5 With regard to residential amenity, there are several residential properties that would be affected by the proposal. The adjoining neighbour at No 1a is a semi-detached dwelling and has its side elevation facing the application site with a driveway and garage between. On the side elevation of this residential property there are two ground floor windows and a door with a window. The windows are glazed with obscure glass and serve a toilet and hallway and the door provides access into the kitchen, which also receives light from the rear elevation. The proposed dwelling would be sited some 4 metres from the side of No 1a.
- 14.1.6 In assessing the impact on this neighbouring property, no windows are proposed on the side elevation which would maintain a reasonable level of privacy. In terms of loss of light and outlook, given that the windows are obscurely glazed and do not serve main living rooms, the proposed dwelling would not unacceptably compromise the outlook from this property. Concerning loss of light, the proposed dwelling is sited to the west which would result in some loss of sunlight in the late afternoon however, given that the windows do not serve main living rooms, and that the loss of light would be for a short period of the day, a reason for refusal on these grounds would be difficult to substantiate.
- 14.1.7 Concerning the residential property to the rear at No 115, Christchurch Road, the proposed first floor windows on the rear elevation of the building would serve a bathroom and landing and to ensure no adverse impact on the privacy of No 115, it would be reasonable to impose a condition for the windows to be glazed with obscure glass.

- 14.1.8 The proposed dwelling would result in some overlooking the rear of residential flats at Nos. 117 to 123, Christchurch Road, However, the views would be oblique and the rear garden area is a small space with a washing line and does not appear to be a space that is fully utilised as an area of private amenity. The proposed first floor windows on the front elevation would face the rear garden of No 5 Southfield Mews. However, the garden area is already overlooked by No 1a Southfield and the proposed dwelling is sited further away and the windows would mainly front onto the road, which would be acceptable.
- 14.1.9 In relation to car parking and access, the site would accommodate a single space for car parking, which would broadly accord with the recommended guidance for a two bedroom dwelling. There is no extra space to park along Southfield and no provision along Christchurch Road. The access along Southfield is very restricted and there is not space for vehicles to pass and no space for turning at the end of the cul de sac. From a public highway safety point of view, it is essential that there is enough space for vehicles to park within the space and turn within Southfield so that they can enter Christchurch Road in a forward gear. The application plans show a swept path analysis which demonstrates that both the proposed dwelling and existing commercial business can manoeuvre and turn within Southfield so that vehicles can enter Christchurch Road in a forward gear.
- 14.1.10 Based upon these details, the Highway Authority does not raise any objections to the proposal on public highway safety grounds. Consideration should also be given to the fact that the existing commercial business does have space for 4 vehicles to park and a turning area. The sub division of the site would result in the loss of car parking capacity for the commercial business, but would still enable spaces to remain and this would be acceptable for the site given the location close to the town centre.
- 14.11 On 19th May 2016 the Government issued planning guidance setting out the specific circumstances in which contributions for affordable housing and tariff style planning obligations (section 106 agreements) should not be sought from small scale and self-build development. This guidance has been reissued following the order of the Court of Appeal dated 13th May 2016 (*West Berkshire District Council and Another v The Secretary of State for Communities and Local Government*). The planning guidance specifies the circumstances in which contributions should not be sought as follows:
- “Contributions should not be sought from developments of 10 units or less and which have a maximum combined gross floorspace of no more than 1,000 sqm; In designated rural areas, local planning authorities may choose to apply a lower threshold of 5 units or less...;*
- Affordable housing and tariff style contributions should not be sought from any development consisting only of the construction of a residential annex or extension to an existing house”*
- This national guidance is at odds with Policy CS15 of the Council’s Core Strategy. In these circumstances, the law gives no priority to either the Council’s Core Strategy or to the Government’s national guidance. It is for the decision maker to assess both policies as

“material considerations” and to decide which should have greater weight in the determination of a planning application. However, the Secretary of State, through his Inspectors can be anticipated to give greater weight to the Government’s national guidance unless there are exceptional circumstances which indicate otherwise.

14.12 While the need for affordable housing in this District is pressing, this in itself does not give rise to the sort of circumstances that can be considered exceptional. Therefore it is recommended that no affordable housing or tariff style contributions are sought from this development, in accordance with national Planning Practice Guidance, contrary to the provisions of Policy CS15 of the Core Strategy.

14.1.13 In accordance with the Habitat Regulations 2010 an assessment has been carried out of the likely significant effects associated with the recreational impacts of the residential development provided for in the Local Plan on both the New Forest and the Solent European Nature Conservation Sites. It has been concluded that likely significant adverse effects cannot be ruled out without appropriate mitigation projects being secured. In the event that planning permission is granted for the proposed development, a condition is recommended that would prevent the development from proceeding until the applicant has secured appropriate mitigation, either by agreeing to fund the Council's Mitigation Projects or otherwise providing mitigation to an equivalent standard.

14.1.14 In conclusion, it is considered that in principle the proposed development would be acceptable, and no concerns have been raised previously, other than in relation to affordable housing provision, in light of the stance set out above, the application is recommended for approval

14.1.15 In coming to this recommendation, consideration has been given to the rights set out in Article 8 (Right to respect for private and family life) and Article 1 of the First Protocol (Right to peaceful enjoyment of possessions) of the European Convention on Human Rights. Whilst it is recognised that there may be an interference with these rights and the rights of other third parties, such interference has to be balanced with the like rights of the applicant to develop the land in the way proposed. In this case it is considered that the protection of the rights and freedoms of the applicant outweigh any possible interference that may result to any third party.

CIL Summary Table

Description of Class	GIA New	GIA Existing	GIA Net Increase	CIL Liability
Dwelling houses	61.4		61.4	£5,119.82 *

15. RECOMMENDATION

Grant Subject to Conditions

Proposed 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. The development permitted shall be carried out in accordance with the following approved plans: 8470/101, 8470/100, 8470/200.

Reason: To ensure satisfactory provision of the development.

3. The development hereby approved shall only be constructed from the following materials:

Roofing: Marley modern Anthracite concrete interlocking
External Walls:Wienerberger Olde Henfield Multi Stock red

Reason: To ensure an acceptable appearance of the building in accordance with policy CS2 of the Core Strategy for the New Forest District outside the National Park.

4. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) 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, 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 Local Planning 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 CS2 of the Local Plan for the New Forest District outside the National Park (Core Strategy).

5. The development hereby permitted shall not be occupied until the spaces shown on plan 8470/100 for the parking of motor vehicles have been provided. The spaces shown on plan 8470/100 for the parking or motor vehicles shall be retained and kept available for the parking of motor vehicles [and cycles] for the dwellings hereby approved at all times.

Reason: To ensure adequate parking provision is made in the interest of highway safety and in accordance with Policy CS2 and CS24 of the Local Plan for the New Forest outside of the National Park (Core Strategy).

6. No development shall be carried out until proposals for the mitigation of the

impact of the development on the New Forest and Solent Coast European Nature Conservation Sites have been submitted to and approved in writing by the local planning authority, and the local planning authority has confirmed in writing that the provision of the proposed mitigation has been secured. Such proposals must:

- (a) Provide for mitigation in accordance with the New Forest District Council Mitigation Strategy for European Sites SPD, adopted in June 2014 (or any amendment to or replacement for this document in force at the time), or for mitigation to at least an equivalent effect;
- (b) Provide details of the manner in which the proposed mitigation is to be secured. Details to be submitted shall include arrangements for the ongoing maintenance and monitoring of any Suitable Alternative Natural Green Spaces which form part of the proposed mitigation measures together with arrangements for permanent public access thereto.
- (c) The development shall be carried out in accordance with and subject to the approved proposals.

Reason: The impacts of the proposed development must be mitigated before any development is carried out in order to ensure that there will be no adverse impacts on the New Forest and Solent Coast Nature Conservation Sites in accordance with Policy DM3 of the Local Plan Part 2 and the New Forest District Council Mitigation Strategy for European Sites Supplementary Planning Document.

7. Before development commences a scheme of landscaping of the site shall be submitted for approval in writing by the Local Planning Authority. This scheme shall include :
 - (a) the existing trees and shrubs 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 prevent inappropriate car parking to comply with Policy CS2 of the Local Plan for the New Forest District outside the National Park (Core Strategy).

8. Before development commences, details of the means of disposal of surface water from the site shall be submitted to and approved in writing by the Local Planning 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 CS2 of the Local Plan for the New Forest District outside the National Park (Core Strategy) and the New Forest District Council and New Forest National Park Authority Strategic Flood Risk Assessment for Local Development Frameworks.

9. Unless otherwise agreed by the Local Planning Authority, development other than that required to be carried out as part of an approved scheme of remediation must not commence until conditions relating to contamination no 10 to 12 have been complied with.

If unexpected contamination is found after development has begun, development must be halted on that part of the site affected by the unexpected contamination to the extent specified by the Local Planning Authority in writing until condition 13 relating to the reporting of unexpected contamination has been complied with in relation to that contamination.

Reason : To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors in accordance with policy CS5 of the Local Plan for the New Forest District outside the National Park (Core Strategy) and Policy DM4 of the Local Plan For the New Forest District outside the National Park. (Part 2: Sites and Development Management).

10. An investigation and risk assessment, in addition to any assessment provided with the planning application, must be completed in accordance with a scheme to assess the nature and extent of any contamination on the site, whether or not it originates on the site. The contents of the scheme are subject to the approval in writing of the Local Planning Authority. The investigation and risk assessment must be undertaken by competent persons and a written report of the findings must be produced. The written report is subject to the approval in writing of the Local Planning Authority. The report of the findings must include:

(i) a survey of the extent, scale and nature of contamination;

(ii) an assessment of the potential risks to:

- human health,
- property (existing or proposed) including buildings, crops, livestock, pets, woodland and service lines and pipes,
- adjoining land,
- groundwaters and surface waters,
- ecological systems,
- archaeological sites and ancient monument
-

(iii) an appraisal of remedial options, and proposal of the preferred option(s).

This must be conducted in accordance with DEFRA and the Environment Agency's 'Model Procedures for the Management of Land Contamination, CLR 11'.

Reason: To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to workers,

neighbours and other offsite receptors in accordance with policy CS5 of the Local Plan for the New Forest District outside the National Park (Core Strategy) and Policy DM4 of the Local Plan for the New Forest District outside the National Park. (Part 2: Sites and Development Management).

11. A detailed remediation scheme to bring the site to a condition suitable for the intended use by removing unacceptable risks to human health, buildings and other property and the natural and historical environment must be prepared, and is subject to the approval in writing of the Local Planning Authority. The scheme must include all works to be undertaken, proposed remediation objectives and remediation criteria, timetable of works and site management procedures. The scheme must ensure that the site will not qualify as contaminated land under Part 2A of the Environmental Protection Act 1990 in relation to the intended use of the land after remediation.

Reason: To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors in accordance with Policy CS5 of the Local Plan for the New Forest District outside the National Park (Core Strategy) and Policy DM4 of the Local Plan for the New Forest District outside the National Park. (Part 2: Sites and Development Management).

12. The approved remediation scheme must be carried out in accordance with its terms prior to the commencement of development other than that required to carry out remediation, unless otherwise agreed in writing by the Local Planning Authority. The Local Planning Authority must be given two weeks written notification of commencement of the remediation scheme works. Following completion of measures identified in the approved remediation scheme, a verification report that demonstrates the effectiveness of the remediation carried out must be produced, and is subject to the approval in writing of the Local Planning Authority.

Reason: To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors in accordance with Policy CS5 of the Local Plan for the New Forest District outside the National Park (Core Strategy) and Policy DM4 of the Local Plan for the New Forest District outside the National Park. (Part 2: Sites and Development Management).

13. In the event that contamination is found at any time when carrying out the approved development that was not previously identified it must be reported in writing immediately to the Local Planning Authority. An investigation and risk assessment must be undertaken in accordance with the requirements of condition 9, and where remediation is necessary a remediation scheme must be prepared in accordance with the requirements of condition 10,

which is subject to the approval in writing of the Local Planning Authority. Following completion of measures identified in the approved remediation scheme a verification report must be prepared, which is subject to the approval in writing of the Local Planning Authority in accordance with condition 11.

Reason: To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors in accordance with Policy CS5 of the Local Plan for the New Forest District outside the National Park (Core Strategy) and Policy DM4 of the Local Plan for the New Forest District outside the National Park. (Part 2: Sites and Development Management).

14. A monitoring and maintenance scheme to include monitoring the long-term effectiveness of the proposed remediation over a period of [x] years (as stated in the remediation scheme), and the provision of reports on the same must be prepared, both of which are subject to the approval in writing of the Local Planning Authority. Following completion of the measures identified in that scheme and when the remediation objectives have been achieved, reports that demonstrate the effectiveness of the monitoring and maintenance carried out must be produced, and submitted to the Local Planning Authority. This must be conducted in accordance with DEFRA and the Environment Agency's *'Model Procedures for the Management of Land Contamination, CLR 11'*.

Reason: To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors in accordance with Policy CS5 of the Local Plan for the New Forest District outside the National Park (Core Strategy) and Policy DM4 of the Local Plan for the New Forest District outside the National Park. (Part 2: Sites and Development Management).

Notes for inclusion on certificate:

1. In accordance with paragraphs 186 and 187 of the National Planning Policy Framework and Article 35 of the Town and Country Planning (Development Management Procedure) (England) Order 2015, New Forest District Council takes a positive and proactive approach, seeking solutions to any problems arising in the handling of development proposals so as to achieve, whenever possible, a positive outcome by giving clear advice to applicants.

In this case all the above apply and as the application was acceptable as submitted no specific further actions were required.

2. In discharging condition No 6 above the Applicant is advised that appropriate mitigation is required before the development is commenced, either by agreeing to fund the Council's Mitigation Projects or otherwise providing mitigation to an equivalent standard. Further information about how this can be achieved can be found here <http://www.newforest.gov.uk/article/16478/>

Further Information:

Major Team

Telephone: 023 8028 5345 (Option 1)



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