

Application Number: 18/11003 Variation / Removal of Condition

Site: 16 CHESSEL HOUSE, FERNHILL LANE, NEW MILTON
BH25 5WR

Development: Removal of condition 5 of planning permission 17/10973 to allow
rooflights on west elevation to be clear glazed and opening

Applicant: RJC Developments Ltd

Target Date: 02/10/2018

Extension Date: 14/11/2018

RECOMMENDATION: Grant Subject to Conditions
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Case Officer: Vivienne Baxter

1 REASON FOR COMMITTEE CONSIDERATION

Contrary Town Council and Councillor views

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

Local Plan Part 2 Sites and Development Management Development Plan Document

NPPF1: National Planning Policy Framework – Presumption in favour of sustainable development

4 RELEVANT LEGISLATION AND GOVERNMENT ADVICE

Section 38 Development Plan
Planning and Compulsory Purchase Act 2004
National Planning Policy Framework
NPPF Ch.2 - Achieving sustainable development
NPPF Ch. 4 - Decision-making

5 RELEVANT SUPPLEMENTARY PLANNING GUIDANCE AND DOCUMENTS

SPD - New Milton Local Distinctiveness

6 RELEVANT PLANNING HISTORY

- 6.1 17/10973 - roof alterations, dormer and roof lights in association with new flat, 1 additional parking space. Granted 11.10.17
- 6.2 06/89324 - 1 block of 5 flats, 1 block of 8 flats, demolition of existing buildings. Granted 17.5.06
- 6.3 05/85408 - 13 flats with parking and access alterations. Refused 7.10.05, appeal dismissed.

7 PARISH / TOWN COUNCIL COMMENTS

New Milton Town Council: strongly object(Non-delegated)
Overlooking, predominantly to the neighbour at number 4 Avenue Road.

8 COUNCILLOR COMMENTS

Cllr Cleary: objects, totally against the condition being removed

Cllr Ward: objects; no justification for the removal of the condition

9 CONSULTEE COMMENTS

No comments received

10 REPRESENTATIONS RECEIVED

Objections have been received from the occupants of an adjacent dwelling concerned with the following:

- builder has shown contempt and disregard for residents' privacy
- other windows referred to in the application do not result in such a significant loss of privacy

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 paragraph 38 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 New Milton in a residential area close to the northern extent of the town centre. Permission was granted for an additional flat, largely within the existing built form of the smaller block at Chessel House, last year. The permission included a restriction on the glazing to the roof lights in the western elevation. The flat has now been provided although the roof lights in question have been fitted with clear glazing. This application is therefore to remove the restrictive condition.
- 14.2 The principle of the additional unit and the visual implications have already been addressed through the initial approval leaving the residential amenities of the area to be considered in this application.
- 14.3 Historically, in determining the appeal in 2005, the Inspector did not raise any issues with the provision of first floor windows to the western elevation of this block. Permission was subsequently granted for the block with windows serving the kitchen, bedroom and living room to one flat at first floor level in the western elevation. The approved scheme for an additional flat included two roof lights above these windows, one to serve the bedroom and the other to serve the kitchen/living space. Both rooms are served by an additional roof light to the north elevation of the bedroom, and a dormer window to the south elevation of the living room.
- 14.4 The roof lights are 22m and 24m from the nearest corner of the dwelling at 4, Avenue Road and over 26m from no.6. These distances are usually acceptable in 'back to back' situations and both 4 and 6 Avenue Road are side on to these roof lights. It is noted that the kitchen roof light is 15m from the boundary with no.4.

- 14.5 Since the case officer's site visit, the applicant has provided additional photographs indicating that kitchen units are now installed in front of the kitchen roof light resulting in its main outlook being the side elevation of no.8 Avenue Road and close up views out of the window difficult. Combined with the existing first floor windows which have been in existence for over 10 years, it is not considered that the two additional roof lights at second floor level would result in a significant loss of privacy over and above existing levels.
- 14.6 The LPA is not currently able to demonstrate a 5 year supply of housing land when assessed against its most recent calculation of Objectively Assessed Need. Relevant policies for the supply of housing are therefore out of date. In accordance with the advice at paragraph 11 of the NPPF, permission should therefore be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits or specific policies in the NPPF indicate that development should be restricted.
- 14.7 In accordance with the Conservation of Habitats and Species Regulations 2017 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. It is noted that the initial approval has secured the relevant contribution through the completion of a S.106 Agreement although it has not been paid to date.
- 14.8 In accordance with the Conservation of Habitats and Species Regulations 2017 ('the Habitat Regulations') an Appropriate Assessment has been carried out as to whether granting planning permission would adversely affect the integrity of the New Forest and Solent Coast European sites, in view of that site's conservation objectives. The Assessment concludes that the proposed development would, in combination with other developments, have an adverse effect due to the recreational impacts on the European sites, but that the adverse impacts would be avoided if the planning permission were to be conditional upon the approval of proposals for the mitigation of that impact in accordance with the Council's Mitigation Strategy or mitigation to at least an equivalent effect.
- 14.9 In conclusion, it is considered that the proposal to retain clear glazing to these two rooflights would not give rise to unacceptable levels of overlooking; as a result, permission is granted.
- 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
Affordable Housing			
No. of Affordable dwellings	0		
Financial Contribution	0		
Habitats Mitigation			
Financial Contribution	£2,050		

15. RECOMMENDATION

GRANT the VARIATION of CONDITION

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: 8893/100, 8893/101, 8893/100 (annotated).

Reason: To ensure satisfactory provision of the development.

3. 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.

4. Within two months of the date of this permission, proposals for the mitigation of the impact of the development on the New Forest and Solent Coast European Nature Conservation Sites shall be 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 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/>
2. In accordance with paragraph 38 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:

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New Forest DISTRICT COUNCIL

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**Planning Development
Control Committee**
November 2018

Item No: 3d
16 Chessel House
Fernhill Lane
New Milton
18/11003

Scale 1:1250

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

