

Application Number: 15/10244 Full Planning Permission

Site: STRAWBERRY COTTAGE, BUTTS ASH LANE, HYTHE SO45
3QY

Development: Retention of extension to garage to form garden room; flue

Applicant: Mr Barry

Target Date: 20/04/2015

1 REASON FOR COMMITTEE CONSIDERATION

Contrary view to Parish Council

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

CS2: Design quality

Local Plan Part 2 Sites and Development Management Development Plan Document

No relevant policies

4 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

5 RELEVANT SUPPLEMENTARY PLANNING GUIDANCE AND DOCUMENTS

No relevant documents

6 RELEVANT PLANNING HISTORY

- 14/10499 Extension to garage to form garden room granted subject to conditions 28th May 2014
- 08/93028 Single storey rear extension 20th November 2008

7 PARISH / TOWN COUNCIL COMMENTS

Hythe and Dibden Parish Council recommend refusal. The Council objects to the flue because the emissions are unneighbourly to the adjacent property. There are no objections to the retention of the building.

Following the amended details the Parish Council was reconsulted and advised that they still recommended refusal. With regular inversion of the atmosphere, particularly during the summer months, the Committee believes that the position of the flue would have an adverse effect on the neighbouring property.

8 COUNCILLOR COMMENTS

None received

9 CONSULTEE COMMENTS

Environmental Health – initially commented that there was no adverse impact on local amenity but recommended a condition to be applied for the cowl to be replaced with one which does not impede the dispersion of smoke and reduces down draught.

Following the replacement of the cowl the Environmental Health Officer advised that the anti-down draught cowl now fitted satisfied the need to apply a condition to this effect.

Land Drainage - no comment

10 REPRESENTATIONS RECEIVED

One letter of objection from the neighbour at 33 Heatherstone Avenue raised concern over the considerable smell and smoke going into their garden and rear windows which denies them the use of their garden and forces them to keep the windows closed. The prevailing wind means that the smoke invariably descends into their garden. Concern was raised regarding the impact the smoke, fumes and heat would have on the Maple tree in their garden. There is also an objection to the structure itself, which is detrimental to their outlook.

Following the replacement of the cowl the neighbours were reconsulted and no further comments were received.

11 CRIME & DISORDER IMPLICATIONS

No relevant implications

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.

Following the comments received from the Environmental Health Officer the applicant replaced the cowl on the top of the flue. Amended details of the cowl were provided. The application became acceptable as submitted and no specific further actions were required.

14 ASSESSMENT

- 14.1 The property is a detached dwelling positioned at the end of a long narrow access road serving four other properties. A high hedge is positioned on the front boundary, with high fences defining the boundaries to the sides. A car port is positioned to the side of the property, with a garage attached. The garage has recently been extended to the rear to form a garden room
- 14.2 The main consideration when assessing this application is the impact on the neighbouring property. This application follows an approval for the garage extension in 2014 which has now been built. The applicant has installed a log burner and a flue has been inserted, which is the subject of this application.

14.3 The neighbour at number 33 Heatherstone Avenue is the closest to the flue and therefore the impact on their amenity is a consideration. This neighbour objected to the flue for the following reasons:-

- A. Because of the position of the flue immediately on their boundary there is considerable smell and smoke going into their garden and rear windows which denies them the use of their garden and forces them to keep the windows closed. The prevailing wind means that the smoke invariably descended into their garden.

The Environmental Health Officer visited the site when the log burner was lit and viewed the smoke from the garden of 33 Heatherstone Avenue. He observed that there was some transient odour of wood smoke detectable in the garden area, particularly during initial lighting. However it was generally evident that the height of the flue was permitting efficient dispersion and the appliance was operating efficiently, producing little in the way of smoke or odour, therefore no significant adverse impact was identified on the local amenity. The Officer did however note that the cowl fitted to the flue was impeding the emission of smoke and forcing it downwards. Therefore, in order to improve the dispersion of smoke from the flue it was recommended that a replacement cowl should be fitted and a condition applied to any approval to this effect. The applicant subsequently replaced the cowl and the Environmental Health Officer was reconsulted. He advised that in light of the anti-down draught type of cowl now fitted to the flue by the applicant, he could confirm that there was no need for a condition. The neighbour was reconsulted following the installation of the new cowl and no further comments were received.

- B. Concern was raised regarding the impact the smoke, fumes and heat would have on the Maple tree in their garden.

The tree is not protected by a Tree Preservation Order and, given that there is a gap between the tree and the flue, the impact on the tree is not considered significant.

- C. The visual impact of the structure is detrimental to their outlook. It is out of place in the environment and is visible from points of view from the neighbour's property and garden.

The flue is visible from the neighbour's garden but, given its limited size and that the tree within this neighbour's garden, which is in close proximity to the shared boundary, will provide some screening in the summer, the overall visual impact is acceptable

14.4 Hythe and Dibden Parish Council have objected to the application for the reason that the emissions are unneighbourly to the adjacent property. There are no objections to the retention of the building. Following the replacement of the cowl the Parish Council were reconsulted. Their continued view is that with regular inversion of the atmosphere, particularly during the summer months, the Council believes that the flue will have an adverse effect on the neighbouring property.

14.5 In conclusion, the Environmental Health Officer has not objected to the flue and is satisfied with the replacement cowl. Following the introduction of the new cowl no further comments were received from the neighbours.

Therefore the impact on the neighbouring property in terms of the smoke and smell is considered acceptable and the application is recommended for approval.

- 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

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.

Following the comments received from the Environmental Health Officer the applicant replaced the cowl on the top of the flue. Amended details of the cowl were provided. The application became acceptable as submitted and no specific further actions were required.

2. This decision relates to additional details received by the Local Planning Authority on 31st March 2015

Further Information:

Householder Team
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DISTRICT COUNCIL

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**Planning Development
Control Committee**
June 2015

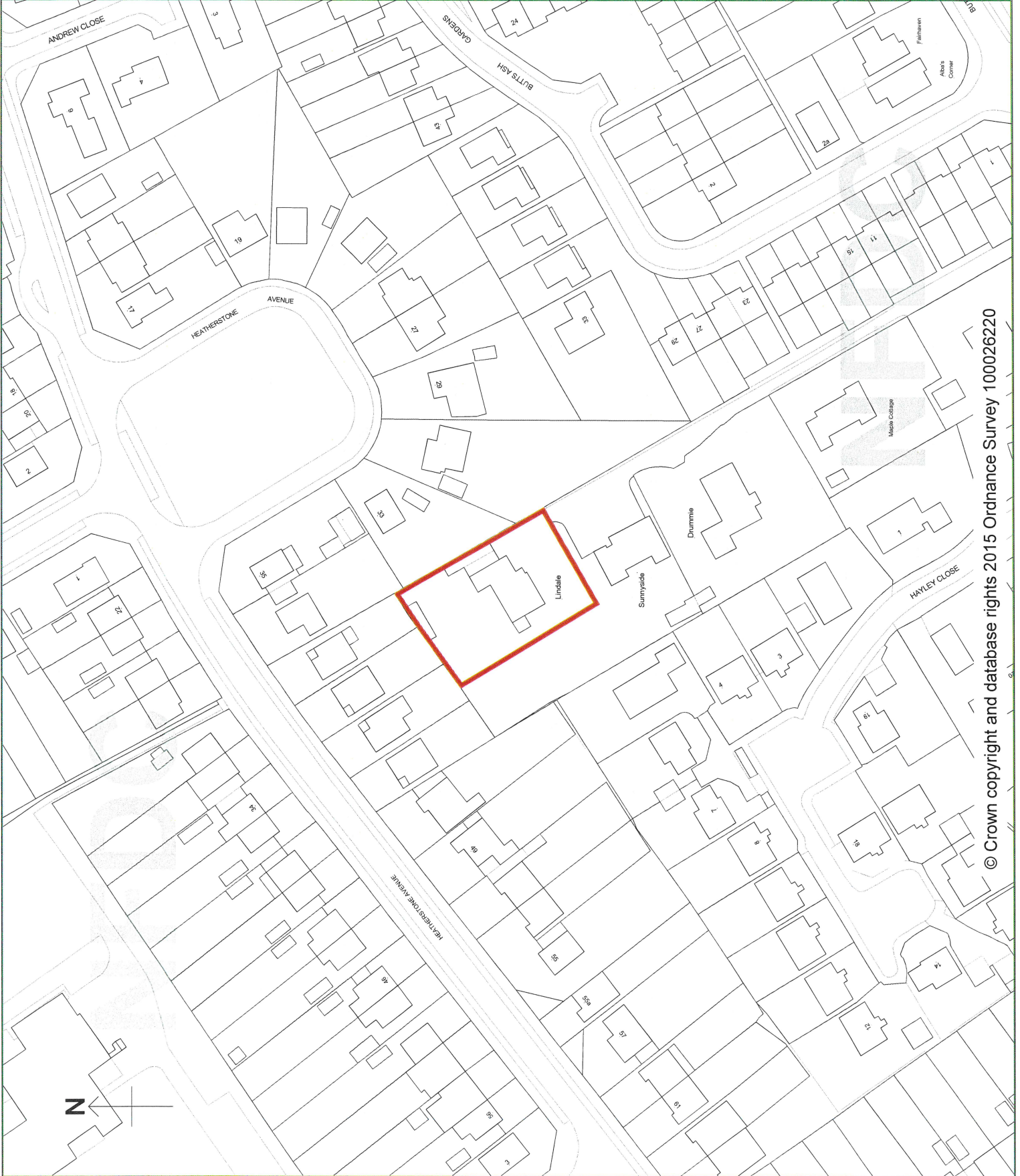
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Strawberry Cottage
Butts Ash Lane
Hlythe

App No 15/10244
SU4106

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