

**Application Number:** 15/10348 Full Planning Permission

**Site:** 19 DANIELLS WALK, LYMINGTON SO41 3PP

**Development:** Retention and alteration of approved landscaping details; raise ground level; front fence

**Applicant:** Mrs Hemsley-Gills

**Target Date:** 08/05/2015

**1 REASON FOR COMMITTEE CONSIDERATION**

Contrary 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
- 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**

None relevant

**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. 7 - Requiring good design  
Section 197 Trees  
Town and Country Planning Act 1990

**5 RELEVANT SUPPLEMENTARY PLANNING GUIDANCE AND DOCUMENTS**

SPD - Lymington Local Distinctiveness

**6 RELEVANT PLANNING HISTORY**

14/10059 - two-storey dwelling (demolition of existing) . Granted 3.4.14

## **7 PARISH / TOWN COUNCIL COMMENTS**

Lymington and Pennington Town Council - recommend refusal - concern over drainage issues and support neighbour objections

## **8 COUNCILLOR COMMENTS**

None received

## **9 CONSULTEE COMMENTS**

Drainage - no comment

## **10 REPRESENTATIONS RECEIVED**

10.1 Objections have been received from three local residents. Their concerns are as follows:

- the boundary used to be a stream and water puddles there
- the levels have increased more than they state
- fence should be provided at the lower level with the hedge no more than 1m above the top
- holm oak and eucalyptus should be removed
- there could be increased run off
- the protected tree should take priority over revised landscaping
- submitted plan is now out of date as additional planting has occurred

10.2 Support has been received from two local residents commenting on how the landscaping is instantly mature and that it is possible to have adequate privacy with houses behind.

10.3 A letter of support has been submitted on behalf of the Applicant stating that the drains and soakaways have been installed in accordance with Planning and Building Regulation requirements, the rear boundary is within the neighbours ownership (not the applicant), restricting the height of the hedge would not be enforceable and the Applicant does not wish to remove the oak tree (as suggested by a neighbour). It is also stated that the Applicant is simply seeking privacy through landscaping which is generally accepted as the most suitable and sympathetic way of achieving 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 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.

The submitted scheme did not include all the planting which has been provided on site and additional planting has since taken place. Following a concern from the Arboriculturist, an amendment to the planting has been requested and the plan corrected.

## **14 ASSESSMENT**

- 14.1 The site lies within the built up area of Lymington in a residential area. Permission was granted last year for the replacement of the previous dwelling and works are now nearing completion. During the course of the works, there have been changes made to the levels in the back garden area and the proposal is to ameliorate this situation as well as to agree a revised landscaping scheme.
- 14.2 To the rear of the property are a large statutorily protected oak, an ash and there was previously a small cherry tree. The previously agreed landscaping included replacements for the ash and cherry following excavation works which impacted upon the roots of these trees. Although the cherry has now been removed, the ash is still in situ and, to the untrained eye, does not appear to be suffering through this damage although it is likely that its demise will occur eventually. The rear boundary is relatively low level (approximately 1.2m high) and belongs to the neighbour. The approved landscaping indicated a 2m high replacement for this fence with a 3m high hedge inside the site, although it is understood that there was some confusion as to who owned what at the time of its submission and this proposal was never likely to occur.
- 14.3 The application has been supported with drawings showing previous and existing levels. Locally, there is some confusion with these figures as they show limited increases in the levels, although this is likely to be due to excavation works undertaken in order to provide the retaining wall

which, in places, is almost 1m high rather than the 310mm stated on the plan. The hedge has been provided on top of this retaining wall and much of it is already at a height of 3m.

- 14.4 In addition to this hedge, the garden includes much low level planting as well as larger shrubs and trees, the latter having been located specifically to minimise the potential for overlooking from various windows in the new property to the house at the rear which has a conservatory and accommodation in the roof. Once these trees and hedge have matured, both the site and dwelling to the rear would have reasonably secluded gardens.
- 14.5 In view of the lower level of properties in Gold Mead Close to the rear, drainage is of concern. However, the approval for the new house included a condition relating to the drainage of the site and this has been implemented as agreed by Drainage. It is also understood that additional French drains have been provided within the rear garden area to help minimise the impact of the proposal on gardens to the rear.
- 14.6 The proposal as implemented so far provides a substantial screen between the site and properties to the east and this will mature in the future and is considered appropriate in this context.
- 14.7 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.

## **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. 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).

3. The development permitted shall be carried out in accordance with the following approved plans: 2014-32-01 revA, 8362/100A.

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.

The submitted scheme did not include all the planting which has been provided on site and additional planting has since taken place. Following a concern from the Arboriculturist, an amendment to the planting was requested and the plan corrected.

#### **Further Information:**

Householder Team

Telephone: 023 8028 5345 (Option 1)



**New Forest**  
DISTRICT COUNCIL

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**Planning Development  
Control Committee**

**June 2015**

**Item No: 31**

19 Daniells Walk  
Lymington

App No 15/10348  
SZ3295

Scale 1:1250

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

