

Application Number: 15/10474 Full Planning Permission

Site: Land of 29 TITHE BARN, LYMINGTON SO41 9ED (NB:
PROPOSED LEGAL AGREEMENT)

Development: Three-storey house; bin store; garden store; landscaping

Applicant: Mr & Mrs Butterworth

Target Date: 26/05/2015

15/10474

1 REASON FOR COMMITTEE CONSIDERATION

Contrary to Town Council View (in part)

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
2. Climate change and environmental sustainability
3. Housing
5. Travel
6. Towns, villages and built environment quality

Policies

- CS1: Sustainable development principles
- CS2: Design quality
- CS10: The spatial strategy
- 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
 National Planning Practice Guidance

5 RELEVANT SUPPLEMENTARY PLANNING GUIDANCE AND DOCUMENTS

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

6 RELEVANT PLANNING HISTORY

None

7 PARISH / TOWN COUNCIL COMMENTS

Lymington Town Council: Recommend refusal. Concerns re parking

8 COUNCILLOR COMMENTS

None

9 CONSULTEE COMMENTS

9.1 Hampshire County Council Highway Engineer: No objection subject to conditions

9.2 Land Drainage Engineer: No objection subject to condition

9.3 Environmental Health (historic land use): No objection subject to conditions.

9.4 Councils Valuer: The submitted viability report is acceptable

10 REPRESENTATIONS RECEIVED

1 letter of objection concerned that the proposed development would cause overlooking, would be imposing, would result in the loss of light. It would be out of character with the area and would be built on area that is too small. There would also be noise problems during the construction works.

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 £1,152 in each of the following six years from the dwellings' completion, and as a result, a total of £6,912 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.

Whilst it is understood the dwelling would be a starter home this is not confirmed or guaranteed at this time. Therefore until such time as a formal CIL relief is made the full payment of habitat mitigation is made.

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 applicant's agent was advised that the application would be considered by the Planning Development Control Committee in June. Issues raised during the application process in relation to contaminated land is still being considered by the Councils Environmental Health Department as to whether no planning conditions are required and this will be resolved and updated before Committee. No pre application advice was sought and concerns that the size of the site is too small to acceptably accommodate a dwelling as highlighted in the Parish Briefing Notes are so fundamental it was not appropriate to seek amendments.

14 ASSESSMENT

- 14.1 The site comprises part of the garden area of a semi-detached dwelling at the end of a residential street known as Tithe Barn. The dwelling at No 29 is one of many semi-detached dwellings in Tithe Barn which front onto the street in what is a very uniform and planned pre 1945 residential area. The property has a slightly shallower rear garden area compared to others in Tithe Barn but does have a larger side garden area where there is a small outbuilding enclosed by fencing and vegetation. The property does not have any on site car parking spaces but there are a number of shared or communal spaces in the street. The rear and part of the east boundaries of the site are bounded by the rear gardens of properties in Broomfield Lane and there is a car parking area in front of the site.

- 14.2 The proposal is to construct a three storey detached dwelling on part of the side garden of No 29. The existing dwelling at No 29 would retain its rear garden area and the site would be severed. Although the proposed dwelling would rise to three storeys, part of the lower section of the building would involve excavation works through the creation of a lower floor section and, from the road, the building would appear as a two storey building. The proposed dwelling would have two bedrooms and would be built as a family starter home.
- 14.3 The proposed dwelling would be of a contemporary design constructed of facing brick, white render and vertical Louvre blades on the elevations, under a shallow hipped plain tile roof. The height of the overall building would rise to just below the ridge line of the adjacent host dwelling at No 29. A single storey flat roof front porch with glass roof is proposed with the main front elevation of the building sited in line with No 29. The site layout shows the garden area would be provided to the rear and side and no on site car parking is proposed.
- 14.4 The proposal raises issues with regard to design, residential amenity, parking, vitality and habitat regulations.

14.5 Design and character

- 14.5.1 In assessing the effect on the character and appearance of the area, Tithe Barn is a pre 1945 residential street consisting of predominantly two storey semi-detached and terraced houses (including terraces of three and four). The buildings in the street are very uniform in their design and form built as wide fronted buildings with a shallow depth. The buildings are symmetrical in their design including evenly distributed fenestration, centralised chimneys, hipped roofs and brick construction (some white painted brick). Buildings are generally built close to the side boundaries of the site although there are some open side gardens and gaps on the corner plots. Properties tend to have short front and long rear garden areas. There has been some recent new infill housing that has occurred along the entrance of Tithe Barn, with dwellings built on small plots, and this was carried out at a time where local and government policies encouraged higher density development. It is considered that some of this recent development does detract from the style and rhythm of the majority of the other properties in the street but it is not felt this justifies further out of character development.
- 14.5.2 The site lies within Character Area 2 of the adopted Lymington Local Distinctiveness Document. The illustrative map highlights Tithe Barn as a '*planned connective type street pattern*' and under the subheading it describes the importance of appearance, rhythms and details and that consistency is important in small estate groups on connected street types.
- 14.5.3 The site differs from the majority of the properties in the street in that the rear garden area is very short but it has a wide side garden area. In support of the application, it is stated that the garden area is sloping land surplus to requirements. However, the land is currently used as a garden area laid to grass and there is a small shed which does not appear as surplus land. The dwelling and garden area at No 29 is located on a slightly lower ground level, set behind a low hedgerow, and there is a single storey outbuilding to the east which relates to one of the dwellings

to the rear in Broomfield Lane. However, the existing pair of houses at No 29 and 30 Tithe Barn do reflect the strong character of the area in that the building is a symmetrical pair under a hipped roof with a chimney.

14.5.4 The proposal to construct a detached two storey dwelling would not reflect the immediate character of the area and would be seen as a cramped form of development on this site. The existing plot is one of the smallest sites in the street and the proposed development would result in a building that has a significant plot coverage with little space around the building. The proposed building would be located close to the pavement edge to the front of the site, with a distance ranging from 3.5 to 5 metres from the building to the side and rear boundaries of the site. The existing site is small in size in terms of width and depth, and the front part of the site is further impinged by the pavement edge making the site very restricted and irregular in shape.

14.5.5 Visually, the proposed development would be at odds with the other properties in the street which are typically designed as symmetrical semi detached or terraced houses. The proposed dwelling would be lower in height compared to the host dwelling at No 29, but the building would have a very high eaves line and shallow hipped roof which does not reflect the form of the majority of the dwellings in the street. The proposed materials on the building would range from brick and render with a collection of vertical Louvre blades attached to the side elevation of the building. The building would also incorporate a front porch which would protrude 2 metres out from the building with a glass roof. Visually the proposed design of the dwelling is contemporary however, its design with high eaves line and shallow hipped roof and the use of contrasting materials would differ from the character and form of properties in the street and appear incongruous in its setting. Properties in the street mainly consist of brick or painted brick and using a collection of materials on the external elevations would disrupt the simple appearance of the buildings in the street. Overall it is considered that the combination of the detached form of the dwelling, its design, appearance and proportions would unacceptably detract from the rhythm and symmetrical form of the semi detached and terraced houses which contribute to the local distinctiveness of Tithe Barn.

14.6 Residential amenity

14.6.1 With regard to residential amenity, the main residential properties that would be affected by the proposed development are to the rear in Broomfield Lane. The proposed design of the dwelling is such that the window panes to the stairway on the rear elevation would be glazed with obscure glass and the window to the bedroom and dressing room would be high level with a minimum height of 1.7 metres from the finish floor level to the bottom of the sill. On the side elevation, obscure glazing would be used for the two bedrooms to mitigate overlooking and the vertical Louvre blades would be added which would direct views from within the building to the road. Accordingly it is considered that the design of the proposed development would not result in any unacceptable overlooking.

14.6.2 In terms of loss of light and outlook, the rear elevation of the proposed dwelling would be visible from the rear elevations and garden areas to

the properties in Broomfield Lane. The proposed dwelling would be set back from the rear boundary with the nearest point measuring less than 4 metres and there would also be a gap of around 16 metres from the rear elevation of No 22 Broomfield Lane. The existing dwelling at No 22 would be sited to the south of the proposed dwelling and accordingly, the proposal would not result in an unacceptable loss of light. However, it is considered that the proposed dwelling would have an overbearing impact on the adjoining neighbouring property at No 22 to the detriment of their outlook. The property and garden area to No 22 lies at a lower land level than the application site and, given that the proposed dwelling would rise to two storeys in height and be sited less than 4 metres from the boundary the proposed development would be visually imposing from the rear garden area and rear windows of No 22.

14.7 Car parking and highway safety

- 14.7.1 In terms of car parking and public highway safety, the existing dwelling at No 29 does not have any on site car parking spaces and it is understood that the space in front of the properties is used for car parking. Generally in Tithe Barn, car parking is either on the street or provided within the large communal parking areas with only a few properties that have on site car parking.
- 14.7.2 The proposed development would not provide any on site car parking facilities, although provision has been shown for cycle parking within the curtilage.
- 14.7.3 Based on the Council's adopted residential car parking standards Supplementary Planning Guidance, the proposed two bedroom dwelling would require two on site parking spaces and, accordingly, the proposal is two spaces short of the recommended guidance. In cases where there is a shortfall in car parking spaces, if the total provided is significantly less than the recommended provision consideration will need to be given as to whether there is likely to be an unsatisfied demand which could lead to severe road safety hazards or serious environmental damage.
- 14.7.4 In assessing the effect on public highway safety, the Highway Authority have commented that it is not anticipated that an additional dwelling would put such significant pressure on the highway network as to justify refusal of planning permission. Tithe Barn is a relatively quiet cul de sac with slow moving traffic and the demand for one or two further on street spaces would not result in a danger to public highway safety. In addition, it is not considered that the proposal would lead to any environmental damage given that the roads are generally hard surfaced and there is no risk to grass verges or grassed areas to be used as parking spaces.

14.8 Viability

- 14.8.1 The proposal requires an affordable housing contribution (£31,925), and a financial contribution towards monitoring and maintenance for habitat mitigation (£550). The applicant has carried out a viability appraisal which states that the affordable housing contribution would make the development unviable and this has been assessed by the Council's Valuer.

14.8.2 The Councils Valuer states that the proposed development plot is a small area of irregularly shaped garden land and it is estimated that the Current Use Value is quite nominal at around £10,000. In view of the low Current Use Value, this results in a benchmark Site Value of £14,00. In considering any additional land value created by the grant of planning permission for development it is necessary to take into account the local authority's objective of providing affordable homes, as set out in planning policy, as well as the land owner receiving sufficient revenue from the disposal in order to provide appropriate incentive for it to be sold for development and the developer making a competitive return. The Councils Valuer concludes that if an affordable homes contribution is included within the appraisal, the Residential Development Land Value would fall below the threshold SV and accordingly, it is not possible for this development to make an affordable homes contribution.

14.8.3 The proposed development would still require contributions towards monitoring and maintenance for habitat mitigation and in the absence of a completed Section 106 Agreement, the proposal fails to comply with policy. The applicant is willing to complete an agreement but this is not yet concluded. It would cover the management and monitoring requirements only. If a CIL relief exemption was subsequently sought an additional amount to cover habitat infrastructure would be required.

14.9 Other matters

14.9.1 A number of points have been raised by the applicant's agent during the application. The applicants agent has questioned why Officers are concerned with the level of amenity space when the Council have already approved a development at 'Lymington Shores' which is currently building 25 units with less amenity space than this current proposal. In addition, the proposal is compliant with government advice which is set out within the application. The applicant's agent also states that the spaces between the adjoining buildings are compliant with the BRE Guidelines for Site Layout Planning for Sunlight and Daylight to adjoining properties.

14.9.2 In response, Officers are not raising concerns with the level of amenity space for people to use and enjoy but are concerned that because of the small size of the site, the proposed building would take a large portion of the sites curtilage leaving very little space around the building which would appear cramped. The fact that a site being developed at 'Lymington Shores' with less amenity space is a consideration, but this site is a considerable distance away from application site and is a comprehensive development being built within a completely different context. The comments made regarding daylight and sunlight have been considered and Officers do not raise an objection on the basis of harm to the neighbouring residential properties on these grounds. Concerns are raised that the proposed scale and close proximity of the dwelling to the immediate neighbour at No 22 Broomfield Lane is unacceptable and would result in an overbearing impact and an unacceptable loss of outlook.

14.9.3 In conclusion, it is considered that the plot is of insufficient size to acceptably accommodate a detached dwelling and would result in a cramped form of development that is out of context with and harmful to the character of the area. In addition, the design, appearance and

detached form of the dwelling would appear out of keeping with the uniform and symmetrical character of the area which is distinguished by terraced and semi detached houses. It is also considered that the proposed dwelling would have an overbearing impact on the property to the rear. Apart from the lack of a contribution towards habitat mitigation, the proposal would be acceptable in other respects.

14.9.4 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.

Developers' Contributions Summary Table

Proposal:			
Type of Contribution	NFDC Policy Requirement	Developer Proposed Provision	Difference
Affordable Housing			
No. of Affordable dwellings			
Financial Contribution	£31,925	0	-£31,925
Public Open Space			
On site provision by area			
Financial Contribution			
Transport Infrastructure			
Financial Contribution			
Habitats Mitigation			
Financial Contribution	£550	0	-£550

CIL Contribution Summary Table

Description of Class	GIA New	GIA Existing	GIA Net Increase	CIL Liability
Self Build (CIL Exempt)	98.51	0	98.51	0

15. RECOMMENDATION

Refuse

Reason(s) for Refusal:

1. By reason of its detached form, proportions and design with high eaves and shallow hipped roof, and the use of contrasting materials, the proposed development would be wholly out of context with the character and form of the properties in Tithe Barn and would appear incongruous and harmful in the street scene. In addition, the proposed development would be cramped with inadequate space around the building to the detriment of the character and appearance of the area. For these reasons the proposed development would fail to comply with Policy CS2 of the Core Strategy for the New Forest District outside the National Park and the Lymington Local Distinctiveness Document Supplementary Planning Document.
2. 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.
3. By reason of its close relationship, and scale, the proposed dwelling would have an overbearing impact on the adjoining property at No 22 Broomfield Lane and lead to a loss of outlook to the detriment of the amenities of the occupiers of those properties. For this reason, the proposal is contrary to policies CS2 and CS10 of the Core Strategy for the New Forest District outside the National Park.

Notes for inclusion on certificate:

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Further Information:

Major Team
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**Planning Development
Control Committee**
June 2015

Item No: 3s

Land of
29 Tithe Barn
Lymington
App No 15/10474
SZ3296

Scale 1:1250

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



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