

Application Number: 18/11592 Full Planning Permission

Site: Land rear of 9 UPLANDS AVENUE, BARTON-ON-SEA,
NEW MILTON BH25 7BJ

Development: House; access, parking & landscaping; single-storey side
extension to existing dwelling

Applicant: AJ Developments

Target Date: 28/01/2019

Extension Date: 14/02/2019

RECOMMENDATION: Grant Subject to Conditions
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Case Officer: Vivienne Baxter

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
- 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
NPPF Ch.2 - Achieving sustainable development
NPPF Ch. 4 - Decision-making
NPPF Ch. 5 - Delivering a sufficient supply of homes
NPPF Ch.11 - Making effective use of land

5 RELEVANT SUPPLEMENTARY PLANNING GUIDANCE AND DOCUMENTS

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

6 RELEVANT PLANNING HISTORY

- 6.1 19/10075 - Variation of condition 2 of 17/11223 to allow relocation of garage for unit 2. Under consideration.
- 6.2 17/11223 - 2 bungalows, 2 detached garages, parking, access, associated works. Granted 23.10.17
- 6.3 16/11527 - 2 bungalows, parking, access, associated works. Refused 11.1.17, appeal allowed
- 6.4 16/10142 - 2 bungalows, landscaping, parking (O/L). Refused 23.3.16, appeal dismissed
- 6.5 03/77624 - single storey side extension. Granted 8.5.03
- 6.6 00/69963 - ground floor extensions and dormers to form rooms in roof and erection of front boundary wall. Granted 16.10.00

7 PARISH / TOWN COUNCIL COMMENTS

New Milton Town Council - strongly object (non-delegated)

- (1) Loss of vegetation and trees, including a large mature Oak tree on rear boundary and the potential effect to mature Beech (?) near the side boundary within garden of number 7.
- (2) Cramped and contrived, while still not adhering to the guidance on floor space within Technical Housing Standards DCLG published in 2015. Therefore the development is wholly inappropriate on this site.

Despite the Appeal Inspectors decision for neighbouring site 11-15 Uplands Avenue:

- (3) The layout is contrary to New Forest Local Distinctiveness Study S.P.D. pages 60/61 regarding Building Line, Green Infrastructure, Green Setting and Rhythms. It would also destroy a rear garden island as mentioned on page 58. Therefore this development would HEAVILY UNDERMINE the character of the locality.
- (4) Back land development.
- (5) Sets an unwanted precedent.
- (6) The tandem parking arrangement negates the usefulness of such parking spaces, and could create displaced parking onto the highway.

8 COUNCILLOR COMMENTS

None received

9 CONSULTEE COMMENTS

9.1 Tree Officer - no objection

9.2 Southern Gas Networks - offer advice

10 REPRESENTATIONS RECEIVED

Three representations have been received from Uplands Avenue and Westbury Close raising the following issues:

- risk to adjacent properties through changes to root structure of trees
- tandem parking is inappropriate and could result in on street parking
- increased security risk to residents
- loss of privacy

A comment has been received requesting maintenance of boundary vegetation, normal slab levels and a survey of their property should a tree need to be removed. The letter also states that there are no objections to the proposed extension.

11 CRIME & DISORDER IMPLICATIONS

None

12 LOCAL FINANCE CONSIDERATIONS

If this development is granted permission, the Council will receive a New Homes Bonus of £1224 in each of the following four years, subject to the following conditions being met:

- a) The dwellings the subject of this permission are completed, and
- b) The total number of dwellings completed in the relevant year exceeds 0.4% of the total number of existing dwellings in the District.

Based on the information provided at the time of this report this development has a CIL liability of £8,294.98.

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

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 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.

14 ASSESSMENT

- 14.1 The site lies within the built up area of New Milton in a residential area. It currently contains a detached bungalow fronting Uplands Avenue, which has been previously extended, and associated garden buildings. The application site includes the proposed access sited between nos.11 and 15 Uplands Avenue. The existing dwelling and adjoining properties

have substantial rear gardens and permission has already been granted for similar bungalows to the rear of 11 and 15.

14.2 The proposal is for the provision of a single storey extension to the south elevation of the existing dwelling together with subdivision of the plot and the provision of a bungalow comprising 3 bedrooms (two ensuite), family bathroom and large open plan kitchen, dining and living space. Access would be provided to the site between 11 and 15 Uplands Avenue - as approved under the allowed appeal and subsequent planning consent in 2017 - which would also serve the approved dwellings to the rear of 11 and 15 to the south. Two parking spaces to serve the proposed dwelling would be provided from this access. At the time of writing, the Habitat Mitigation condition is still outstanding and it is understood the site was largely cleared at the end of January.

14.3 As well as the principle of an additional dwelling in this location, consideration also needs to be given to the residential and visual amenities of the area, trees and highway implications.

14.4 Principle

14.4.1 New residential development can be acceptable within the built up area subject to the consideration of the issues referred to below. As stated above, there is an extant permission (16/11527) for two dwellings immediately south of this site. This application was refused for the following reason:

" The proposed development would be inappropriate to its context would be detrimental to local distinctiveness because it would constitute an uncharacteristic backland development that would erode and fragment the tranquil group of rear gardens which currently combine with the application site to form a strong landscape structure and which provides a positive contribution to the area's local distinctiveness. The development would be materially out of keeping with the typical pattern and form of other development in Uplands Avenue. As such, the proposal would be contrary to Policy CS2 of the Core Strategy for New Forest District outside of the National Park, as well as conflicting with the New Milton Local Distinctiveness Supplementary Planning Document."

14.4.2 This proposal was allowed at appeal and the appeal Inspector made it clear in allowing the appeal that a material consideration was the previous appeal decision of 3 October 2016 relating to a pair of bungalows on the same site. That appeal was dismissed for reasons relating to the means of mitigating the effect of the proposal on European Sites of Nature Conservation Importance only. In respect of character and appearance, the Inspector found that the proposal would not result in unacceptable harm or conflict with the development plan. There were no material differences between the two appeal schemes (referring to 16/10142) and no changes in circumstances in the meantime. Furthermore he did not consider that there were any development plan policies that precludes back land development. The National Planning Policy Framework (2012) indicates that planning authorities may wish to consider the case for setting out policies to resist inappropriate development of residential gardens, but does not rule out such development.

14.4.3 Specific reference is made by the Inspector to the New Milton SPD and that back gardens to Upland Avenue are "larger garden spaces or groups of tranquil garden spaces " and that trees in rear gardens are important. The SPD warns that backland development which breaks into and destroys a peaceful oasis of rear garden land should be avoided. The Inspector considered however that in this case the garden sizes along this side of Uplands Avenue vary in length with the rear gardens at No 3 and 5 Uplands Avenue being substantially shorter than those at the southern end of the road, and where they back onto very short gardens of bungalows on Westbury Close. He considered that whilst these back gardens are pleasant and provide an enhanced degree of privacy and amenity they are not of such a special or distinctive character to warrant their protection from development.

14.4.4 The proposals would not have a significant impact on the street scene, the depth of the rear gardens are not readily seen from the road, and there is sufficient space around buildings to prevent them from appearing cramped. The overall conclusion of the Inspector was therefore that the proposals would not be harmful to important aspects of local character or distinctiveness and furthermore the loss of trees would not cause material harm. The Inspector considered that although the proposals were of higher density this was not, in itself, harmful but that it was the effect on the wider character and appearance that was important. He considered that the dwellings would fit satisfactorily into their surroundings.

14.4.5 The principle of housing in this location was acceptable as the scheme addressed concerns which had been identified at a previous appeal (16/10142). Costs were awarded against the Council for not taking the earlier appeal Inspector's decision into account.

14.4.6 Whilst the NPPF was revised in 2018 - since the appeal decision - there remains no change in the policy stance attached to consideration of such backland developments.

14.4.7 Given this appeal decision which identifies the key aspects of the character of the area and the potential impact of the subdivision proposed and the fact that, with the exception of the NPPF, the policy context remains unchanged, whilst the principle of this development may not be ideal, it would be difficult to resist the principle of a further dwelling in this location.

14.5 Residential amenity

14.5.1 The host dwelling would retain an adequate rear garden, greater than that to be retained to the rear of no.11 and which was considered acceptable by the Inspector. The proposed garden area for the new dwelling would be smaller than those for both approved and retained dwellings. However, it would still be in excess of the suggested minimum of 50m² indicated within the New Milton Local Distinctiveness SPD.

14.5.2 As the proposed dwelling would be single storey only, it would not result in any significant loss of privacy to existing or future occupiers. The host dwelling has a rear facing first floor dormer window which serves a bedroom. The proposed dwelling would be 20m from the original rear

elevation of the host dwelling where there is a rear facing dormer and although there is a rear extension and conservatory that would reduce this separation to between 10.5 and 18 m, it is not considered that the proposed dwelling would suffer from significant levels of intrusion or adverse amenity impacts as a result. However, it is considered appropriate that permitted development rights are removed for roof alterations which could result a loss of privacy for adjoining occupiers in Westbury Close, located to the rear where there would be a back to back distance of only 18m.

14.5.3 The proposed dwelling would be accessed via the approved access for the new dwellings to the rear of 11 and 15 and would pass approximately 2m from the main bedroom window to one of these dwellings. However, whilst this is not an ideal situation, the additional disturbance that would result would not be harmful in its impact.

14.5.4 The proposed side extension to No 9 would not adversely affect residential amenity.

14.6 Visual amenity

14.6.1 The local distinctiveness SPD identifies the site and the adjoining properties as 'larger garden spaces or groups of tranquil garden spaces' and also that there are important trees or tree groups to the rear of the property. Clearly, the impact of two bungalows within such an area was not considered to be harmful or unacceptable by the Inspector and this makes it difficult to resist the provision of a third dwelling on adjoining land.

14.6.2 The design of the proposed dwelling is acceptable and replicates that approved on the adjoining site. The area contains a variety of bungalows of varying sizes and that proposed would compliment the existing mix of dwellings in Uplands Avenue and Westbury Close.

14.6.3 The area is characterised as one where tree cover and tranquil gardens are key and there would be some tree loss in order to provide the new dwelling. However, these trees are small, within the lawn of the host dwelling, and not part of the wider public amenity of the site or the wider landscape setting. A mature oak tree to the eastern boundary would not need to be removed in order to accommodate the property and it is considered important that this is retained in order to maintain some of the existing character of the area. The boundaries contain varying amounts of vegetation and while the retention of this would be welcomed, it is unlikely that this would be practical and on this basis, a condition requiring detailed boundary planting is considered appropriate.

14.6.4 The appeal which was allowed included two detached bungalows with two car parking spaces each, either end of a long hammer head parallel to Uplands Avenue. Permission has been subsequently granted for each of these dwellings to have a single garage, one of which is located to the side of the dwelling, adjacent to the proposed parking for this site. Cumulatively, without appropriate landscaping/boundary treatment between the two sites, this could result in a harsh form of development with a large area of hard surfacing. It is noted that, the approved landscaping scheme for the adjoining includes a liquidamber tree and several shrubs adjacent to the approved parking spaces, and a griselinia hedge adjacent to the approved garage. In order to minimise the

urbanisation of this area and due to the limited garden size, it is considered appropriate to require associated details of landscaping to be provided and also to restrict permitted development rights relating to outbuildings and extensions.

- 14.6.5 The proposed side extension to No 9 would have a limited impact on the street scene given the level of vegetation to the front of the property. It is of modest proportions and would not appear as disproportionate to the existing dwelling which has been substantially extended in the past.

14.7 Trees

- 14.7.1 The application site contains much vegetation and several trees both within the site and to the boundaries although this is not identified in the submitted plans or application form. The tree officer has commented that the mature Oak tree central to the rear boundary with Westbury Close has recently been subject to significant pruning works. This work has not been completed to a professional standard and has had a detrimental impact on the visual amenity that the tree once provided. Given the extent of work that has been undertaken this tree is no longer suitable for inclusion within a Tree Preservation Order and therefore cannot be considered a constraint to development.

14.8 Other matters

- 14.8.1 The Town Council has raised concerns in respect of the proposal not complying with Technical Housing Standards published by the DCLG in 2015. This Authority has not presently adopted these standards as there is no local evidence base to support their adoption. However, were bedroom 3 indicated as a single room rather than double, it would comply with the minimum requirements for a 5 person 3 bedroom single storey dwelling.
- 14.8.2 The Highway Authority are not consulted on applications for single additional dwellings. Concerns have been raised locally that the parking and turning provisions are inadequate. In this respect, the proposal would provide 2 parking spaces, 0.5 of a space below the recommended average provision. In this location, it is not considered that any displaced parking would give rise to unacceptable impacts on highway safety and Uplands Avenue does not have any parking restrictions. The access to the site is as previously approved and able to accommodate the additional dwelling. No highway parking concerns are therefore raised.
- 14.8.3 The Local Planning Authority 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.
- 14.8.4 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.

14.8.5 In view of the Inspector's decisions on the adjoining site, it is not considered that refusal could be justified for this additional dwelling. The proposed dwelling would not adversely affect residential amenity, would have a level of amenity comparable to those approved while retaining an adequate level of amenity for the host dwelling. In visual terms, the proposal would have a limited impact on the street scene and on the level of vegetation on the site, subject to a comprehensive landscaping scheme being submitted and implemented. The application is therefore recommended for approval.

14.8.6 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.

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	£4,250		

CIL Summary Table

Type	Proposed Floorspace (sq/m)	Existing Floorspace (sq/m)	Net Floorspace (sq/m)	Chargeable Floorspace (sq/m)	Rate	Total
Dwelling houses	86.13	0	86.13	86.13	£80/sqm	£8,294.98 *
Subtotal:		£8,294.98				
Relief:		£0.00				
Total Payable:		£8,294.98				

** 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 (BIAS) and is:*

Net additional new build floor space (A) x CIL Rate (R) x Inflation Index (I)

Where:

A = the net area of floor space chargeable in square metres after deducting any existing floor space and any demolitions, where appropriate.

R = the levy rate as set in the Charging Schedule

I = All-in tender price index of construction costs in the year planning permission was granted, divided by the All-in tender price index for the year the Charging Schedule took effect. For 2018 this value is 1.2

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: 9105/100B, 9105/101A, 9105/103, 9105/102.

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 development in accordance with policy CS2 of the Core Strategy for the New Forest District outside the National Park.
4. 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, including the oak tree to the eastern boundary;
 - (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 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 comply with Policy CS2 of the Local Plan for the New Forest District outside the National Park (Core Strategy).

- 5. 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).

- 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, a surface water sustainable drainage system (SuDS) shall be designed and installed to accommodate the run-off from all impermeable surfaces including roofs, driveways and patio areas on the approved development such that no additional or increased rate of flow of surface water will drain to any water body or adjacent land and that there is capacity in the installed drainage system to contain below ground level the run-off from a 1 in 100 year rainfall

event plus 30% on stored volumes as an allowance for climate change as set out in the Technical Guidance on Flood Risk to the National Planning Policy Framework. Infiltration rates for soakaways are to be based on percolation tests in accordance with BRE 365, CIRIA SuDS manual C753, or a similar approved method. In the event that a SuDS compliant design is not reasonably practical, then the design of the drainage system shall follow the hierarchy of preference for different types of surface water drainage system as set out at paragraph 3(3) of Approved Document H of the Building Regulations.

The drainage system shall be designed to remain safe and accessible for the lifetime of the development, taking into account future amenity and maintenance requirements.

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.

8. 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. These spaces shall thereafter be retained and kept available for their intended purposes 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. 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 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).

10. Before first occupation of the dwelling, details of the proposed cycle storage / parking facilities shall be submitted to and approved by the Local Planning Authority. The dwellings shall not be occupied until the approved cycle parking areas have been provided, and these cycle parking areas shall be permanently retained thereafter.

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

Notes for inclusion on certificate:

1. 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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**Planning Development
Control Committee**
February 2019

Item No: 3f
Land rear of
9 Uplands Avenue
New Milton
18/11592

Scale 1:1250

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

