

Application Number: 18/11341 Full Planning Permission

Site: PENLOWARTH, 7 THORNBURY AVENUE, BLACKFIELD,
FAWLEY SO45 1YP

Development: Flue on outbuilding

Applicant: Mr Dugdale

Target Date: 04/12/2018

Extension Date: 15/02/2019

RECOMMENDATION: Grant Subject to Conditions
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Case Officer: Michael Barry

1 REASON FOR COMMITTEE CONSIDERATION

Contrary to Parish Council view

2 DEVELOPMENT PLAN, OBJECTIVES AND POLICIES

Constraints

None

Plan Policy Designations

Built-up Area

National Planning Policy Framework

Chap 12: Achieving well designed places

Core Strategy

CS2: Design quality

3 RELEVANT LEGISLATION AND GOVERNMENT ADVICE

Section 38 Development Plan
Planning and Compulsory Purchase Act 2004
National Planning Policy Framework

4 RELEVANT SITE HISTORY

Proposal	Decision Date	Decision Description	Status
04/80808 Roof alterations with dormer	28/04/2004	Granted Subject to Conditions	Decided
03/77751 Alterations to roof	21/05/2003	Granted Subject to Conditions	Decided
02/76848 Roof alterations; balcony	17/02/2003	Refused	Decided

5 COUNCILLOR COMMENTS

No comments received

6 PARISH / TOWN COUNCIL COMMENTS

Fawley Parish Council: recommend refusal due to concern relating to the smoke nuisance being experienced by neighbours and query that this issue should be raised with NFDC Environmental Health.

7 CONSULTEE COMMENTS

7.1 Environmental Health Protection: no objection

8 REPRESENTATIONS RECEIVED

8.1 One objection received from 10 Thornbury Avenue on the grounds of the impact of the smoke from the flue and associated woodburner impacting their property and amenity:

- Detailed the proximity of the properties and the location of the outbuilding, showing the neighbour's property to be one of the closest properties to the outbuilding.
- Provides evidence of the average wind direction being towards his property from the outbuilding.
- Refers to guidance from the British Flue & Chimney Manufacturers Association (BFCMA) on the recommended minimum height of a flue for minimum effectiveness,
- Possible future legislation around emissions from all sources, including wood burning stoves.

8.2 The applicant has commented as follows:

- wind speed and direction indicators have been erected
- The flue fits within permitted development rights
- Environmental Health have raised no objection and so will not have a significant bearing on neighbouring properties
- The stove is DEFRA approved for use in smokeless areas. The wood is locally sourced, seasoned and stored in dry conditions

9 CRIME & DISORDER IMPLICATIONS

None relevant

10 LOCAL FINANCE CONSIDERATIONS

From the 6 April 2015 New Forest District Council began charging the Community Infrastructure Levy (CIL) on new residential developments.

Regulation 42 of the CIL Regulations 2010 (as amended) states that CIL will be applicable to all applications over 100sqm GIA and those that create a new dwelling. The development is under 100 sq metres and is not for a new dwelling and so there is no CIL liability in this case.

11 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.

12 ASSESSMENT

- 12.1 The property is a detached chalet bungalow in a mixed row and street scene in the built up area of Blackfield. Thornbury Avenue has a wide variety of properties, with traditional and converted detached bungalows, as well as semidetached two storey houses.
- 12.2 The plots are most commonly long and narrow, with properties set a uniform distance back from the road and close together. No. 7 and its adjacent neighbours have gardens that are intersected to the rear by the garden of No 10, at an angle of approx 25°.
- 12.3 The proposals are for the addition of a flue to the existing outbuilding in the rear garden. The flue would rise 0.5m above the ridge giving a total height of 3 metres and would be located on the western roof slope of the existing outbuilding.
- 12.4 The outbuilding is located adjacent to the boundary with less than a metre separation from the garden of No.10, but it would be 20m away from the property. The flue meets standard health, safety and environmental criteria.
- 12.5 The main considerations are amenity, visual impact within the street scene, and environmental health.
- 12.6 Due to the location of the outbuilding towards the rear of the garden and its position relative to surrounding properties, there is no impact on visual amenity. Due to the outbuilding being to the rear of the property set back within its plot there would be no impact from the flue on the street scene.
- 12.7 The amenity issues to consider relate to the potential for smoke from the flue causing adverse impact on adjoining neighbouring properties.
- 12.8 Environmental Health have been consulted and have raised no objection. The flue itself is unlikely to have any significant bearing on whether smoke from the wood burner will affect neighbouring properties. Instead, factors such as the way the appliance is operated, nature of fuel used, size of appliance etc. will ultimately determine whether smoke causes an issue and these factors are outside the scope of the planning regime.
- 12.9 Although no objection has been raised, it should be noted that the granting of this planning permission does not in any way indemnify against statutory nuisance action being taken in respect of smoke

nuisance should substantiated complaints within the remit of Part III of the Environmental Protection Act 1990 be received. As such, there are no significant concerns in this respect that would justify refusal of planning permission.

- 12.10 While the outbuilding is close to the boundary with 10 Thornbury Avenue there remains a separation of approx 20m between the outbuilding and house. As such no adverse residential amenity issues are identified.
- 12.11 Matters have been raised in the objections in relation to average wind direction . The applicant has advised that wind speed and direction indicators have been erected, however ultimately this is not within the scope of this planning application.
- 12.12 Guidance from the British Flue & Chimney Manufacturers Association (BFCMA) are recommendations only and not policy. Any smoke nuisance would be considered under other legislation (Environmental Protection Act 1990).
- 12.13 Overall there is no justifiable reason to refuse the current application on these grounds and as such permission is recommended.
- 12.14 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.

13. 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: Location and Block Plan, Block Plan, Proposed Plans, Plan, Elevation.

Reason: To ensure satisfactory provision of the development.

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.

2. It should be noted that the granting of this planning permission does not in any way indemnify against statutory nuisance action being taken in respect of smoke nuisance should substantiated complaints within the remit of Part III of the Environmental Protection Act 1990 be received.

Further Information:

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New Forest DISTRICT COUNCIL

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**Planning Development
Control Committee**
February 2019

Item No: 3h
Penlowarth
7 Thornbury Avenue
Blackfield Fawley
18/11341

Scale 1:1250

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

