

Application Number: 19/10194 Full Planning Permission

Site: Land adjacent to HALYARD HOUSE & rear of 4 AVENUE ROAD,
LYMINGTON SO41 9GJ

Development: Bungalow; parking; bin store; landscaping; access from Avenue
Road

Applicant: Mr Agnew

Target Date: 09/04/2019

Extension Date: 14/06/2019

Link to case file <http://www.newforest.gov.uk/article/13702/How-do-I-view-and-comment-on-a-planning-application-or-appeal>

1 SUMMARY OF THE MAIN ISSUES

1.1 The following are considered to be the main issues to be taken into account when determining this application. These, and all other relevant considerations, are set out and considered in Section 11 of this report after which a conclusion on the planning balance is reached.

- 1) residential amenity
- 2) visual amenity including impact on the adjacent Lymington Conservation Area
- 3) highway considerations

1.2 This matter is before Committee as a contrary view from the Town Council has been received.

2 THE SITE

2.1 The site lies within the built up area of Lymington adjacent to the Lymington Conservation Area. It is formed from the rear garden and access drive to 38 Southampton Road and currently contains an outbuilding in association with that property. There are residential properties to the east and west of the site, a veterinary practice adjacent to the access and Lymington Sports Ground which falls within the Conservation Area to the southeast.

3 THE PROPOSED DEVELOPMENT

3.1 The proposal entails the construction of a detached single storey dwelling comprising 2 bedrooms, bathroom and large open plan lounge/dining area/kitchen. A basement has also been indicated in order to provide space for services such as a ground source heat pump. Pedestrian access to the rear of no.38 would be retained and two parking spaces for each of the host and proposed dwellings would be provided along the side of the wide (existing) access onto Avenue Road.

4 PLANNING HISTORY INCLUDING NOTES OF ANY PRE-APPLICATION DISCUSSIONS

16/10372 - house, balcony, parking, access from Avenue Road. Refused
11.5.16, appeal dismissed.

Since the appeal was refused, there has been pre-application discussion where design advice was given relating to the size and form of the proposed dwelling.

5 THE DEVELOPMENT PLAN AND OTHER NFDC GUIDANCE

The Core Strategy

CS1: Sustainable development principles
CS2: Design quality
CS3: Protecting and enhancing our special environment (Heritage and Nature Conservation)
CS24: Transport considerations
CS25: Developers contributions

Local Plan Part 2 Sites and Development Management Development Plan Document

NPPF1: National Planning Policy Framework – Presumption in favour of sustainable development
DM1: Heritage and Conservation
DM3: Mitigation of impacts on European nature conservation sites

The Emerging Local Plan

Policy 1: Achieving Sustainable Development
Policy 11: Heritage and Conservation
Policy 13: Design Quality and Local Distinctiveness
Policy 34: Developer Contributions

Supplementary Planning Guidance and other Documents

SPD - Design of Waste Management Facilities in New Development
SPD - Housing Design, Density and Character
SPD - Lymington Local Distinctiveness
SPD - Parking Standards

6 RELEVANT LEGISLATION AND GOVERNMENT ADVICE

Relevant Legislation

Section 38 Development Plan
Planning and Compulsory Purchase Act 2004
Section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 (LBCA)

Relevant Advice

National Planning Policy Framework

NPPF Ch.2 - Achieving sustainable development
NPPF Ch. 4 - Decision-making

NPPF Ch. 5 - Delivering a sufficient supply of homes
Para 59
NPPF Ch.7 - Ensuring the vitality of town centres
NPPF Ch 12 - Achieving well-designed places
Para 124 and 127
NPPF Ch.16 - Conserving and enhancing the historic environment
Paras 193, 194, 196

7 PARISH / TOWN COUNCIL COMMENTS

Lymington & Pennington Town Council, Town Hall : (PAR4): Recommend REFUSAL: we are somewhat disappointed with the lack of imagination and design in this application.

8 COUNCILLOR COMMENTS

None received

9 CONSULTEE COMMENTS

The following is a summary of the comments received which can be read in full via the link set out at the head of this report

Conservation Officer : The amended plans are much improved, please consider conditions relating to the flue, materials and joinery.

Southern Gas Networks : Offer advice

10 REPRESENTATIONS RECEIVED

The following is a summary of the representations received. They can be read in full via the link set out at the head of this report.

Objections:5 Comment: 1

- cramped form of development
- out of keeping so close to the Conservation Area
- increased traffic flows, particularly if it ends up as an AirBnB property
- would be a sub-standard dwelling if used full time
- noise and disturbance from cars to 4 properties
- limited amenity value for future occupants
- dwelling would be higher than existing outbuildings
- concern that permission could be sought in future for accommodation in the roof space

11 OFFICER COMMENTS

11.1 The main issues to consider are the visual impact of the proposed dwelling in this important marginal area adjacent to the Lymington Conservation Area and the residential amenities of the area. Access and parking are also important considerations.

11.2 The current application follows pre-application advice after a previous scheme was refused due to its impact on the character and appearance of the adjacent Conservation Area, due to its scale and mass and its contrived design as well as impacts on amenity. This previous

application was subsequently dismissed on appeal in May 2016. The main concerns raised at that time were the impact of the proposal on the open nature of the edge to the recreation ground which lies within the Lymington Conservation Area and the impact on residential amenity given the two-storey nature of the previous scheme. The Inspector considered that the harm would be less than substantial and in such circumstances para 134 of the NPPF advise that such harm should be weighted against the public benefits of the proposal. In this case there were no such benefits beyond delivery of one additional dwelling which was considered to be insignificant given the housing land supply of 8.7 year that was available at the time of the decision (January 2017)

- 11.3 In responding to these matters, the proposal has been reduced in size to be a single storey property with narrower but longer footprint, and overlooking windows have been removed. Furthermore the detailing has been improved to make the design of a higher quality.

1. Impact on the setting of the Conservation Area

- 11.4 Section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 (LBCA) requires that special attention shall be paid to the desirability of preserving or enhancing the character or appearance of the conservation area.
- 11.5 Core Strategy Policy CS2 concerns design quality and requires new development to respect the character, identity and context of the area's towns villages and countryside and to contribute to local distinctiveness. Local Plan Part 2 Policy DM1 is applicable and includes a balancing exercise referred to in the NPPF 2019. Policy DM1 provides that development proposals and other initiatives should conserve and seek to enhance the historic environment and heritage assets, with particular regard to local character, setting, management and the historic significance and context of heritage assets.
- 11.6 The National Planning Policy Framework 2019 Chapter 12 "Achieving well designed places" acknowledges (in Para 124) that the creation of a high quality built environment is fundamental to what the planning and development process should achieve. Good design is a key aspect of sustainable development in creating better places to live and work. Being clear about design expectations is essential to achieving this goal.
- 11.7 Para 127 requires planning decisions to ensure that development functions well, adds to the overall quality of the area and is visually attractive as a result of good architecture, layout and effective landscaping. Furthermore, development should be sympathetic to local character and history, respecting the surrounding built environment and its landscape setting and should establish or maintain a strong sense of place with reference to the arrangement of streets, spaces, building types and materials in order to create attractive and distinctive places.
- 11.8 Paragraph 193 of the NPPF states that when considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the assets conservation.
- 11.9 Paragraph 194 states that any harm to, or loss of the significance of a designated heritage asset should require clear and convincing justification.

- 11.10 Paragraph 196 states that where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal, where appropriate securing its optimum viable use.
- 11.11 In dismissing the previous appeal on this site the Inspector considered that the margin of garden land around the Sports Ground and the openness of the Sports Ground itself were crucial to the setting of the Conservation Area. He considered that the full two storey building then proposed would be prominent in views from and towards the Conservation Area because of its position and height relative to other structures in this margin of garden land around the Sports Ground.
- 11.12 In seeking to address this issue, the single storey building now proposed would have less impact on the setting of the Conservation area. The proposed building is of a comparable size to an adjacent car port at the rear of the flats to the north east, Halyard House. The building has been designed to reflect the hipped nature of this structure and the southern elevation of the garage building to the north. As such, it is not considered to detract significantly from the character of the adjoining Conservation Area.
- 11.13 The building includes detailing such as brick arches, dentile brick courses and roof finial's which provide an appropriate quality of built form and interest in this sensitive location. Overall the proposed dwelling of similar proportions to the adjacent garage block would not have a harmful effect on the Conservation Area.
- 11.14 On balance therefore, the revisions made to the proposals would mitigate the adverse impact on the setting of the Conservation area such as to make it acceptable within its context. Thereby the proposals are considered to comply with Policy CS2 and CS3, DM1 and para 124, 127 and 193 and 194 of the NPPF.

2. Residential Amenity

- 11.15 With regard to residential amenity, as it is a single storey dwelling, there would be no first floor windows which would give rise to a loss of privacy for adjoining occupiers as the windows would be screened from other dwellings by fencing and vegetation. Concerns have been raised with regard to the future level of amenity for the new dwelling and in this respect, the proposed amenity space would be a little over 72m². As the site is within the Town Centre, smaller, courtyard gardens can be acceptable and the proposed provision is in excess of the minimum suggested in the Lymington Local Distinctiveness SPD. This would be in line with policy CS1 and CS2 which encourages sustainable development and a balanced mix of uses in sustainable locations. As such, although the limited size of the plot is acknowledged no overriding objection is raised.

3. Access and Parking

- 11.16 Although the turning space for both existing and proposed dwellings is indicated immediately adjacent to the proposed dwelling, it is possible to turn a car in the existing access drive. It is not considered that the use of the turning area by an additional property would adversely affect the

level of amenity of this dwelling due to only limited additional noise and disturbance that would result.

- 11.17 The access onto Avenue Road is already used by the applicant and the neighbour at no.40 who have a right of way over the drive to access their garage. It benefits from good visibility and its use by an additional 2-bed bungalow would not give rise to unacceptable harm to highway safety.
- 11.18 The proposal provides 2 parking spaces for the new dwelling which is in line with the recommended parking provision in the SPD. Two parking spaces for the host dwelling are also shown as being retained. Subject to a condition to provide and retain this parking, no objection is raised on these grounds.

4. Response to objections received

- 11.19 The proposed building will be higher and larger than the existing outbuilding on site. It would however, be comparable in size to the adjacent outbuilding. Regardless of whether the property is occupied by permanent residents or holiday makers it is considered that there would be enough space to meet the reasonable amenity requirements of these residents in this sustainable town centre location. With regard to traffic flows to a single 2-bed property, whilst peak times would be different between holiday lets and permanent dwellings, the trip generation would be lower. The existing access is currently utilised by two properties with the proposal adding a third. This would result in limited additional disturbance which is not considered to be harmful. It is considered that the single storey nature of the proposed building would have an acceptable impact on the adjoining Conservation Area - so it addresses previous concerns about the impact on its setting. Restrictions can be applied to future accommodation in the roof space to protect adjoining residential amenity.

12 CONCLUSION ON THE PLANNING BALANCE

- 12.1 The proposals have been considered in the relevant local and national policy framework. The matters raised by the Inspector at the 2016 appeal about the previous scheme relating to residential amenity have been adequately addressed by the current proposal. The photo-montage provided with the application indicates that the proposed dwelling would have an acceptable impact on views from the Conservation Area given the flats, houses and garage buildings which are already in situ. In visual terms, the proposed dwelling reflects the hipped nature of other buildings in this backland area and is not significantly larger. It is thereby considered to be of an appropriate size and layout in this site. As such, the current proposals would address the previous reasons for refusal and dismissed appeal and approval is recommended.
- 12.2 Subject to appropriate materials and landscaping, the proposal is considered to make good use of an under utilised space and would conserve the historic environment to the south. This is in line with chapters 12 and 16 of the NPPF.

13 OTHER CONSIDERATIONS

Proactive Working Statement

- 13.1 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.
- 13.2 In this case, clarification was sought with regard to the indicative basement area and further amendments provided in order to address initial concerns in respect of the design of the proposed building.

Crime and Disorder

- 13.3 No relevant considerations

Local Finance

- 13.4 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 £0.00.

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

Human Rights

- 13.5 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.

Equality

- 13.6 The Equality Act 2010 provides protection from discrimination in respect of certain protected characteristics, namely: age, disability, gender reassignment, pregnancy and maternity, race, religion or beliefs and sex and sexual orientation. It places the Council under a legal duty to have due regard to the advancement of equality in the exercise of its powers including planning powers. The Committee must be mindful of this duty

inter alia when determining all planning applications. In particular the Committee must pay due regard to the need to:

- (1) eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under the Act;
- (2) advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it; and
- (3) foster good relations between persons who share a relevant protected characteristic and persons who do not share it.

Housing Provision

13.7 The LPA 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.

Habitat Mitigation

13.8 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.

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	£3,356		

CIL Summary Table

Type	Proposed Floorspace (sq/m)	Existing Floorspace (sq/m)	Net Floorspace (sq/m)	Chargable Floorspace (sq/m)	Rate	Total
Self Build (CIL Exempt)	99	0	99	99	£80/sqm	£9,686.77 *
Subtotal:	£9,686.77					
Relief:	£9,686.77					
Total Payable:	£0.00					

* 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 (BICS) 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 2019 this value is 1.22

14. 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, clarification was sought with regard to the indicative basement area and further amendments provided in order to address initial concerns in respect of the design of the proposed building.

2. In discharging condition No. 6 above the Applicant is advised that appropriate mitigation is required before the development is commenced, either by agreeing to fund the Council's Mitigation Projects or otherwise providing mitigation to an equivalent standard. Further information about how this can be achieved can be found here <http://www.newforest.gov.uk/article/16478/>
3. This decision relates to amended / additional plans received by the Local Planning Authority on 26 February and 16 April 2019.

4. The development subject to this notice falls within a highlighted proximity of a mains gas pipe which is considered a major hazard.

The applicant/agent/developer is strongly advised to contact the pipeline operator PRIOR to ANY works being undertaken pursuant to the permission granted/confirmed by this notice.

Address is:

Southern Gas Networks Plc

SGN Plant Location Team

95 Kilbirnie Street

Glasgow

GS5 8JD

Tel: 0141 184093 OR 0845 0703497

Search online at:

www.linesearchbeforeyoudig.co.uk

SGN personnel will contact you accordingly.

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: Design Statement, 1267.03., 1267.08., 1267.07, 1267.11.

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 building in accordance with policy CS2 of the Core Strategy for the New Forest District outside the National Park.

4. 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).

5. 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;
- (b) a specification for new planting (species, size, spacing and location);
- (c) areas for hard surfacing and the materials to be used;
- (d) 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).

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. The development hereby permitted shall not be occupied until the spaces shown on plan 1267.11. for the parking of motor vehicles have been provided. The spaces shown on plan 1267.11. for the parking of motor vehicles shall be retained and kept available for the parking of motor vehicles for the dwellings hereby approved 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).

8. 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, garage or other outbuilding otherwise approved by Class E of Part 1 of Schedule 2 to the Order, or means of enclosure otherwise approved by Class A of Part 2 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 limited physical characteristics and location 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).

Further information:

Vivienne Baxter

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New Forest DISTRICT COUNCIL

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New Forest District Council
Appletree Court
Lyndhurst
SO43 7PA

**Planning Development
Control Committee**
June 2019

Item No: 3e

Land adj Halyard House
& r/o 4 Avenue Road
Lymington
19/10/194

Scale 1:1250

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

