

Application Number: 19/10234 Variation / Removal of Condition

Site: LAMBWOOD, FARMERS WALK, EVERTON HORDLE SO41 0JZ

Development: Variation of condition 2 of Planning Permission 17/11756 to allow amended plans ASP.PL.17.145.003 rev A; ASP.PL.17.145.004 rev A; ASP.PL.17.145.005 rev A; ASP.PL.17.145.006 rev A to allow new windows to side elevation on both properties

Applicant: Priory Investments

Target Date: 17/04/2019

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, Officer Comments, of this report after which a conclusion on the planning balance is reached.

- 1) visual amenity
- 2) residential amenity

1.2 This matter is before Committee as there is a conflict with the Parish Council request for a specific condition.

2 THE SITE

The site lies within the built up area of Everton in a residential area. The site contains a two storey dwelling and the two new ones subject of this proposal, together with statutorily protected trees. It is well screened from the road other than where the approved access point has been provided.

3 THE PROPOSED DEVELOPMENT

The proposal is for the variation of condition 2 of the original approval (17/11756) to allow for the insertion of two first floor side windows to each new dwelling. These windows have already been installed and are obscure glazed.

4 PLANNING HISTORY INCLUDING NOTES OF ANY PRE APPLICATION DISCUSSIONS

17/11756 - roof alterations to existing dwelling, 2 detached houses, new access, alterations to existing access, parking, landscaping. Granted 7.2.18

5 THE DEVELOPMENT PLAN AND OTHER NFDC GUIDANCE

The Core Strategy

CS1: Sustainable development principles

CS2: Design quality

Local Plan Part 2 Sites and Development Management Development Plan Document

None

The Emerging Local Plan

Policy 1: Achieving Sustainable Development

Supplementary Planning Guidance and other Documents

Although there were several SPDs (see below) valid for the consideration of the original approval, none are specifically relevant to the current proposal.

SPD - Design of Waste Management Facilities in New Development

SPD - Housing Design, Density and Character

SPD - Hordle Village Design Statement

SPD - Mitigation Strategy for European Sites

SPD - Parking Standards

6 RELEVANT LEGISLATION AND GOVERNMENT ADVICE

Relevant Legislation

Section 38 Development Plan

Planning and Compulsory Purchase Act 2004

Section 197 Trees

Town and Country Planning Act 1990

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.12 - Achieving well-designed places

Para 124

Para 127

7 PARISH / TOWN COUNCIL COMMENTS

Hordle Parish Council

Parish 1 We recommend permission but would accept the decision of the Planning Officers under their delegated powers. The Parish Council ask that conditions should be imposed that state that the hedge should be maintained to the existing height and thickness and that the windows should be obscured and fixed shut in perpetuity.

8 COUNCILLOR COMMENTS

None received

9 CONSULTEE COMMENTS

No Comments Received

10 REPRESENTATIONS RECEIVED

Three responses have been received to the application. These objections do not raise concerns about the proposed additional windows subject to them being obscure glazed and fixed shut. A request is made that the hedge to the eastern boundary is maintained at a certain height.

11 OFFICER COMMENTS

11.1 The principle of development of the site for 2 dwellings has already been agreed under planning approval 17/11756 which is now in an advance stage of construction on site. As originally determined the proposals for two dwellings comply with NPPF Chp 5 paragraph 59 relating to the delivery of new homes, along with Cpt 12 paragraphs 124 and 127 relating to achieving well-designed places. The proposed changes to the scheme are limited such that the principle assessment in relation to this policy framework remains the same.

1. Visual amenity

11.2 In visual terms, the provision of additional side windows has a very limited impact on the overall design of the dwellings and would not adversely affect the street scene or character of the dwellings.

2. Residential amenity

11.3 The new side windows are obscure glazed and relate to en-suites or stairwells so overlooking would be limited. Furthermore a condition to retain these windows as obscure glazed is proposed. To the west of unit 1 is a mature boundary hedge which further maintains the level of amenity currently enjoyed by Anoush. To the east of the site, although the mature boundary hedge has been trimmed in thickness and height in recent weeks it is not considered that the windows would significantly impact upon the residential amenities of the adjoining property as they would largely be opposite the forward sited garage and not face towards the dwelling. Both boundary hedges are shown as being retained in the approved landscaping plan so that the amenity of these adjoining neighbours would remain protected.

3. Habitats Mitigation

11.4 The original planning permission included a requirement for habitats mitigation; this was secured by condition and Section 106 agreement. This condition has now been discharged by the completion of a legal agreement on 15th November 2018. A variation of this S106 agreement is required prior to this planning permission being issued to ensure that this obligation is transferred to the new application.

4. Response to objections

- 11.5 There have been concerns raised with regard to the retention of the eastern boundary hedge and whether this is realistic given its relationship with the approved attached garage to unit 2 which is very close. Details of the landscaping of the site, required under condition 5 of the original consent have been agreed which show the hedge to be retained. Legal opinion has been sought on what can be done to this hedge without conflicting with the requirement to retain it under the landscaping condition (5) of the original approval. The hedge has been cut back to trunks below the height of the neighbour's fence but its height and foliage to the east have been retained. The works undertaken to the hedge do not contravene the detailed scheme of landscaping approved through the discharge of this condition which indicated it to be retained and supplemented where necessary. It is not considered reasonable to include any further conditions relating to maintaining any particular height to the hedge.

12 CONCLUSION ON THE PLANNING BALANCE

- 12.1 The application is recommended for permission with an additional condition requiring the additional windows to be fixed shut and obscure glazed in perpetuity.
- 12.2 Whilst there are concerns that the eastern boundary hedge should be maintained at a certain height this is not a reasonable requirement given that the approved landscaping plan adequately address both residential amenity and visual amenity issues on the site.

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 all the above apply and as the application was acceptable as submitted no specific further actions were required.

Crime and Disorder

- 13.3 No relevant considerations

Local Finance

- 13.4 Local financial considerations are not material to the decision on this application.

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.

Other Case Specific Factors

Housing

- 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	£11,836		

CIL Summary Table

Type	Proposed Floorspace (sq/m)	Existing Floorspace (sq/m)	Net Floorspace (sq/m)	Chargable Floorspace (sq/m)	Rate	Total
Dwelling houses	322.15		322.15	322.15	£80/sqm	£31,521.14 *
Subtotal:	£31,521.14					
Relief:	£0.00					
Total Payable:	£31,521.14					

* 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:

$\text{Net additional new build floor space (A)} \times \text{CIL Rate (R)} \times \text{Inflation Index (I)}$

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

- 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. The applicant should be aware that as the proposals include the formation of a new or altered access onto the highway, which will include works within the highway, these works will be required to be undertaken on accordance with standards laid down by, and under a license agreement with, the Highway Authority. Full details of how to apply can be found at:
<https://www.hants.gov.uk/transport/licencesandpermits/roadopening>

15. RECOMMENDATION

That the Chief Planning Officer be **AUTHORISED TO GRANT PERMISSION** subject to:

- i) the completion of a satisfactorily worded S.106 Agreement relating to the provision of Habitat Mitigation and
- ii) the imposition of the conditions set out below.

Proposed Conditions:

1. The development permitted shall be carried out in accordance with the following approved plans: ASP.PL.17.145.001, ASP.PL.17.145.003 rev.A, ASP.PL.17.145.004 rev.A, ASP.PL.17.145.005 rev.A, ASP.PL.17.145.006 rev.A.

Reason: To ensure satisfactory provision of the development.
2. The development shall be constructed in accordance with the approved materials as agreed under 17/11756 by the Council's discharge of condition decision notice dated 6.9.18 unless alternatives are previously agreed in writing by the Local Planning Authority.

Reason: To ensure an acceptable appearance of the buildings in accordance with policy CS2 of the Core Strategy for the New Forest District outside the National Park.
3. The slab levels in relationship to the existing ground levels shall be as approved under 17/11756 by the Council's discharge of condition decision notice dated 6.9.18.

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).
4. The landscaping scheme shall implemented in accordance with approved plan GD001 showing existing boundary hedges retained as approved by the Council's discharge of condition decision notice reference 17/11756 and dated 8.11.18 unless an alternative scheme is previously agreed in writing.

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. The trees & hedges on the site which are shown to be retained on the approved plans shall be protected during all site clearance, demolition and building works in accordance with the measures set out in the submitted arboricultural statement.

Reason: To safeguard trees and natural features which are important to the visual amenities of the area and in accordance with policy CS2 of the New Forest District Council Core Strategy.

6. The first floor windows on the west elevation of unit 1 and east elevation of unit 2 shall at all times be glazed with obscure glass and fixed shut.

Reason: To safeguard the privacy of the adjoining neighbouring properties in accordance with policy CS2 of the Local Plan for the New Forest District outside the National Park (Core Strategy).

Further Information:

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New Forest DISTRICT COUNCIL

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**Planning Development
Control Committee**
June 2019

Item No: 3f
Lambwood
Farmers Walk
Everton Hordle
19/10234

Scale 1:1250

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

