

Application Number: 19/11072 Variation / Removal of Condition

Site: ARRACHAR, FOX POND LANE, PENNINGTON, LYMINGTON
SO41 8FW

Development: Variation of condition 2 of planning permission 17/10532 to allow revised plans

Applicant: Mrs Ashworth

Target Date: 17/10/2019

Link to case file: [view online here](#)

1 SUMMARY OF THE MAIN ISSUES

The following matters 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) the acceptability of the proposed amendments to the design of the dwelling
- 2) the impact of the proposed amendments to the amenities of neighbouring residential amenity

This matter is to be determined by Committee due a contrary view because of to the request for specific conditions from the Town Council.

2 THE SITE

The site lies within the built up area of Pennington. The street scene of Fox Pond Lane comprises a variety of dwelling types and styles including cottages, modern terraces and 2-storey dwellings. The site contains a large detached 2-storey dwelling with parking to the frontage and outbuildings to the rear. There is a recessed hot tub within the patio area with the rest of the back garden laid to lawn.

3 THE PROPOSED DEVELOPMENT

The proposal follows two refusals of planning permission for changes to the approved scheme. The variations now proposed include:

- a first floor side extension,
- timber cladding to the front and rear elevations of the dwelling and the rear dormer and the front and part sides of the outbuilding,
- fenestration alterations to the dwelling and outbuilding,
- an increase in height of 0.2m to the highest ridge.

This application is partly retrospective. The works which have not yet been implemented are the timber cladding and the fenestration alterations to the dwelling which include the installation of a fixed shut obscure glazed roof light to the southern elevation and a smaller openable obscure glazed window to the rear window serving bedroom 4 in both cases the obscure glazing has been proposed to protect the residential amenity of the adjoining dwelling from unacceptable overlooking .

4 PLANNING HISTORY

17/10532 – house, detached outbuilding, 1.8m high boundary fence and gate, demolition of existing. Granted 6.6.17

17/11503 – outbuilding. Refused 10.1.18. *This structure was proposed as an alternative to that approved under 17/10532.*

18/10327 – house, detached outbuilding, demolition of existing (retrospective). Withdrawn by applicant 19.4.18

18/10774 – variation of condition of 17/10532 to allow revised plan numbers to allow first floor side extension, revised front boundary details, timber cladding, fenestration alterations change to rear windows, side roof lights provision of oriel window provision flue . Refused 12.9.18, appeal dismissed.

19/10437 - Variation of condition 2 of 17/10532 to allow revised plans PE.02 Rev H, PL.01 Rev E & PP.01 Rev D to allow first-floor side extension; timber cladding; fenestration alterations; window alterations to ancillary building. Refused 15.8.19

The following applications all relate to the smaller outbuilding which does not form part of the considerations for the current scheme.

18/10773 – outbuilding (Lawful Development Certificate Proposed). Not lawful 20.8.18.

18/11171 – outbuilding (Lawful Development Certificate Existing). Was not lawful 5.11.18.

18/11476 – outbuilding. Refused 3.1.19, appeal allowed.

5 THE DEVELOPMENT PLAN AND OTHER NFDC GUIDANCE

Core Strategy

CS2: Design quality

Local Plan Part 2 Sites and Development Management Development Plan Document

N/A

The Emerging Local Plan

Policy 13 Design quality and local distinctiveness

Supplementary Planning Guidance And Documents

SPD - Lymington Local Distinctiveness

6 RELEVANT LEGISLATION AND GOVERNMENT ADVICE

Relevant Legislation

Section 38 Development Plan

Planning and Compulsory Purchase Act 2004

National Planning Policy Framework

Relevant Advice

Ch.2 - Achieving sustainable development

Ch. 4 - Decision-making

Chap 12: Achieving well designed places

7 PARISH / TOWN COUNCIL COMMENTS

Lymington and Pennington Town Council - recommend permission but would accept a delegated decision, subject to the following conditions which are necessary to address outstanding issues:

- 1) The rooflights which are being used to overlook the neighbouring property being fixed closed and fitted with obscured glass.
- 2) The sole purpose of the outbuilding is to be used as a garden room/classroom as originally permitted.
- 3) In view of the extensive number and extent of changes made to the originally approved scheme that no further permitted development rights are granted.

8 COUNCILLOR COMMENTS

Councillor Dunning has requested the application be heard at Committee

9 CONSULTEE COMMENTS

None received

10 REPRESENTATIONS RECEIVED

The following is a summary of the 2 representations received from local residents; they can be read in full via the link set out at the head of this report.

- loss of residential amenity to adjacent properties either side
- increase noise from outbuilding
- visual impact of the proposed cladding

It is noted in one representation that the main issues relating to the bedroom velux and rear window have been addressed to the satisfaction of the most affected neighbour.

11 OFFICER COMMENTS

Introduction

- 11.1 The previous application (19/10437) was considered at Committee in August 2019 where concerns were raised in respect of residential amenity, with particular emphasis on the loss of privacy to the occupants of the adjacent Bay Tree Cottage. The report for that application is appended to this report.

Relevant Considerations

- 11.2 At the previous Committee, Members did not raise any issues with any of the changes other than the rear window and roof light to bedroom 4. With respect to bedroom 4, it was felt that the retention of the existing roof light with obscure glazing and removal of the handle would not be

sufficient to address the overlooking concerns. At present, the roof light can be opened and views towards Bay Tree Cottage, where there is a roof light almost directly opposite (serving the stairwell and landing area of that property), can be achieved. The proposal now indicates the roof light to be completely replaced with one with obscure glazing and which would be a single fixed unit unable to be opened. The immediate neighbour has advised that whilst it is disappointing that roof light is not to be completely removed, the proposed alteration would address their concern.

- 11.3 The alterations proposed to the rear facing bedroom window are similar to before but rather than add louvres or a timber 'fin', it is proposed that the window is obscure glazed, hinged to its southern side and openable to 90°. This would not even allow for oblique views into neighbours rear gardens which are typical of a suburban residential area such as this.

Given the views of the Inspector in dismissing the appeal on the first refusal of the variation of condition application and the further revisions made which substantially preclude harmful overlooking, it is considered that previous concerns have been address. As such, the proposal complies with paragraph 127 of the NPPF which requires development to be sympathetic to local character, respect surrounding built environment and maintain a strong sense of place in terms of building gaps, spaces and materials.

12 CONCLUSION ON THE PLANNING BALANCE

It is considered that the matters which remained outstanding following the last application have now been addressed and the proposal would not adversely affect either residential or visual amenity. As such, approval is now recommended.

13 OTHER CONSIDERATIONS

Crime and Disorder

Not applicable

Local Finance

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

Human Rights

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

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

None

CIL Summary Table

Type	Proposed Floorspace (sq/m)	Existing Floorspace (sq/m)	Net Floorspace (sq/m)	Chargeable Floorspace (sq/m)	Rate	Total
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Self Build (CIL Exempt)	259	134	125	125	£80/sqm	£12,230.77 *
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Subtotal:	£12,230.77
Relief:	£12,230.77
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:

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

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. RECOMMENDATION

GRANT the VARIATION of CONDITION

Proposed Conditions:

1. The development hereby permitted shall be begun before the expiration of three years from the date of the original permission (6 June 2017).

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: LP.01 rev.C (location plan), PP.01 rev.D (existing plans), PE.01 rev.E (proposed elevations), PL.01 rev.D (outbuilding), PE.02 rev.B (proposed elevations), PP.01 rev.A (proposed plans).

Reason: To ensure satisfactory provision of the development.

3. The following details shall be as agreed by the Council's discharge of condition decision notice dated 20 July 2018 under 17/10532 unless alternatives are previously submitted to, and approved in writing by, the Local Planning Authority:

- (a) the proposed colour of the render;
- (b) a specification for new planting along the front boundary (species, size and spacing);
- (c) a method and programme for its implementation and the means to provide for its future maintenance.

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).

4. The slab levels in relationship to the existing ground levels shall be as agreed by the Council's discharge of condition decision notice dated 20 July 2018 under 17/10532.

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. Within 2 months of the date of this permission the first floor roof light on the southern elevation of the approved dwelling shall at all times be glazed with obscure glass and fixed shut. The roof light should be fitted with obscure glass with a minimum obscurity of level 3 glazing and not an applied film.

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).

6. The outbuilding the subject of this permission shall only be used for ancillary purposes in conjunction with the main dwelling on the site and not part of its main accommodation.

Reason: To protect the amenities of the area in accordance with Policy CS2 of the Local Plan for the New Forest District outside of the National Park (Core Strategy).

7. Within 3 months from the date of this permission the side window in the ancillary building shall be fitted with obscure glass with a minimum obscurity of level 3 and shall thereafter remain at all times with obscure glazing 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).

8. The cladding hereby approved shall not be treated or stained but left to weather naturally.

Reason: In the interests of the visual amenities of the area and in accordance with policy CS2 of the New Forest District Council Core Strategy.

9. The window serving bedroom 4 hereby approved shall be installed within 4 months from the date of this permission. It shall be fitted with obscure glass with a minimum obscurity of level 3 and shall thereafter remain at all times with obscure glazing.

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

Notes for inclusion on certificate:

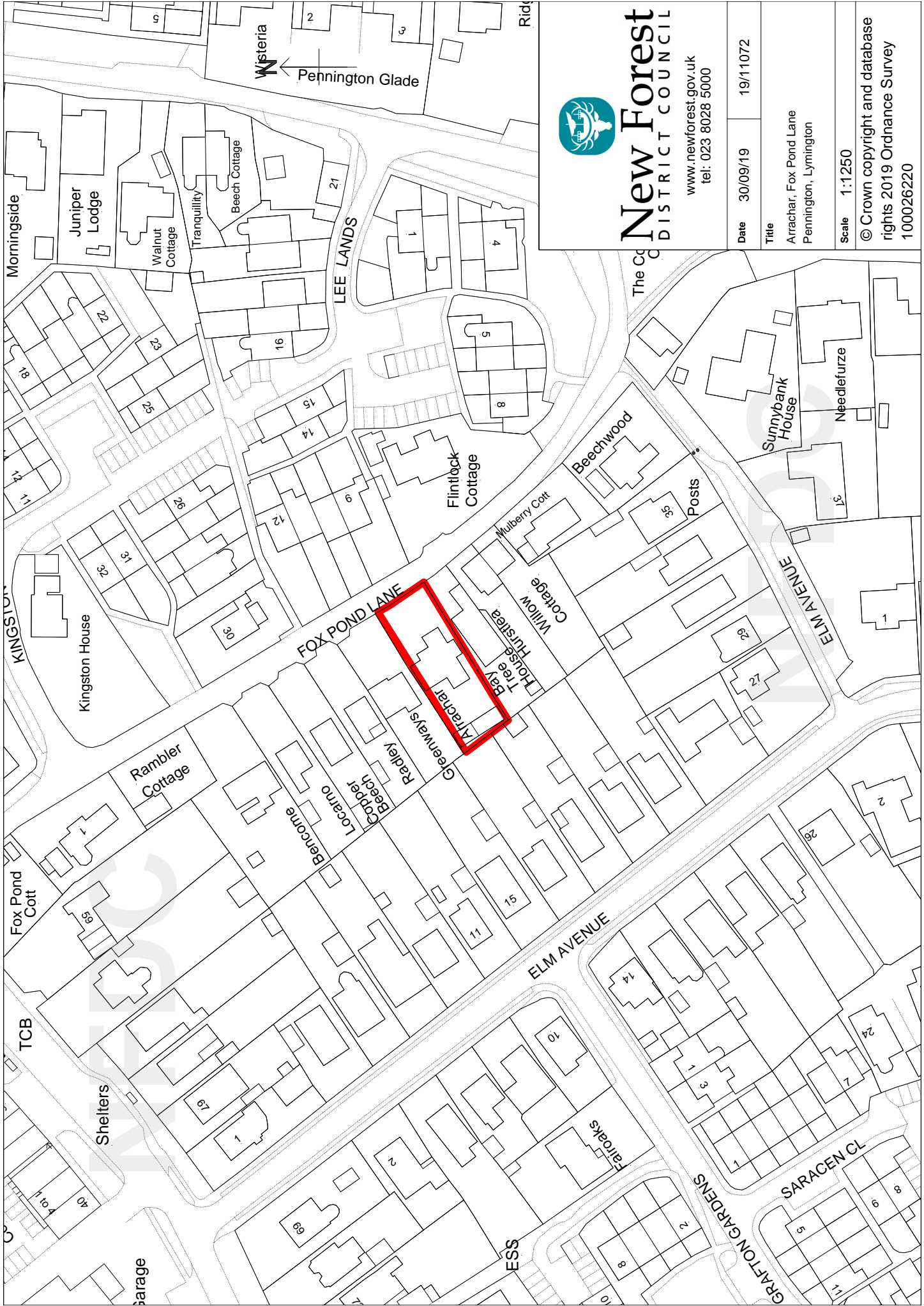
1. In accordance with paragraph 38 of the National Planning Policy Framework and Article 35 of the Town and Country Planning (Development Management Procedure) (England) Order 2015, New Forest District Council takes a positive and proactive approach, seeking solutions to any problems arising in the handling 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:

Vivienne Baxter

Telephone: 023 8028 5588



New Forest
DISTRICT COUNCIL

www.newforest.gov.uk
tel: 023 8028 5000

Date	30/09/19	19/11072
Title	Arrachar, Fox Pond Lane Pennington, Lymington	
Scale	1:1250	
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