

Application Number: 19/11118 Full Planning Permission

Site: 23 MOUNT AVENUE, NEW MILTON BH25 6NT
Development: Demolish existing garage, and erection of detached house with parking, access alterations
Applicant: Mr Leicester
Target Date: 30/10/2019
Extension Date: 14/02/2020

1 SUMMARY OF THE MAIN ISSUES

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) principle of a dwelling in this location
- (2) impact of the development on existing trees
- (3) the impact of the proposal on the character and appearance of the area
- (4) the impact of the proposal on the residential amenities of adjoining dwellings
- (5) highway issues

This matter is being reported to Committee in view of some of the concerns raised by the Town Council.

2 THE SITE

The site lies within the built up area of New Milton in a predominantly residential area. It is formed from the side garden of a semi-detached 2-storey property of some character. To the northern boundary are the rear gardens of properties along Barton Court Road and within the grounds of two of these, lie mature, protected trees.

3 THE PROPOSED DEVELOPMENT

The proposal is for the demolition of a large garage building and the erection of a detached dwelling comprising living room, study, WC, kitchen dining room and utility room at ground floor level with four bedrooms (one ensuite) and a family bathroom at first floor level. The new dwelling would have two parking spaces to the eastern corner of the site and the host dwelling would have two spaces provided adjacent to these within its remaining frontage.

4 PLANNING HISTORY

Proposal	Decision Date	Decision Description	Appeal Description
11/96990 House; parking; single-storey extension to Number 23	11/08/2011	Refused	Appeal Dismissed
08/91919 Two-storey detached dwelling; parking	28/04/2008	Refused	

81/NFDC/19090	Erection of a dwelling and construction of a pedestrian/vehicular access.	14/04/1981	Withdrawn by Applicant
80/NFDC/16614	Erection of a dwelling and garage.	23/05/1980	Refused
78/NFDC/10026	Erection of dwelling with construction of pedestrian/vehicular access.	16/05/1978	Refused

5 THE DEVELOPMENT PLAN AND OTHER CONSTRAINTS

Core Strategy

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

The Emerging Local Plan

Policy 10 Mitigating the impact of development on International Nature Conservation sites
 Policy 13 Design quality and local distinctiveness
 Policy 34 Developer contributions
 Policy 35 Development standards

The Emerging New Milton Neighbourhood Plan

NM 4 - Design Quality
 NM11 - Mitigating Effects on European Sites

Supplementary Planning Guidance And Documents

SPD - Design of Waste Management Facilities in New Development
 SPD - Housing Design, Density and Character
 SPD - Mitigation Strategy for European Sites
 SPD - New Milton Local Distinctiveness
 SPD - Parking Standards

Constraints

Aerodrome Safeguarding Zone
 Tree Preservation Order: 36/97/1/T1

Plan Policy Designations

Built-up Area

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
Chap 12: Achieving well designed places

7 PARISH / TOWN COUNCIL COMMENTS

New Milton Town Council OBJECT (Non-Delegated)

- (1) Lack of adequate parking spaces and turning head;
- (2) Impact on protected Monterey Pine due proximity;
- (3) Impact on spatial setting and therefore local character, with siting onto the boundary line resulting in a cramped appearance;
- (4) Back-land development.

8 COUNCILLOR COMMENTS

No comments received

9 CONSULTEE COMMENTS

The following is a summary of the representations received.

HCC Highways - no objection subject to condition
Tree Officer - recommend refusal
Southern Gas Networks - offer advice

Comments in full are available on website.

10 REPRESENTATIONS RECEIVED

The following is a summary of the representations received.

Three responses have been received raising no objections although one refers to concerns about the impact on their yew tree and another considers the house too large and that it would block light.

Two objections have been received concerned that the design does not allow for biodiversity net-gain and that small changes could allow for this; and that services could impact on the health and safety of the pine tree.

A comment has been received suggesting the proposed dwelling is out of keeping with others in the area.

11 OFFICER COMMENTS

Introduction

In July 2012, an application for a dwelling was dismissed on appeal. The Inspector concluded that the appeal proposal would not harm the character or appearance of the area. The reason the previous scheme was dismissed related to the impact of the proposed dwelling on the statutorily protected trees within adjoining gardens. The current scheme differs through the design of the proposed dwelling and its siting approximately 1m further away than the previous scheme.

Relevant Considerations

Principle

The site is within the built up area where in principle, new residential development is acceptable. Whilst there have been changes to both national and local policy since the appeal decision, these changes are not considered to be material in terms of the principle of new dwellings in this location.

The Town Council has made reference to the proposal being back-land development although it is not the case as the plot would be subdivided front to back with the proposed dwelling having its own road frontage.

Impact of the development on existing trees

The Inspector acknowledged the importance of the large Monterey pine tree as being *"prominent in the street scene and has a high amenity value. In the SPD [New Milton Local Distinctiveness] it is identified as one of the "significant street trees and larger trees or groups".* He concluded that the proposed dwelling would have no direct adverse impact on the protected pine tree but that the proximity of the dwelling to the tree would make it difficult to resist applications to lop or fell the tree on safety grounds.

The proposed dwelling is marginally further from the protected Monterey Pine tree than the previous appeal scheme and would have study and bedroom windows closest to this tree, separated by a distance of approximately 4m. It has already been accepted that the Monterey pine tree plays a significant role in the visual impact on the area and offers a high level of public amenity value. Any loss or deterioration of the health of this tree would therefore have an adverse impact on the character of the area.

Although the proposed dwelling is slightly further from the pine tree than the previous scheme, it would still sit significantly within the root protection zone to an extent which would be considered unacceptable. With the site, the tree has a root protection zone of around 190m² and under BS 5837:2012, new permanent surfacing should not exceed 20% of this. The proposal would equate to a 45% loss of soft ground and rooting area and there would be limited capacity to provide compensation or mitigation for encroachment into the root protection area. For this reason, the current proposals cannot be supported on this basis.

The proposed siting is further from the protected yew tree within the grounds of 21, Barton Court Road and subject to appropriate protection and careful construction methods, there should be no harm to this tree.

Impact of the proposal on the character and appearance of the area

Visually, the proposed dwelling is attractive and includes bay windows and gable detailing to reflect the host dwelling and its immediate neighbour, noted in the Local Distinctiveness SPD as a key building. The Inspector concluded that the previous scheme would not harm visual amenity or detract from the distinctive houses to the south by virtue of the set back from the road, noting that the loss of the garage was welcomed. With the current proposal, the proposed dwelling would be set back behind the front building line of both the existing garage and dwelling and a minimum of 8m would be retained to the frontage. This distance is comparable to no.19 to the south.

In terms of the proximity of the proposed dwelling to the host property, amended plans have been accepted that have reduced the size of the proposal since submission (and receipt of Town Council comments). This has created an increased separation of 2m between the two dwellings which is comparable to the existing gap between nos. 21 and 19. This has not resulted in the proposed dwelling extending towards the protected trees, but helps to address one of the concerns of the Town Council.

In conclusion on this point, the proposal is not considered to adversely affect the character of the area or appearance of the street scene and would respond to its local distinctiveness.

Impact on the Residential Amenities of adjoining dwellings

The existing dwelling has three windows to its side elevation. Those to the upper floors do not serve habitable rooms and whilst the window to the ground floor serves to the kitchen, it is a secondary window as the room has a front facing window in addition to this. The proposed 2m gap between these windows and the proposed dwelling would provide a reasonable separation distance such that they would not be adversely affected by a loss of light. The distance is also considered acceptable and would not give rise to an overbearing impact on the host dwelling. The proposal is far enough away from other properties not to impact on their amenity, light or have any overbearing impact.

With regard to privacy, the proposal would not result in significant overlooking to the surrounding dwellings by virtue of its orientation in a similar position to the existing dwelling. The first floor side windows to the south are indicated as being obscure glazed which would ensure the current level of privacy between new and host dwelling is maintained. The stair window to the north elevation would have a lower floor level immediately adjacent to the window and would be 24.5m from the rear elevation of 19, Barton Court Road. It is not considered that it would adversely affect residential amenity.

Overall, there would be no harmful impact on residential amenity.

Highway issues

The proposal involves minor alterations to the existing access to the site and the provision of an additional access for the host dwelling. Although the proposal does not allow for on site turning facilities for either host or proposed dwelling, this is common in Mount Avenue where some properties have lengthy drives but no turning facility. Although the comments of the Town Council have been noted, the Highway Authority has advised that they are satisfied that there would be no severe impact upon the operation or safety of the local highway network as a result of the proposal and have raised no objection to the scheme.

The recommended parking provision for a 4 bed house is 3 on-plot spaces. However, in this location relatively close to the Town Centre and where on street parking is unrestricted, it is not considered that a shortfall of one space is of concern. The level of parking proposed for the existing dwelling is also acceptable.

Housing

The Council has now progressed the Local Plan Review 2016-2036 Part 1: Planning Strategy to a very advanced stage. The Inspectors examining the Local Plan 2016-2036 Part 1 have confirmed that they consider that the Local Plan can be found 'sound' subject to main modifications being made. Public consultation on the Main Modifications will take place between 13 December 2019 and 31 January 2020. The Local Plan 2016-2036 Part 1 is anticipated to be adopted in Spring 2020. The Local Plan 2016-2036 Part 1 is thus at a very advanced stage and as proposed to be modified is a significant material consideration in the determination of planning applications. The Council has published a Housing Land Supply Statement which sets out that the Council is able to demonstrate a five year housing land supply based on the Local Plan 2016-2036 Part 1 (as modified) for the period 2020/21-2024/25 and so will be able to demonstrate a five year housing land supply upon adoption of the Local Plan.

Habitat Mitigation

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 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 subject to proposals for the mitigation of that impact in accordance with the Council's Mitigation Strategy or mitigation to at least an equivalent effect. An informative would be applied to any consent to this effect.

Nitrate neutrality and impact on the Solent SPA and SACs

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 permission which includes an element of new residential overnight accommodation would adversely affect the integrity of the New Forest and Solent Coast European sites, in view of that site's conservation objectives having regard to nitrogen levels in the River Solent catchment. The Assessment concludes that the proposed development would, in combination with other developments, have an adverse effect due to the impacts of additional nitrate loading on the River Solent catchment unless nitrate neutrality can be achieved, or adequate and effective mitigation is in place prior to any new dwelling being occupied.

In accordance with the Council Position Statement agreed on 4th September 2019, these adverse impacts would be avoided if the planning permission were to be conditional upon the approval of proposals for the mitigation of that impact, such measures to be implemented prior to occupation of the new residential accommodation. These measures to include undertaking a water efficiency

calculation together with a mitigation package to addressing the additional nutrient load imposed on protected European Sites by the development. A Grampian style condition has been agreed with the applicant and would have been attached to the decision had permission been forthcoming.

12 CONCLUSION ON THE PLANNING BALANCE

The principle of developing this site for an additional dwelling is acceptable and would not have an adverse impact on visual amenity or the character of the area. The proposal would not give rise to unacceptable impacts on highway safety and it is considered that there is adequate space on site in order to provide an additional dwelling without significantly affecting the character of the area or residential amenity. However, the concerns raised by the previous Inspector in respect of the potential harm to the protected Monterey Pine tree have not been satisfactorily addressed and it is considered that permission should be refused for this reason.

13 OTHER CONSIDERATIONS

Crime and Disorder

N/A

Local Finance

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 £11,751.32.

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

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 this recommendation, if agreed, may interfere with the rights and freedoms of the applicant to develop the land in the way proposed, the objections to the planning application are serious ones and cannot be overcome by the imposition of conditions. The public interest and the rights and freedoms of neighbouring property owners can only be safeguarded by the refusal of permission.

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.

CIL Summary Table

Type	Proposed Floorspace (sq/m)	Existing Floorspace (sq/m)	Net Floorspace (sq/m)	Chargeable Floorspace (sq/m)	Rate	Total
Dwelling houses	148.4	28.3	120.1	120.1	£80/sqm	£11,751.32 *
Subtotal:	£11,751.32					
Relief:	£0.00					
Total Payable:	£11,751.32					

* 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

Refuse

Reason(s) for Refusal:

1. The protected Monterey pine tree is a principal landscape feature; it is prominent in the street scene with significant public amenity value within the local environment. It has not been demonstrated that the proposal would not cause significant harm to this protected Pine tree. It is therefore considered that due to the proximity of the proposed dwelling to this tree, which is located within its root protection zone, it is likely to lead to the loss of this tree which would be detrimental to the character and appearance of the area undermining its local distinctiveness. Furthermore, the proximity of the proposed dwelling to the tree could result in significant, unnecessary future pressure to prune or fell the tree for reasons of safety. The proposal is therefore contrary to Policy CS2 of the New Forest District Council Core Strategy, the New Milton Local Distinctiveness Supplementary Planning Document and Policy 13 of the emerging Local Plan 2016-2036 Part 1: Planning Strategy.

Further Information:

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PLANNING COMMITTEE

February 2020

Item No: 3e

23 Mount Avenue
New Milton

19/11118

Scale 1:1250

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

