

Application Number: 20/10335 Full Planning Permission

Site:	Land of HATHAWAY HOUSE, LOWER PENNINGTON LANE, PENNINGTON, LYMINGTON SO41 8AN (NB: SUBJECT TO UNILATERAL UNDERTAKING)
Development:	Sever domestic garden; new dwelling with garage
Applicant:	Mr & Mrs Cullen
Agent:	Morgan Building Design
Target Date:	26/05/2020
Case Officer:	Steve Clothier
Extension Date:	19/06/2020

1 SUMMARY OF THE MAIN ISSUES

The key issues are:

1. Principle of development
2. Impact on the Character and Appearance of the Area
3. Implications for Occupants of Neighbouring Properties
4. Parking and Access Impacts
5. Impact on Protected Trees

This application is to be considered by Committee at the request of Cllr Anne Corbridge and due to a contrary view of the Town Council.

2 SITE DESCRIPTION

The site is located in an established residential area of Pennington characterised by detached properties set within mature and spacious garden settings which contribute to the verdant appearance of the streetscene. Properties fronting Lower Pennington Lane are typically of a two storey scale and of individual design, Hathaway House itself representing a contemporary replacement dwelling. More modest bungalow and chalet bungalow style development associated with the Newbridge Way and Elm Avenue development bounds the site to the immediate west and north respectively.

3 PROPOSED DEVELOPMENT

This proposal is for a single storey dwelling located to the rear of Hathaway House with access from Lower Pennington Lane. It follows a previous application which was the subject of a dismissed appeal in October 2019.

The current application seeks to overcome the concerns identified at this appeal by re-positioning the proposed dwelling further from the boundary with No. 37 and from the west (rear) boundary of the plot, reducing the height of the main part of the dwelling (the east wing) and reducing the footprint and the height of the outbuilding.

4 PLANNING HISTORY

Proposal	Decision Date	Decision Description	Status	Appeal Description
19/10153 House; detached garage	23/04/2019	Refused	Appeal Decided	Appeal Dismissed
18/10981 House; detached garage	03/10/2018	Refused	Decided	
17/10152 House; detached garage/store; access	05/04/2017	Withdrawn by Applicant	Withdrawn	
16/11293 House; demolition of existing	28/11/2016	Granted Subject to Conditions	Decided	

In addition pre application advice has been given in respect of the current proposal and, in the light of the recent appeal decision, a positive response was given.

5 PLANNING POLICY AND GUIDANCE

Core Strategy

Objectives

1. Special qualities, local distinctiveness and a high quality living environment
2. Climate change and environmental sustainability
3. Housing
6. Towns, villages and built environment quality

Policies

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

Local Plan Part 2 Sites and Development Management Development Plan Document

- NPPF1: National Planning Policy Framework – Presumption in favour of sustainable development
- DM2: Nature conservation, biodiversity and geodiversity
- DM3: Mitigation of impacts on European nature conservation sites

The Emerging Local Plan

- Policy 1 Achieving sustainable development
- Policy 5 Meeting our housing needs
- Policy 9 Nature conservation, biodiversity and geodiversity
- Policy 10 Mitigating the impact of development on International Nature Conservation sites
- Policy 13 Design quality and local distinctiveness

Supplementary Planning Guidance And Documents

SPD - Housing Design, Density and Character
SPD - Lymington Local Distinctiveness
SPD - Mitigation Strategy for European Sites

Relevant Legislation

Section 38 Development Plan

Relevant Advice

National Planning Policy Framework

Chap 12: Achieving well designed places

Constraints

Tree Preservation Order: NFDC/TPO/018/15

Plan Policy Designations

Built-up Area

6 PARISH / TOWN COUNCIL COMMENTS

Lymington and Pennington Town Council - recommend refusal (PAR4) on the grounds that the proposed building is too bulky and the design does not conform to Policy CS2.

7 COUNCILLOR COMMENTS

Councillor Anne Corbridge - requests Committee consideration.

8 CONSULTEE COMMENTS

Comments have been received from the following consultees:

Ecologist - supports the proposal subject to a Biodiversity Enhancement and Mitigation Plan being secured.

Tree Officer - no objection subject to condition requiring agreement of tree protection details.

SGN - offer advice.

9 REPRESENTATIONS RECEIVED

Six objections have been received (2 from the same address). The following is a summary of the representations received.

- similar to the appeal scheme
- intrusive to neighbours
- cramped development which would result in an uncomfortable relationship to neighbours
- out of character

- impact on neighbours
- concerns about the possible use of the first floor and extensions being added, should be limited to single storey and permitted development rights should be removed
- loss of privacy
- inappropriate materials
- concerns about the number of applications that have been submitted
- traffic congestion

10 PLANNING ASSESSMENT

Introduction

The site is located in an established residential area of Pennington characterised by detached properties set within mature and spacious garden settings which contribute to the verdant appearance of the streetscene. Properties fronting Lower Pennington Lane are typically of a two storey scale and of individual design, Hathaway House itself representing a contemporary replacement dwelling. More modest bungalow and chalet bungalow style development associated with the Newbridge Way and Elm Avenue are located to the north and west of the site.

This proposal is for a single storey dwelling which follows a previous application which was the subject of a dismissed appeal in 2019. At this appeal, The Inspector identified two main issues with the appeal proposal which were:

1. the effect of the development on the character and appearance of the area;
2. the effect on the occupiers of the adjacent dwelling at 37 Elm Avenue.

In respect of the impact on the character and appearance of the area the Inspector felt that the appeal scheme proposed a dwelling which was set tight to the boundary of the site at odds with the pattern of surrounding dwellings.

With regard to the impact on the occupiers of No. 37 Elm Avenue the Inspector was of the view that the effect of the height, length and bulk of the proposed building (measuring 5.5 metres at around 12 metres from the face of No. 37 and between 0.5 and 3 metres from the boundary) would be oppressive and overbearing to the detriment of the amenities of this property and this impact would not be sufficiently ameliorated by the planting proposed.

The current application seeks to overcome these concerns and the dwelling has been revised by moving it further from the boundary with No. 37 (by between 5 and 6 m and from the west (rear) boundary of the plot (by about 0.75m). In addition the height of the main part of the dwelling (the east wing) has been reduced by about 0.5 metres. The proposed outbuilding has been reduced in footprint and the height reduced by about 0.2m.

Principle of Development

The site is located within the built up area which is considered a sustainable location where policies seek to direct new residential development, this is subject to retaining and enhancing the settlement's character. In considering this issue it is important to have regard to the most recent appeal decision mentioned above, while the Inspector dismissed the appeal she did not take issue with the principle of locating a dwelling on this site.

Design, site layout and impact on local character and appearance of area

With regard to design, the Inspector did not take issue with the modern design of the appeal scheme and this proposal follows a similar theme in this regard. In terms of assessing the impact of the proposed development on the local character the appeal decision is relevant to this issue.

In dismissing the previous appeal the Inspector considered that within this context "the proposal would result in an uncharacteristic form of development set tight to the boundary of the site and at odds with the pattern of surrounding dwellings". The Inspector made reference to the Lymington Local Distinctiveness Document that includes this site within the rural lanes character area where the degree of separation between properties is a defining element where the spatial setting of buildings must be carefully considered.

The current scheme has been revised by moving the building south by between 5 and 6 metres and about 0.75 metres east which results in the dwelling sitting more centrally on its plot giving it a more spacious setting. While the dwelling would still be quite close to the rear boundary it is considered that this would be acceptable as this relationship would not be perceived from the public realm. It is considered that the changes to the scheme set out above result in a development that would be more contextually appropriate in this location and would enable the development to sit comfortably in its plot without adverse harm to the character and appearance of the area and consequently respect its local distinctiveness as identified in the SPD.

Residential amenity

Only one concern was raised by the Inspector in relation to neighbour amenity. This was in respect of the impact of the proposed dwelling on the residential amenity of the bungalow at 37 Elm Avenue. The Inspector considered that the "effect of the height, length and bulk of the proposed building (measuring 5.5 metres at around 12 metres from the face of No. 37 and between 0.3 and 3 metres from the garden boundary) would be oppressive and overbearing and would affect the living conditions of the occupants of No. 37 to their detriment".

The revised scheme has reduced the height of the highest part of the dwelling by about 0.5 metres to 5 metres and moved the dwelling so that the separation distance with No 37 would be between 15 and 17 metres and the dwelling would be located between 7 and 8 metres from the common boundary. This would allow sufficient space to protect the amenity of the neighbouring property at No. 37 and would result in a fairly typical relationship in this area. As such this concern is considered to have been addressed by the current proposals

The Inspector did not identify any other harm to neighbours and stated that the relationship to properties to the rear in Newbridge Way "would be mitigated by the existing mature planting which would effectively ameliorate any impact and from where only the roof of the proposal would be visible". The current proposal, while moving the dwelling further south, would be about 0.75 metres further from the common boundary of these neighbours and would therefore have less impact than the appeal scheme in this regard.

Whilst the concerns identified by the Inspector are now considered to have been overcome, given the location and characteristics of the site it is considered appropriate to remove permitted development rights to ensure control over any future additions to the property or outbuildings within the site.

It is noted that concerns have been raised about the loss of privacy as a result of this proposal, the proposed dwelling is only single storey and therefore has no accommodation at first floor level, in addition the Inspector raised no concerns in this regard. Furthermore, permitted development rights are proposed to be removed by condition.

Landscape impact and trees

The dwelling would be located to the rear of the frontage property and would have little impact on the wider landscape. The protected trees located along the front boundary and to the north-east can be adequately protected as part of the development and conditions are recommended to secure this.

Highway safety, access and parking

In respect of highway matters the proposal details parking and turning arrangements which would meet with the recommendations of the Councils Car Parking Standards SPD. No concerns were raised in this regard by the Inspector in dismissing the previous appeal and this assessment has not been changed by the current proposals.

Ecology

Habitat Mitigation and off-site recreational impact

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 such adverse impacts would be avoided if the applicant were to enter into a Section 106 legal agreement to secure a habitat mitigation contribution in accordance with the Council's Mitigation Strategy. In this case, the applicant has entered into a Section 106 legal agreement, which secures the required habitat mitigation contribution.

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 is attached to this consent

On Site Biodiversity and protected species

The application is supported by proposals for biodiversity enhancement and mitigation in the form of landscaping and habitat creation and provision of facilities for nesting birds, bats, hedgehog (permeable fencing features) and other species of conservation which should be secured by condition, the Ecologist has raised no objections on this basis.

Developer Contributions

As part of the development, subject to any relief being granted the following amount Community Infrastructure Levy will be payable:

Type	Proposed Floorspace (sq/m)	Existing Floorspace (sq/m)	Net Floorspace (sq/m)	Chargeable Floorspace (sq/m)	Rate	Total
Self Build (CIL Exempt)	168	0	168	168	£80/sqm	£17,265.23*
Subtotal:	£17,265.23					
Relief:	£17,265.23					
Total Payable:	£0.00					

11 CONCLUSION

The revised scheme is considered to overcome the concerns raised by the Inspector in dismissing the previous appeal in terms of impact on the character and appearance of the area and the neighbour at no. 37 Elm Avenue and is therefore recommended for permission subject to conditions.

12 OTHER CONSIDERATIONS

Concerns have been raised in relation to the materials proposed, no concerns were raised in this regard by the appeal Inspector and it would not be reasonable to raise this now, in any event the proposed materials of render and timber with a standing seam roof would not be out of context in this area where a mix of materials is evident. However, no information has been submitted in terms of details of colours and finishes, as a result a condition is proposed to require submission of these details.

There is also concern about the number of applications that have been submitted, however, there is no control over applicants submitting any number of different schemes for consideration and each application must be considered on its merits.

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: LP.01, PG.01, PP.01, SLC.01, FPC.01, EC.01, V.01, PE.01, PE.02 .

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. All external works (hard and soft landscape including the biodiversity measures) shall be carried out in accordance with the approved plans and details within one year of commencement of development and maintained thereafter as built and subject to changes or additions only if and as agreed in writing with the Local Planning Authority.

Reason: To ensure the achievement and long term retention of an appropriate quality of development and to provide biodiversity enhancements.

5. Before development commences (including site clearance, demolition and any other preparatory works) a scheme for the protection of trees to be retained shall be submitted to and approved in writing by the Local Planning Authority. Such a scheme shall include a method statement detailing timing of events, all changes of existing surfaces and plans showing the protective fencing or other measures required for the avoidance of damage to retained trees all in accordance with BS 5837 (2012) "Trees in Relation to Construction Recommendations". Such fencing shall be erected prior to any other site operation and at least 24 hours notice shall be given to the Local Planning Authority that it has been erected. The tree protection measures installed shall be maintained and retained for the full duration of the works or until such time as agreed in writing with the Local Planning Authority. No activities, nor material storage, nor placement of site huts or other equipment whatsoever shall take place within the fencing without the prior written agreement with the Local Planning Authority.

Reason: To ensure the retention of existing trees and natural features and avoidance of damage during the construction phase in accordance with Policy CS2 of the Local Plan for the New Forest District outside the National Park (Core Strategy).

6. The development hereby permitted shall not be occupied until:
- a) A water efficiency calculation in accordance with the Government's National Calculation Methodology for assessing water efficiency in new dwellings has been undertaken which demonstrates that no more than 110 litres of water per person per day shall be consumed within the development, and this calculation has been submitted to, and approved in writing by, the Local Planning Authority; all measures necessary to meet the agreed waste water efficiency calculation must be installed before first occupation and retained thereafter;
 - b) A mitigation package addressing the additional nutrient input arising from the development has been submitted to, and approved in writing by, the Local Planning Authority. Such mitigation package shall address all of the additional nutrient load imposed on protected European Sites by the development when fully occupied and shall allow the Local Planning Authority to ascertain on the basis of the best available scientific evidence that such additional nutrient loading will not have an adverse effect on the integrity of the protected European Sites, having regard to the conservation objectives for those sites; and
 - c) All measures forming part of that mitigation package have been provided to the Local Planning Authority.

Reason: There is existing evidence of high levels of nitrogen and phosphorus in the water environment with evidence of eutrophication at some European designated nature conservation sites in the Solent catchment. The PUSH Integrated Water Management Strategy has identified that there is uncertainty as to whether new housing development can be accommodated without having a detrimental impact on the designated sites within the Solent. Further detail regarding this can be found in the appropriate assessment that was carried out regarding this planning application. To ensure that the proposal may proceed as sustainable development, there is a duty upon the local planning authority to ensure that sufficient mitigation for is provided against any impacts which might arise upon the designated sites. In coming to this decision, the Council have had regard to Regulation 63 of the Conservation of Habitats and Species Regulations 2017.

7. 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 shall be erected or carried out without express planning permission first having been granted.

Reason: In view of the physical characteristics 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:

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