

**Application Number: 20/10724** Variation / Removal of Condition

**Site:** LAND OF HATHAWAY HOUSE, LOWER PENNINGTON LANE,  
PENNINGTON SO41 8AN

**Development:** Variation of condition 2 of planning permission 20/10335 to allow amended plans to allow a double garage and enlargement to the kitchen.

**Applicant:** Mr & Mrs Cullen

**Agent:** Morgan Building Design

**Target Date:** 07/09/2020

**Case Officer:** Jo Chambers

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## **1 SUMMARY OF THE MAIN ISSUES**

The key issues are:

- 1) the impact of the amended proposal on the character and appearance of the area compared to the approved development;
- 2) the impact of the amended proposal on the amenity of neighbouring properties compared to the approved development;
- 3) the impact of the amended proposal on parking compared to the approved development.

This application is to be considered by Committee because of a contrary view expressed by the Town Council.

## **2 SITE DESCRIPTION**

The site is located in the established residential area of Pennington, characterised by detached properties set within mature and spacious garden settings. These 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 represents 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**

Planning permission 20/10335 to sever the domestic garden and erect a new dwelling and garage was granted by Planning Committee earlier this year.

This current application seeks:

- to increase the width of the approved garage by approximately a metre: this would create a double garage. The ridgeline of the roof would also be amended such that it would run front to back, rather than side to side. The

agent has confirmed that there is no increase to the height of the garage over that already approved.

- to increase the length of the glazed link positioned between the 2 wings of the proposed dwelling by approximately 1.7m. The glazed link would match the depth of the approved bedroom wing. A large window would be removed from the end of the glazed link and be replaced with external materials to match the rest of the bedroom wing.

#### 4 PLANNING HISTORY

Proposal	Decision Date	Decision Description	Status	Appeal Description
20/10335 Sever domestic garden; new dwelling with garage	10/06/2020	Granted Subject to Conditions	Decided	
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	

#### 5 PLANNING POLICY AND GUIDANCE

##### **Local Plan 2016-2036 Part 1: Planning Strategy**

STR1: Achieving sustainable development  
 STR3: The strategy for locating new development  
 STR4: The settlement hierarchy  
 STR5: Meeting our housing needs  
 ENV1: Mitigating the impacts of development on International Nature Conservation sites  
 ENV3: Design Quality and Local Distinctiveness  
 HOU1: Housing type, size, tenure and choice  
 IMPL1: Developer contributions

##### **Local Plan Part 2 Sites and Development Management Development Plan Document**

DM2: Nature conservation, biodiversity and geodiversity

##### **Supplementary Planning Guidance And Documents**

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

##### **Relevant Legislation**

Town & Country Planning Act 1990  
 Planning and Compulsory Purchase Act 2004  
 The Conservation of Habitats and Species Regulations 2017

## **Relevant Advice**

National Planning Policy Framework  
NPPF Ch.2 - Achieving sustainable development  
NPPF Ch. 5 - Delivering a sufficient supply of homes  
NPPF Ch.11 - Making effective use of land  
NPPF Ch.12 - Achieving well-designed place

National Planning Policy Guidance  
NPPG - Determining a Planning Application  
NPPG - Design: process and tools  
NPPG - Use of planning conditions

National Design Guide

## **Constraints**

Article 4 Direction  
Aerodrome Safeguarding Zone  
Plan Area

## **Plan Policy Designations**

Built-up Area

## **6 PARISH / TOWN COUNCIL COMMENTS**

### **Lymington & Pennington Town Council**

PAR4 Recommend Refusal.

The proposal will negatively impact neighbouring properties and amenity. It is an over-development which is unsympathetic and uncharacteristic to its surroundings.

The proposal is overly dense and in direct conflict to NFDC's Policy CS2.

## **7 COUNCILLOR COMMENTS**

No comments received

## **8 CONSULTEE COMMENTS**

No comments received

## **9 REPRESENTATIONS RECEIVED**

Letters have been received from 8 objectors. The following is a summary of the representations received.

- Object to proximity of development to site boundary and change to existing views;
- Concern that this is an initial amendment with more planned;
- Object to the increase in size of garage and effect of development on trees;
- Reduction of gap between garage and dwelling would be detrimental to surroundings.

## 10 PLANNING ASSESSMENT

### Principle of Development

The principle of a new dwelling and garage at this site has been accepted and planning permission 20/10335 was approved in June 2020.

### Impact of the amended proposal on the character and appearance of the area compared to the approved development

The plans show the garage would be no closer to the boundaries than the extant permission.

The width of the approved garage is approximately 4.3m wide; the roof design has a ridge line running side to side. The proposed garage would be approximately 5.4m wide, and the design of the roof has been amended. It would now feature a gable to the front elevation, with the 3 other roofslopes hipped. The roof would hip away from the rear boundary with Newbridge Way, the side boundary with Red Roofs and the new dwelling itself. The additional width would facilitate the parking of 2 vehicles inside the garage.

The proposed plans show a gap of approximately 1.2m between the garage and new dwelling compared with a gap of approx. 2.2m in the approved permission. It is considered that this gap is of sufficient size to be discernible from views into the site from Lower Pennington Lane and together with the amended roof design would retain a clearly distinguishable space between the 2 buildings, such that the impact on the character and appearance of the area is considered acceptable. This would accord with policy ENV3 and avoid the development appearing cramped as required by the Lymington Local Distinctiveness Supplementary Planning Document.

### Impact of the amended proposal on the amenity of neighbouring properties compared to the approved development

The proposed extension to the 'glazed link' would not be readily viewable outside of the site. Rather than incorporating a small set back as in the extant permission, the elevation would now run in line with that of the bedroom wing. The overall development would be no closer to the boundary or to the closest neighbouring property at 37 Elm Avenue. The impact of this element of the proposal on the amenity of neighbouring properties is considered acceptable.

The agent has confirmed that there would be no change to the height of the garage compared to that already approved. The change in the design of the roof so as to hip away from the side boundaries would minimise the amount of building mass that would be visible. Both the design and the impact on neighbouring properties are considered acceptable.

Concern has been expressed that the proposal would represent a change to existing views. There is no right to a view and this would not justify a refusal of planning permission. Although it is acknowledged that the views from neighbouring properties would be different, as indeed they would in the approved scheme, the impact of the revised garage design is not considered to be harmful to the amenity of neighbouring properties.

### Impact of the amended proposal on parking compared to the approved development

The additional width of the garage would facilitate the parking of 2 vehicles inside, rather than 1. Driveway parking shown on the plans remains as previously approved. The impact of the amended proposal on parking is considered acceptable.

### Landscape impact and trees

The agent has confirmed that the existing tree to the rear of the garage will be retained as in the approved scheme.

As with the extant planning permission, the protected trees located along the front boundary of Hathaway House and to the north-east can be adequately protected as part of the development and conditions are again recommended to secure this.

### Ecology

As in the extant permission, provision is made in the design of the dwelling for a swift brick and bat tunnel and other biodiversity improvements. A condition was attached to the previous planning permission to secure these matters and is again recommended.

### 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 legal agreement to secure a habitat mitigation contribution in accordance with the Council's Mitigation Strategy. A Unilateral Undertaking was previously submitted with PP 20/10035. In this case, a confirmatory deed is required to secure the required habitat mitigation contribution. Delegated authority is sought to enable this s106 legal agreement to be completed prior to the grant of planning permission.

### 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 will be attached to any planning permission.

Developer Contributions

As explained above with regard to habitat mitigation, the following will be secured by legal agreement:

- Infrastructure contribution: £1040
- Non infrastructure contribution: £3700

In this instance, there is an extant recently granted planning permission that is capable of implementation and to which the current application is seeking only minor amendments. This is a material consideration - as a result it is not considered reasonable to require the payment of an air quality contribution.

As part of the development, subject to any relief being granted the following amount of 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)	178.85	0	178.85	178.85	£80/sqm	£18,380.28 *
Subtotal:	£18,380.28					
Relief:	£18,380.28					
Total Payable:	£0.00					

Development Standards

The recently adopted Local Plan Part I includes, under Policy IMPL2, a set of new development standards. As noted above under 'Developer Contributions' there is an extant recently granted planning permission that is capable of implementation and to which the current application is seeking only minor amendments. This is a material consideration. As the proposal relates to an enlargement of the garage and therefore to parking matters it is considered justified to seek an electric vehicle charging point. However, save for higher water use efficiency, which is addressed by the Grampian condition attached to the extant planning permission, it is not considered reasonable to attach conditions relating to other standards set out in IMPL2.

**11 CONCLUSION**

The proposal is considered acceptable with regard to adopted planning policy, the NPPF, local supplementary planning documents and other material planning considerations.

## 12 Other Considerations

### 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.

### 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.

### Local Finance

If this development is granted permission, the Council will receive New Homes Bonus (net increase in dwellings (1) x £1224 = £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.

## 13 RECOMMENDATION

Delegated Authority be given to the Chief Planning Officer to **GRANT PERMISSION** subject to:

- i) the prior completion of a Section 106 legal agreement to secure the necessary habitat mitigation measures.
- ii) the imposition of the conditions set out below.

### **Proposed Conditions:**

1. The development hereby permitted shall be begun before 10th June 2023.

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 A, SL.01 Rev C, PG.01 Rev C, PE.01 Rev B, PE.02 Rev C, PP.01 Rev A  
BLL01 Rev 'C'

Reason: To ensure satisfactory provision of the development.
  
3. Prior to installation, 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 buildings.
  
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 in accordance with the approved details.

Reason: To ensure the satisfactory appearance of the 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.



6. 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.

7. 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.

8. The development hereby permitted shall not be brought into use until one of the new parking spaces to serve the new dwelling hereby approved has been equipped with an electric vehicle charging point and once provided it shall be retained and maintained as such at all times.

Reason: In the interests of sustainability.

**Further Information:**

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# New Forest DISTRICT COUNCIL

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## PLANNING COMMITTEE

October 2020

### Item No:

Land of Hathaway House  
Lower Pennington Lane  
Pennington SO41 8AN  
20/10724

Scale 1:1250

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

