

Application Number: 20/11446 Full Planning Permission

Site: 23 MOUNT AVENUE, NEW MILTON BH25 6NT
(NB: PROPOSED LEGAL AGREEMENT)

Development: Demolish existing garage; sever land and erect a detached dwelling with associated access and parking (Revised Scheme 19/11118)

Applicant: Mr Leicester

Agent: Pure Town Planning

Target Date: 15/02/2021

Case Officer: Vivienne Baxter

Extension Date: 12/03/2021

1 SUMMARY OF THE MAIN ISSUES

The key issues are:

- 1) principle of the development
- 2) impact on the protected trees
- 3) impact on the character and appearance of the area
- 4) impact on the residential amenities of the area

This application is to be considered by Committee due to a contrary view by the Town Council.

2 SITE DESCRIPTION

The site lies within the built-up area of New Milton in a residential area close to the town centre and church. It is presently a mature garden area with associated outbuildings including a double garage. The host dwelling forms one of a pair of semi-detached dwellings which are identified in the New Milton Local Distinctiveness SPD as being of character. Close to the site to the north is a large, mature Monterey Pine tree which offers significant levels of public amenity. A further protected tree, a Yew, lies within the rear garden of an adjoining property.

3 PROPOSED DEVELOPMENT

The proposal entails the provision of a two-storey detached dwelling to the side of the existing dwelling at 23, Mount Avenue. Parking would be provided to the frontage and the host dwelling would have parking spaces provided to its frontage due to the loss of the existing double garage.

4 PLANNING HISTORY

Proposal	Decision Date	Decision Description	Status	Appeal Description
19/11118 Demolish existing garage; erection of detached house with parking & access alterations	12/02/2020	Refused	Appeal Decided	Appeal Dismissed
11/96990 House; parking; single-storey extension to Number 23	11/08/2011	Refused	Appeal Decided	Appeal Dismissed
08/91919 Two-storey detached dwelling; parking	28/04/2008	Refused	Decided	
81/NFDC/19090 Erection of a dwelling and construction of a pedestrian/vehicular access.	14/04/1981	Withdrawn by Applicant	Withdrawn	
80/NFDC/16614 Erection of a dwelling and garage.	23/05/1980	Refused	Decided	
78/NFDC/10026 Erection of dwelling with construction of pedestrian/vehicular access.	16/05/1978	Refused	Decided	

5 PLANNING POLICY AND GUIDANCE

Local Plan 2016-2036 Part 1: Planning Strategy

Policy CCC2: Safe and sustainable travel
Policy ENV1: Mitigating the impacts of development on International Nature Conservation sites
Policy ENV3: Design quality and local distinctiveness
Policy IMPL1: Developer Contributions
Policy IMPL2: Development standards

Local Plan Part 2: Sites and Development Management 2014

None

New Milton Neighbourhood Plan

NM4 - Design Quality

Supplementary Planning Guidance And Documents

SPD - Housing Design, Density and Character
SPD - Mitigation Strategy for European Sites
SPD - New Milton Local Distinctiveness
SPD - Parking Standards

Relevant Legislation

Section 38 Development Plan
Planning and Compulsory Purchase Act 2004
National Planning Policy Framework

Relevant Advice

NPPF Chap 12: Achieving well designed places

NPPF Chap.15 - Conserving and enhancing the natural environment

Constraints

Article 4 Direction

Aerodrome Safeguarding Zone

Tree Preservation Order: 36/97/1/T1

Plan Policy Designations

Built-up Area

6 PARISH / TOWN COUNCIL COMMENTS

New Milton Town Council

STRONGLY OBJECT (NON-DELEGATED)

- (1) Both protected trees Monterey Pine and Yew will come under significant pressure for pruning due to the proximity of the proposed dwelling
- (2) The development is contrary to Neighbourhood Plan policy NM4 and Local Plan policy ENV3 (v) as it misses an important opportunity to positively address the impacts of climate change.
- (3) Lack of parking
- (4) Character impact due to the poor spatial setting, having the new dwelling sited very close to the boundary with number 23.
- (5) Back land development.

7 COUNCILLOR COMMENTS

No comments received

8 CONSULTEE COMMENTS

Comments have been received from the following consultees:

HCC Highways

No objection subject to conditions

Ecologist

No objection, recommend informative

NFDC Tree Team

No objection subject to conditions

Building Control

No adverse comment.

Southern Gas Networks

Offer advice

Scottish and Southern Electricity Networks

Offer advice

9 REPRESENTATIONS RECEIVED

The following is a summary of the representations received.

Against: 4

- the proposal would damage the roots of the protected yew and affect its development
- would block light
- too big a development
- would create difficulties with parking and access

For: 1

- the Monterey Pine will be protected

10 PLANNING ASSESSMENT

Introduction

The application follows a previous submission in 2019 which was refused for reasons relating to the impact on the protected Monterey Pine. This tree is a principal landscape feature, prominent in the street scene with significant public amenity value within the local environment. It had not been demonstrated that the proposal would not cause significant harm to this protected tree. Due to the proximity of the proposed dwelling to this tree it was considered that the development would lead to the loss of this tree, which would be detrimental to the character and appearance of the area undermining its local distinctiveness.

This scheme was and subsequently dismissed on appeal in September 2020. The Inspector considered that the Monterey pine was an attractive, imposing specimen which is highly visible within the street scene with high public amenity value and the tree makes a significant positive contribution to the townscape of the locality. Concerns were also raised about the potential future pressure on the Monterey Pine tree. The Inspector concluded that the appeal proposal would harm the character and appearance of the area with regard to the protected tree.

As a result of the Inspector's findings, the dwelling proposed as part of the current application has now been set back in the site further from the Monterey. Furthermore, in order to minimise the associated impact on the protected Yew tree to the west, the size of the dwelling has been reduced with the loss of a bedroom, study and utility room.

Principle of Development

In principle, new residential development is acceptable within the built-up area, subject to no adverse impact on the matters identified below.

The Town Council has raised the issue of the proposal being 'backland' development with the implication being that such development is unacceptable. It is accepted that the development of rear gardens is sometimes undesirable, it is not considered that this proposal constitutes backland development. The land benefits from its own street frontage and is situated to the side of the host dwelling, rather than behind it.

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

In design terms, the proposed dwelling reflects the character of the host dwelling through its hipped roof form, front gable detail and bay window. It would be sited in line with the recessed part of the host dwelling, over 11m from the road and with sufficient space to its boundaries. As such, the proposal is not considered to detract from the character of the existing dwelling. The loss of the double garage which is relatively prominent within the site is welcomed and would allow the ability to provide a green frontage to the new dwelling.

Whilst it is unfortunate that much of the existing boundary hedge would need to be removed in order to provide the parking for the host dwelling, the removal of a domestic hedge does not require any consent.

Landscape impact and trees

The setting back of the dwelling would enable a good-sized front garden and would include removal of existing concrete and structures under the canopy of the Monterey Pine tree. The loss of the garage would improve the landscape setting of the site and would assist in the long term retention of this tree which has a high amenity value. Subject to appropriate conditions, it is not considered that the proposal would result in harm to this tree.

To the rear of the site, subject to adequate measures being taken, the proposal would not adversely affect the root protection zone of the Yew tree. A hedgerow within the site would be removed in order to make way for the dwelling although the rear garden, at 19m in length, would allow for retention of other vegetation or the provision of new planting.

Concerns have been raised by both Town Council and local residents about the impact on the protected trees. However, the current application proposes to locate the new home further away from this tree to reduce any dominant impact. In addition, as the tree is located to the north east of the proposed dwelling so loss of light would not be harmfully affected. Both factors reduce the risk of future pressures to undertake works to the tree and this relationship is considered acceptable.

Highway safety, access and parking

With regard to highway matters, the proposal is very similar to the previous scheme. No highway concerns were expressed as part of those proposals.

The only difference is that the proposed parking for the host dwelling would be re-located to be slightly further away from the boundary with the proposed dwelling. The Highway Authority has not raised any objections to the proposed access alterations.

Similarly, the level of parking has not changed although the proposed dwelling would now have 3 rather than 4 bedrooms as previously proposed. Having regard to the Parking Standards for development of this nature, whilst across the whole site, there would be a shortfall of one space. However, given the proximity to the Town Centre and unrestricted parking along the road this is acceptable.

Residential amenity

The proposed dwelling would be approximately 2m from the north western elevation of the host dwelling which is a common separation distance and would not adversely affect light to this property. The mutual boundary would be sited in the middle of this space allowing side access to both properties. The first floor side window would serve an ensuite and could be obscure glazed.

To the north west of the site, the new dwelling would be between 2m and 3.5m from the boundary with properties in Barton Court Road. There would be at least 18.5m between the proposed dwelling and existing dwellings to the north west and as such, no loss of light, particularly as much of the proposed dwelling would be within the shadow of the host dwelling. The first-floor side window to this elevation serves the top of the stairs/landing area and therefore the potential for overlooking is minimal.

Ecology

The potential for significant ecological impacts is low for this proposal although there appears to be limited measures to enhance biodiversity. In order to achieve an increase in biodiversity across the site, a condition is considered appropriate with regard to the provision of swift boxes

Habitat Mitigation and off-site recreational impact

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 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 agreed to enter into a Section 106 legal agreement prior to this planning permission being granted which will secure the required habitat mitigation contribution.

Air Quality mitigation

To ensure that impacts on international nature conservation sites are adequately mitigated, a financial contribution is required towards monitoring and, if necessary (based on future monitoring outcomes) managing or mitigating air quality effects within the New Forest SPA, SAC and Ramsar site. There is potential for traffic-related nitrogen air pollution (including NO_x, nitrogen deposition and ammonia) to affect the internationally important Annex 1 habitats for which the New Forest SAC was designated, and by extension those of the other International designations. Given the uncertainties in present data, a contribution is required to undertake ongoing monitoring of the effects of traffic emissions on sensitive locations. A monitoring strategy will be implemented to provide the earliest possible indication that the forms of nitrogen pollution discussed (including ammonia concentrations) are beginning to affect vegetation, so that, if necessary, measures can be taken to mitigate the impact and prevent an adverse effect on the integrity of the SAC habitats from occurring. In this case, the applicant has agreed to enter into a Section 106 legal agreement prior to this planning permission being granted which will secure the required air quality mitigation contribution.

Nitrate neutrality and impact on Solent SAC and SPAs

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.

Developer Contributions

As part of the development, the following will be secured via a Section 106 agreement:

- Air Quality Monitoring
- Habitat Mitigation

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
Dwelling houses	115.67	28.3	87.37	87.37	£80/sqm	£8,952.06 *
Subtotal:	£8,952.06					
Relief:	£0.00					
Total Payable:	£8,952.06					

11 CONCLUSION

The proposal is similar to the previous scheme in terms of its impact on the highway network, residential amenity and character of the area. The changes made to the scheme with regard to the proposed size and siting of the dwelling have addressed previous concerns in respect of the impact of the proposal on the protected trees.

It is not considered that the proposal would harm the root protection area for either adjacent protected tree nor would the proposal result in future pressure to lop or fell the Monterey Pine.

For the reasons above it is recommended that the application be approved.

12 OTHER CONSIDERATIONS

The Town Council has referred to the proposal as being contrary to the New Milton Neighbourhood Plan and part of emerging Policy NM4 relating to Design Quality. This policy has 12 separate parts, not all of which are relevant in this case. The issue raised specifically in this case relates to addressing climate changes through passive design, energy and water efficiency and renewable energy measures. Whilst it is noted that the proposal does not include visible renewable energy sources, the energy statement provided with the application advises that the dwelling would meet Part 32(2) of the Building Regulations with regard to water use and would be constructed with a high efficiency boiler and low water capacity sanitary ware. The statement also advises on the energy efficiency proposed in the construction of the building in terms of methods and materials and that it has been designed having regard to tackling climate change and making the most of the site through layout.

Policy NM4 was given significant weight at the appeal stage and this matter was not a reason for the appeal being dismissed.

13 RECOMMENDATION

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

- i) the completion of a planning obligation entered into by way of a Section 106 Agreement to secure Air Quality Monitoring and Habitat Mitigation
- ii) the imposition of the conditions set out below.

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: Design and Access Statement, Arboricultural assessment and method statement 12028-AA6-CA dated 18th December 2020, Tree Protection Plan 12028-BT5, 9216/200 rev.A - site, block and location plans & street scene, 9216/201 rev.A - proposed floor plans & elevations, 9216/202 - existing garage to be demolished, 9216/203 - drainage plan, 9216/204 - hardstanding comparison plan.

Reason: To ensure satisfactory provision of the development.

3. Before development commences, the proposed slab levels in relationship to the existing ground levels set to an agreed datum shall be submitted to and approved in writing by the Local Planning Authority. Development shall only take place in accordance with those details which have been approved.

Reason: To ensure that the development takes place in an appropriate way in accordance with Policy ENV3 of the Local Plan Review 2016-2036 Part One: Planning Strategy for the New Forest District outside of the National Park.

4. 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 ENV3 of the Local Plan Review 2016-2036 Part One: Planning Strategy for the New Forest District outside of the National Park.

5. Before development commences a scheme of landscaping of the site shall be submitted for approval in writing by the Local Planning Authority. This scheme shall include:

- (a) the existing trees and shrubs which have been agreed to be retained;
- (b) a specification for new planting (species, size, spacing and location);
- (c) areas for hard surfacing and the materials to be used;
- (d) other means of enclosure;
- (e) a method and programme for its implementation and the means to provide for its future maintenance.

No development shall take place unless these details have been approved and then only in accordance with those details.

Reason: To ensure that the development takes place in an appropriate way and to comply with Policies ENV3 and ENV4 of the Local Plan Review 2016-2036 Part One: Planning Strategy for the New Forest District outside of the National Park.

6. No development, demolition or site clearance shall take place until a method statement and engineering drawings for the foundation design and installation of drains and soakaway of the approved development has been submitted to and approved in writing by the Local Planning Authority. Development shall only take place in accordance with these approved details.

Reason: To safeguard trees and natural features which are important to the visual amenities of the area and in accordance with Policy ENV3 of the New Forest District Council Local Plan Part 1: Planning Strategy.

7. Construction of the dwelling hereby permitted shall not commence until details of the type and location of 3 swift boxes have been submitted to, for approval in writing by, the Local Planning Authority. The development shall be implemented in accordance with the approved details prior to the occupation of the dwelling and thereafter retained.

Reason: In the interests of increasing the biodiversity of the site and in accordance with Policy ENV3 of the Local Plan Part 1: Planning Strategy.

8. The development hereby permitted shall not be occupied until the spaces shown on plan 9216/200 rev. A for the parking of vehicles have been provided. The spaces shown on plan 9216/200 rev.A for the parking of vehicles shall be retained and kept available for the parking of vehicles for the dwellings hereby approved at all times.

Reason: To ensure adequate parking provision is made in the interest of highway safety and in accordance with Policies ENV3 and CCC2 of the Local Plan Review 2016-2036 Part One: Planning Strategy for the New Forest District outside of the National Park.

9. The dwelling hereby approved shall not be occupied until a scheme for the parking of cycles has been submitted to and approved in writing by the Local Planning Authority. The scheme shall be fully implemented before the development is first occupied or brought into use and thereafter retained for this purpose.

Reason: To promote the Council's sustainability objectives and in accordance with Policy CCC2 of the New Forest District Council Local Plan Part 1: Planning Strategy.

10. 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 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.

11. The trees on and adjacent to 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 (Barrell Tree Consultancy Ref 12028-AA6-CA dated 18th December 2020) and tree protection plan 12028-BT5.

Reason: To safeguard trees and natural features which are important to the visual amenities of the area and in accordance with policy ENV3 of the New Forest District Council Local Plan Part 1: Planning Strategy.

12. The first floor ensuite window on the south east elevation of the approved building shall be permanently glazed with obscured glass.

Reason: To safeguard the privacy of the adjoining neighbouring properties in accordance with Policy ENV3 of the Local Plan Review 2016-2036 Part One: Planning Strategy for the New Forest District outside of the National Park.

Further Information:

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PLANNING COMMITTEE

April 2021

23 MOUNT AVENUE
NEW MILTON BH25 6NT

20/11446

Scale 1:1250

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

