

Application Number: 21/10852 Variation / Removal of Condition

Site: THE LILLIES, COOKS LANE, CALMORE, TOTTON SO40 2RU

Development: Variation of Condition No.2 of Planning Permission 21/10428 to allow a single-storey garage to side of each unit, changes to internal layouts and changes to external fenestration

Applicant: Dorrington Homes (UK) Ltd

Agent: Vivid Design Studio Ltd

Target Date: 04/08/2021

Case Officer: Warren Simmonds

1 SUMMARY OF THE MAIN ISSUES

The key issues are:

- 1) Principle of development;
- 2) Design and impact on the character and appearance of the area;
- 3) Impact on residential amenities;
- 4) Car parking and highway safety;
- 5) Habitat and ecological matters.

This application is to be called to Committee by Cllr Arthur Davis.

2 SITE DESCRIPTION

The application site is located along a residential cul-de-sac. It was previously occupied by a single detached dwelling, 'The Lillies', set back behind a grassed verge, 1m high fencing, and a front garden with car parking areas located to the front and side of the plot. The Lillies is spaciouly set within its plot, with a generous gap to the southern boundary with Downderry - an existing outbuilding is located within this space. The large rear garden area extends beyond the rear garden of Downderry and abuts Randall Close, a residential cul-de-sac to the rear. Randall Close properties can be viewed through the wide gap between The Lillies and its side boundary. The Lillies' plot is noticeably larger than its neighbours.

The site is viewed in the context of Cooks Lane. Cooks Lane features detached dwellings set back from the highway behind landscaped gardens in spacious settings. The houses are of various architectural designs, including hipped roofs, dormers and ridgelines running parallel to the highway. There is a limited palette of materials evident, with red brick featuring strongly in the streetscene. Dwellings are generally muted in tone sitting harmoniously in a verdant setting.

Land on the opposite side of Cooks Lane is screened by vegetation and is identified for development as part of Strategic Site SS1 in the Local Plan Part 1. There is no footway on the opposite side of Cooks Lane.

Important aspects of local distinctiveness are considered to include detached dwellings set within generous plot sizes and soft landscaping. These were also identified by the Planning Inspector in determining the appeal at this site.

The two new dwellings granted planning consent under planning reference 20/10895 (as amended by 21/10428) are currently under construction on the site.

3 PROPOSED DEVELOPMENT

The application is made under Section 73 of the Town and Country Planning Act. The application seeks the Variation of Condition 2 of Planning Permission 21/10428 to allow amended plans in respect of a revised internal layout for the two approved new dwellings (principally from three bedrooms to four, with associated minor external alterations) and to additionally include an attached single storey, single garage for each dwelling.

The application is in part retrospective, as foundations for the proposed attached garages have been created.

4 PLANNING HISTORY

Proposal	Decision Date	Decision Description	Status
21/10428 Removal of condition 4 & Variation of condition 2 of Planning Permission 20/10895 to allow amended plan P19-026-02-02-003F, to allow existing access to remain	25/05/2021	Granted Subject to Conditions	Decided
20/10895 Erection of two dwellings; access, parking and landscaping	26/02/2021	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

IMPL2: Development standards

Local Plan Part 2 Sites and Development Management Development Plan Document

DM2: Nature conservation, biodiversity and geodiversity

Supplementary Planning Guidance And Documents

SPD - Parking Standards

Relevant Legislation

Town & Country Planning Act 1990

Planning and Compulsory Purchase Act 2004

The Conservation of Habitats and Species Regulations 2017

Relevant Advice

NPPF 124 :The National Planning Policy Framework 2019 Chapter 12 "Achieving well designed places" acknowledges (in Para 124) that the creation of a high quality built environment is fundamental to what the planning and development process should achieve. Good design is a key aspect of sustainable development in creating better places to live and work. Being clear about design expectations is essential to achieving this goal.

NPPF 127 :The National Planning Policy Framework 2019 Chapter 12 "Achieving well designed places" requires in Para 127 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.

Constraints

Plan Policy Designations

Built-up Area

6 PARISH / TOWN COUNCIL COMMENTS

No comments yet received

7 COUNCILLOR COMMENTS

Cllr Arthur Davis - Development unacceptable.

8 CONSULTEE COMMENTS

Comments have been received from the following consultees:

NFDC Building Control

No consultation response received at the time of writing this report

HCC Surface Water

No consultation response received at the time of writing this report

Southern Water

No consultation response received at the time of writing this report

NFDC Drainage

No consultation response received at the time of writing this report

9 REPRESENTATIONS RECEIVED

The following is a summary of the representations received:

No third party representations had been received at the time of writing this report.

For: 0

Against: 0

10 PLANNING ASSESSMENT

Principle of Development

The principle of the proposed development has been established via the granting of full planning permission under planning reference 20/10895 and a subsequent variation to allow the separate access to remain for The Lillies under planning reference 21/10428.

The current application is made under Section 73 of the Town and Country Planning Act. The application seeks the Variation of Condition 2 of Planning Permission 21/10428 to allow amended plans in respect of a revised internal layout for the two approved new dwellings (principally from three bedrooms to four, with associated minor external alterations) and to additionally include an attached single storey, single garage for each dwelling.

The application is in part retrospective, as foundations for the proposed attached garages have been created.

Section 73 of the 1990 Act provides that an application may be made for planning permission without complying with Conditions applied to a previous permission. It is stated that local authorities may decide whether to grant permission subject to differing Conditions, removing the Conditions altogether or refusing to alter Conditions.

The section makes it clear that in considering such an application a local planning authority may only consider the "question of the conditions" and cannot therefore revisit the fundamental principle(s) of the development itself. However, in terms of decision making, a Section 73 application should be treated just like any other application, and due regard paid to the development plan and other material considerations.

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

The proposal can be considered as two elements:

- (i) The amended internal layout of the two new dwellings, whereby the first floor layouts have been revised to provide four bedrooms instead of three, and
- (ii) The proposed addition of an attached single storey, single garage on the side of each dwelling.

in respect of (i), the proposed additional bedroom is achieved by a revised internal layout with associated minor external alterations. The proposals retain the approved siting/location and overall external scale and dimensions of the approved dwellings, with minor alterations to fenestration and the omission of the external chimneys.

There are no new windows or door openings other than the proposed new first floor front-facing casement window to serve the additional bedroom (a previous side facing en suite window is removed from the current scheme); the proposed external materials are revised to facing brickwork under a slate tiled roof. The general appearance and character of the dwellings thereby remains very similar to that previously approved.

The proposed garages are of single storey form and attached on the inside sides of the dwellings, over the approximate footprint of one of the approved parking areas for each dwelling. The garages would have an up-and-over door at the front, a

single pedestrian door to the side/rear (opening adjacent to the rear facing elevation of the house) and would be constructed of facing brickwork and slate tiled roofs to match the main dwellings.

By reason of the appropriate scale, design and external materials proposed, it is considered the proposed attached garages and associated external and internal revisions to the dwellings are acceptable within the context of the application site and with respect to the existing character of the surrounding area.

Impact on residential amenities

The closest neighbouring dwellings to the application site are 'Downderry', 'The Lillies' and 'Elmleigh' to the north and west, and numbers 11 and 24 Randall Close to the south east.

By reason of the modest extent of external alterations proposed and the single storey, subservient form of the proposed attached single garages, and taking into consideration the distance, orientation and general relationship between the development site and the closest neighbouring properties, it is considered the addition of the proposed single garages and other associated internal and minor external alterations would not result in undue impacts on the amenity of neighbours, such as overlooking or overshadowing.

In these respects the proposed development is considered accordant with local plan policy ENV3.

Car parking and highway safety

Access and the level of car parking provision for the two new dwellings would remain as previously approved. Access and car parking provision for The Lillies would remain as currently exists (which is considered appropriate and sufficient)

In these respects the proposed variation is considered acceptable in terms of car parking and Highway safety.

Habitat and ecological matters

The applicant will be required to submit a revised unilateral undertaking or to enter into a S106 legal agreement to make appropriate provision in respect of habitats mitigation and air quality monitoring contributions, as set out below.

Developer Contributions

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

- Infrastructure contribution of £11,572
- Non-infrastructure contribution of £1,840
- Bird Aware Solent contribution of £1,602
- Air Quality monitoring contribution of £170

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
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Dwelling houses	312.6	0	312.6	312.6	£80/sqm	£32,029.48 *
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Subtotal:	£32,029.48					
Relief:	£0.00					
Total Payable:	£32,029.48					

11 CONCLUSION

The proposed S73 variation to allow amended plans in respect of a revised internal layout (together with associated minor external alterations) for the two previously approved new dwellings, to include an attached single storey, single garage for each dwelling is considered acceptable and raises no adverse issues in terms of amenity or Highway safety.

12 RECOMMENDATION

Delegated Authority be given to the Executive Head of Planning, Regeneration and Economy to **GRANT PERMISSION** subject to:

- (i) the completion of a S106 planning agreement or unilateral undertaking to secure financial contributions for appropriate Habitats Mitigation, Bird Aware Solent contribution and Air Quality monitoring contributions.
- (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:

201 SITE LOCATION PLAN
202 BLOCK PLAN
203 PROPOSED SITE PLAN-A1 SHEET
204 PROPOSED FLOOR PLAN
205 PROPOSED ELEVATIONS
206 PROPOSED FLOOR PLANS P2-A1
207 PROPOSED ELEVATIONS P2-A1
208 PROPOSED LAND SCAPE PLAN
435164-200P STORM WATER LAYOUT
435164-201P STORM WATER DETAILS

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 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.

4. Notwithstanding the submitted landscaping scheme and prior to first occupation, a revised landscaping scheme shall be submitted to and approved in writing by the Local Planning Authority. The revised scheme shall include:

- re-position the birch tree proposed to the east of Downterry to a distance of at least 5m from that dwelling;
- an alternative tree species and re-location of the proposed birch tree from adjacent to the side elevation of Downterry to the opposite side of the driveway within the side garden of The Lillies.
- amended fencing details to include a hedgehog access gap in the fencing between plots 1 and 2.

The approved landscaping scheme shall be carried out in the first planting and seeding seasons following the occupation of the buildings or the completion of the development, whichever is the sooner.

Reason: To ensure a satisfactory landscaping scheme with environmental enhancement and visual appearance of the site.

5. All planting, seeding or turfing comprised in the approved landscaping details shall be carried out in the first planting and seeding seasons following the occupation of the buildings or the completion of the development, whichever is the sooner. Any trees or plants which within a period of 5 years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size or species, unless the Local Planning Authority gives written consent to any variation.

Reason: To ensure the appearance and setting of the development is satisfactory 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. Notwithstanding the submitted information regarding drainage, before first occupation of the development hereby approved, a surface water sustainable drainage system (SuDS) shall be designed and installed to accommodate the run-off from all impermeable surfaces including roofs, driveways and patio areas on the approved development such that no additional or increased rate of flow of surface water will drain to any water body or adjacent land and that there is capacity in the installed drainage system to contain below ground level the run-off from a 1 in 100 year rainfall event plus 30% on stored volumes as an allowance for climate change as set out in the Technical Guidance on Flood Risk to the National Planning Policy Framework.

Infiltration rates for soakaways are to be based on percolation tests in accordance with BRE 365, CIRIA SuDS manual C753, or a similar approved method.

In the event that a SuDS compliant design is not reasonably practical, then the design of the drainage system shall follow the hierarchy of preference for different types of surface water drainage system as set out at paragraph 3(3) of Approved Document H of the Building Regulations.

The drainage system shall be designed to remain safe and accessible for the lifetime of the development, taking into account future amenity and maintenance requirements.

Reason: In order to ensure that the drainage arrangements are appropriate and 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 and the New Forest District Council and New Forest National Park Authority Strategic Flood Risk Assessment for Local Development Frameworks.

7. During the construction period, the root protection areas of trees located adjacent to the rear site boundary which overhang the site shall be protected in accordance with BS 5837 (2012) "Trees in Relation to Construction Recommendations". The tree protection measures installed shall be maintained and retained for the full duration of the construction works or until such time as agreed in writing with the Local Planning Authority.

Reason: To ensure the long term retention of existing trees for the avoidance of damage during the construction phase.

8. During the construction period for the development hereby approved, no fires, building operations, storage of goods including building materials, machinery and soil, or discharge of any chemical substances, including petrol and diesel, shall be undertaken within the tree protection zones or within the canopy spreads, whichever is the greater, nor shall any change in soil levels or routing of services within those defined areas be carried out without the prior written approval of the local planning authority.

Reason: To protect the said trees in the interests of the visual amenities and character of the locality, in accordance 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.

9. The development hereby permitted shall not be occupied until the spaces shown on the approved site plan for the parking and manoeuvring of vehicles and the storage of cycles have been provided. These areas shall be kept available for the specified purposes and for use by 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.

10. The development shall proceed in accordance with the Requirements, recommendations and enhancements set out in the Ecology Survey by Ecosupport dated 17th August 2020 subject to the provision of the biodiversity enhancements of the Schwegler Bat Tube 1FR; no. 9a or no. 11 Schwegler house martin terrace; igloo hedgehog home set out in the separate Biodiversity Enhancements document deposited on 19th August 2020. These approved biodiversity measures shall be provided prior to occupation of the new dwellings.

Reason: To secure environmental net gain and in accordance with Policy DM2 of the Local Plan Part 2 for the New Forest District outside of the National Park.

11. The first floor side facing window on the south west elevation of the approved dwelling at plot 1 and the first floor side facing window on the north east elevation of plot 2 shall be:

- (i) obscurely glazed, and
- (ii) non-opening at all times unless the parts that can be opened are more than 1.7m above the floor,

and the windows shall be retained as such in perpetuity.

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.

12. Prior to first occupation the following shall be provided and thereafter retained:

- (i) a charging point for electric vehicles shall be installed for each new dwellings
- (ii) high speed fibre broadband connection shall be provided to the threshold of each new dwelling

Reason: In order to secure a sustainable development, in accordance with Policy IMPL2 of the of the Local Plan Review 2016-2036 Part One: Planning Strategy.

13. The initial 6m of the new access road, measured from the nearside edge of carriageway of the adjacent highway shall be surfaced in non-migratory material prior to being brought into use and thereafter retained as such.

Reason: To ensure the satisfactory appearance and functioning of the development and to avoid the transfer of material onto the public highway.

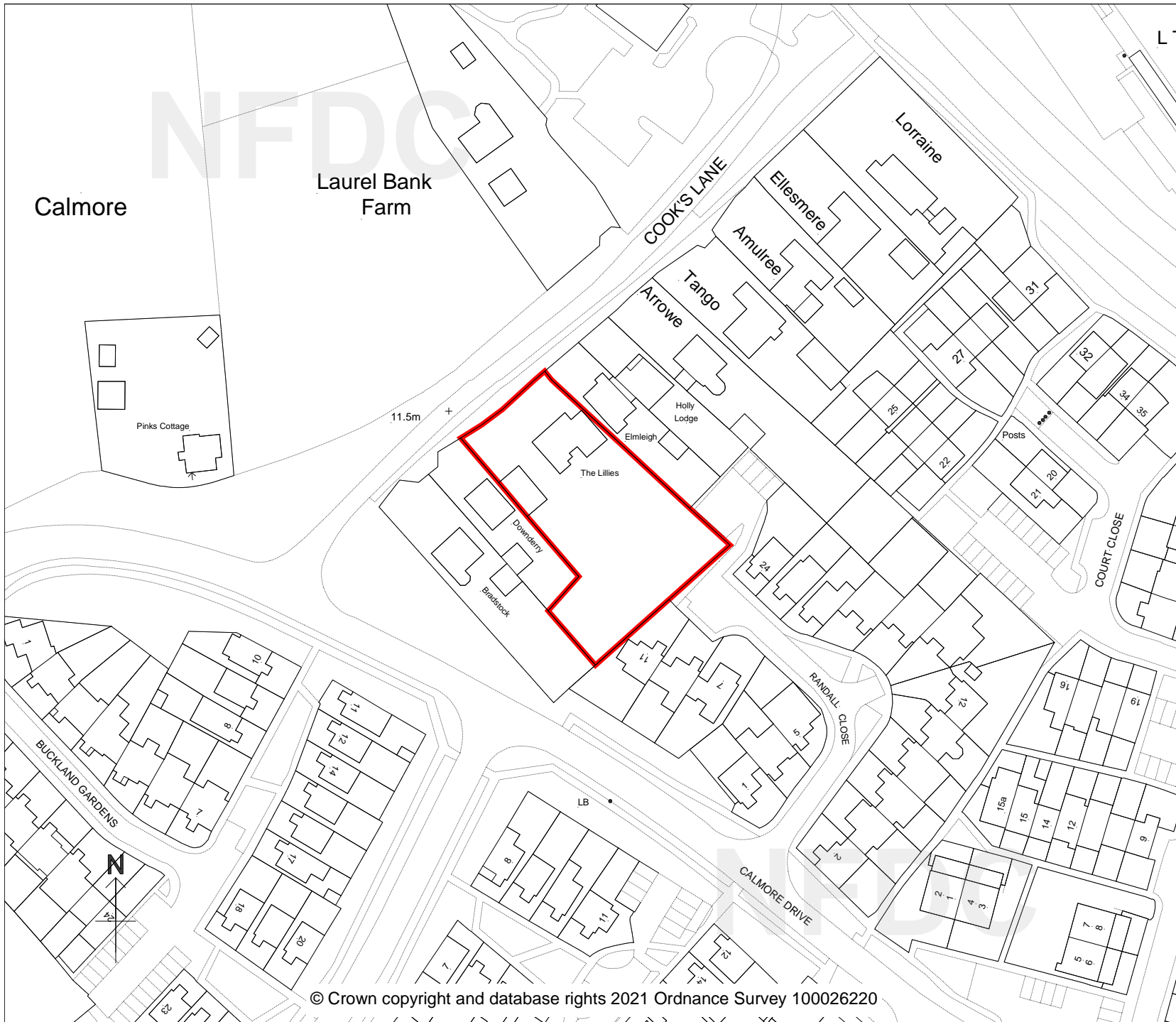
14. The development hereby permitted shall not be occupied until:
- a) A water efficiency calculation in accordance with the Government's National Calculation Methodology for assessing water efficiency in new dwellings has been undertaken which demonstrates that no more than 110 litres of water per person 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.

Further Information:

Warren Simmonds

Telephone: 023 8028 5453



NFDC



New Forest
DISTRICT COUNCIL

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

Claire Upton-Brown
Executive Head of Planning,
Regeneration and Economy
New Forest District Council
Appletree Court
Lyndhurst
SO43 7PA

PLANNING COMMITTEE

July 2021

THE LILLIES, COOKS LANE
CALMORE
TOTTON SO40 2RU
21/10852

Scale 1:1250
N.B. If printing this plan from
the internet, it will not be to
scale.