

Application Number: 15/10773 Full Planning Permission

Site: Land of AMBERWOOD, LOWER PENNINGTON LANE,
PENNINGTON, LYMINGTON SO41 8AN

Development: 2 two-storey dwellings; detached garage; landscaping

Applicant: AJ Developments Ltd

Target Date: 21/07/2015

1 REASON FOR COMMITTEE CONSIDERATION

Contrary to Town Council View

2 DEVELOPMENT PLAN AND OTHER CONSTRAINTS

Built-up area

3 DEVELOPMENT PLAN, OBJECTIVES AND POLICIES

Core Strategy

Objectives

1. Special qualities, local distinctiveness and a high quality living environment
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)
- CS15: Affordable housing contribution requirements from developments
- CS24: Transport considerations
- CS25: Developers contributions

Local Plan Part 2 Sites and Development Management Development Plan Document

DM3: Mitigation of impacts on European nature conservation sites

4 RELEVANT LEGISLATION AND GOVERNMENT ADVICE

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

5 RELEVANT SUPPLEMENTARY PLANNING GUIDANCE AND DOCUMENTS

SPD - Lymington Local Distinctiveness

SPD - Mitigation Strategy for European Sites

SPD - Parking Standards

6 RELEVANT PLANNING HISTORY

6.1 5 houses; detached garages; parking; access alterations; demolition of Amberwood (07/91178) - refused 27/12/07

6.2 4 houses; parking; landscaping; demolition of existing (15/10169) - refused 8/4/15

7 PARISH / TOWN COUNCIL COMMENTS

Lymington & Pennington Town Council:- Recommend refusal - objection to overlooking of neighbouring property at 4 High Trees; support the concerns of the Tree Officer

8 COUNCILLOR COMMENTS

None

9 CONSULTEE COMMENTS

9.1 Hampshire County Council Highway Engineer:- no objection subject to conditions.

9.2 Land Drainage:- No objection subject to drainage conditions

9.3 Building Control:- Fire Authority access needs to be carefully considered

9.4 Tree Officer:- No objection subject to tree protection conditions.

9.5 Ecologist:- No objection subject to condition.

9.6 Estates & Valuation:- it would be viable for the development to secure the full affordable housing contribution

9.7 Southern Gas Networks:- No comment

9.8 Waste & Recycling Manager:- properties must be aware that their refuse will need to be presented at the highway boundary on collection day.

10 REPRESENTATIONS RECEIVED

10.1 7 letters of objection from neighbouring dwellings / nearby properties:- adverse impact on privacy of neighbouring dwellings; loss of neighbouring property's outlook; overdevelopment of plot; adverse impact on local character; inappropriate loss of garden land; increase in traffic to detriment of highway safety; development would be too close to open countryside and would harm the rural edge character; unsafe access; adverse impact on ecology and biodiversity; question marks about speed survey.

11 CRIME & DISORDER IMPLICATIONS

No relevant considerations

12 LOCAL FINANCE CONSIDERATIONS

If this development is granted permission and the dwellings built, the Council will receive £2304 in each of the following six years from the dwellings' completion, and as a result, a total of £13,824 in government grant under the New Homes Bonus will be received.

From the 6 April 2015 New Forest District Council began charging the Community Infrastructure Levy (CIL) on new residential developments.

Based on the information provided at the time of this report this development has a CIL liability of £26,960.00.

13 WORKING WITH THE APPLICANT/AGENT

In accordance with paragraphs 186 and 187 of the National Planning Policy Framework and Article 35 of the Town and Country Planning (Development Management Procedure) (England) Order 2015, New Forest District Council take a positive and proactive approach, seeking solutions to any problems arising in the handling of development proposals so as to achieve, whenever possible, a positive outcome.

This is achieved by

- Strongly encouraging those proposing development to use the very thorough pre application advice service the Council provides.
- Working together with applicants/agents to ensure planning applications are registered as expeditiously as possible.
- Advising agents/applicants early on in the processing of an application (through the release of a Parish Briefing Note) as to the key issues relevant to the application.
- Updating applicants/agents of issues that arise in the processing of their applications through the availability of comments received on the web or by direct contact when relevant.
- Working together with applicants/agents to closely manage the planning application process to allow an opportunity to negotiate and accept amendments on applications (particularly those that best support the Core Strategy Objectives) when this can be done without compromising government performance requirements.
- Advising applicants/agents as soon as possible as to concerns that cannot be dealt with during the processing of an application allowing for a timely withdrawal and re-submission or decision based on the scheme as originally submitted if this is what the applicant/agent requires.
- When necessary discussing with applicants/agents proposed conditions especially those that would restrict the use of commercial properties or land when this can be done without compromising government performance requirements.

In this case, there have been negotiations with the applicant since the application was submitted, which has resulted in the submission of amended plans, which has enabled a positive recommendation to be made.

14 ASSESSMENT

14.1 Amberwood is a detached 2-storey dwelling set within a large garden plot. The dwelling lies on the edge of the built-up area, with open countryside bordering the southern boundary of the site. To the north side of the site

is a 2-storey dwelling known as Quadrant House, which is also set within a large garden plot. To the north of this are 4 fairly recently built detached dwellings set within smaller plots than is typical of the area. One of these plots (4 High Trees) borders the rearmost part of the large rear garden of Amberwood. Although this dwelling is essentially 2 storeys high, it does have a 3-storey rear gable feature. Properties within this part of Lower Pennington Lane are generally of a traditional 2-storey character and are set within large garden plots with many mature trees. The application site itself has a significant number of mature trees along the frontage of the site, which are an important feature of the streetscene. There are also some significant trees and mature hedging along some of the other boundaries of the site. Northfield to the south of the site is a modest bungalow. A public footpath runs to the side of this property, and also along the boundaries of the adjacent field to the south of the application site.

- 14.2 There was a previous application to develop this site with 5 dwellings that was refused planning permission in December 2007. That application, which included part of the rear garden of Quadrant House, was refused on account of the development's cramped layout, the dwellings' dominant and intrusive appearance and the development's adverse impact on the amenities of the occupants of the neighbouring dwelling at Quadrant House.
- 14.3 Earlier this year, an application to redevelop the site of Amberwood with 4 dwellings was refused planning permission because it was felt the development would be harmful to the character and appearance of the area. It was felt the development was too intensive; the access drive was too urban in character; the layout was cramped and awkward; and that dwellings would appear too dominant from open countryside to the south. It was also considered that the development would be detrimental to the amenities of neighbouring dwellings, it would be harmful to protected trees, and it would be detrimental to highway safety due to unsatisfactory access arrangements. The development was also deemed unacceptable for a lack of on-site cycle parking provision; a failure to secure contributions to affordable housing; and for failing to mitigate the development's impact on designated sites.
- 14.4 The application that has now been submitted is materially different to the recently refused 4 dwelling application. In contrast to that application, it is proposed to keep the existing dwelling at Amberwood. 2 new dwellings and detached garages are proposed within the property's rear garden. An existing detached garage building would be demolished to facilitate access to the dwellings.
- 14.5 The property Amberwood has a particularly large rear garden, and in principle, it is felt that the plot is large enough to be able to accommodate additional residential development to the rear of the frontage dwelling, having regard to the fact that to the north of the site there are many examples of dwellings in a backland location that are served off narrow access drives that lead onto Lower Pennington Lane. The development that is now proposed is considered to be more sympathetic and contextually appropriate than the previously refused schemes. It is a less intensive development, and the proposed new dwellings would be of a more modest one and a half storey scale. Whilst 4 dwellings were previously felt to be too intensive in what is a spacious semi-rural context, it is felt that 3 dwellings would feel more comfortable. Although the

garden sizes would be somewhat smaller than on some other nearby properties, it is felt that they would provide an adequately green and spacious context. The scale and mass of the 2 new dwellings is such that the development would not feel too intrusive from areas of open countryside to the south of the site. The access road is narrower than on the previous application, and its curved route is very different. If appropriate surface materials are used and if an appropriate soft landscaping proposal is put forward (which could be secured by condition) the access drive would have an acceptable appearance. The existing southern access onto Lower Pennington Lane would be slightly widened, which would result in the removal of some of the existing front boundary vegetation. However, the vegetation that would be lost would be limited in extent and would not include important trees (see Para 14.8 below). Overall, whilst the proposal would clearly result in some change to the character of the site, it is felt that the change would be contextually appropriate. It is, moreover, felt the layout, scale and appearance of the development would be sympathetic to the character and appearance of the area. However, as the development would be close to the limit of what the site can comfortably absorb, it is considered that permitted development rights should be removed to ensure that future alterations do not harm the character of the area.

- 14.6 As the dwelling Amberwood is to be retained, the proposed development would avoid many of the unneighbourly impacts of the previously refused scheme. The orientation of the new dwellings and the position of first floor windows would ensure that the adjacent dwellings at Quadrant House and Northfield are not materially overlooked. Initially, the proposed dwelling on Unit 2 was considered to be too close to the neighbouring property at 4 High Trees. However, amended plans have been submitted, which have sited the dwelling so that it would be sited about 9 metres away from the side of 4 High Trees, which would be sufficient to maintain the reasonable light and outlook of that property. There are rooflights on the north elevation of Unit 2, which would materially overlook 4 High Trees if they were to be sited too low down on the roof. A condition could reasonably be imposed on the height of these rooflights to ensure that the neighbouring property's privacy is not unduly compromised. Overall, it is considered that the proposed development would have an acceptable impact on neighbours' amenities.
- 14.7 Initially, the Highway Authority had concerns with the access arrangements. However, the application has subsequently been amended to show a widened southern access onto Lower Pennington Lane. A speed survey has also been undertaken. The submission of additional information and amended details has enabled the Highway Authority to withdraw its original objection. They are satisfied that the access would have adequate visibility and would be of sufficient width. Following confirmation that the dwellings would have a sprinkler system installed and a refuse collection point provided, the Highway Authority are also satisfied that there would be adequate on site turning facilities. The level of on-site parking would be acceptable. Therefore, from a highway safety perspective, the proposal would be acceptable.
- 14.8 A couple of trees on the southern boundary of the site, and 3 trees in the south-west corner of the site are protected by a Tree Preservation Order. On the basis of amended arboricultural details that have been submitted, the Council's tree officer is satisfied that the dwellings and garages could be built without detriment to protected trees. The works to the southern

access would be capable of being built without adversely affecting the root system of adjacent trees, but more information is needed here on construction methodology and hardstanding details, which can reasonably be secured by condition.

- 14.9 The application is accompanied by a biodiversity report that indicates that the site offers some potential for species of local importance and that are protected by law. Provided a mitigation plan is secured by condition, the Ecologist is satisfied that the development will not harm ecological interests.
- 14.10 The proposed development is one that would be expected to secure a contribution to affordable housing in line with Core Strategy policy CS15. In this case, the development generates a requirement to secure a contribution of £97,350. The applicants have entered into a Section 106 legal agreement to secure this contribution, and as such, the proposal would be consistent with Core Strategy Policy CS15.
- 14.11 In accordance with the Habitat Regulations 2010 an assessment has been carried out of the likely significant effects associated with the recreational impacts of the residential development provided for in the Local Plan on both the New Forest and the Solent European Nature Conservation Sites. It has been concluded that likely significant adverse effects cannot be ruled out without appropriate mitigation projects being secured. In the event that planning permission is granted for the proposed development, a condition is recommended that would prevent the development from proceeding until the applicant has secured appropriate mitigation, either by agreeing to fund the Council's Mitigation Projects or otherwise providing mitigation to an equivalent standard. In this case, the required Mitigation Contribution would be £10,700, part of which could potentially be met through CIL.
- 14.12 Overall, the proposed development is considered to be consistent with Local Plan policies and objectives. Although the development would result in some change to the site, it is felt that the intensity and scale of the development would be an acceptable response to the site's green and spacious context. The development could be implemented without detriment to the amenities of neighbouring properties and without adversely affecting highway safety or important trees. As such, the application is recommended for permission.
- 14.13 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.

Developers' Contributions Summary Table

Proposal:			
Type of Contribution	NFDC Policy Requirement	Developer Proposed Provision	Difference
Affordable Housing			
No. of Affordable dwellings	0	0	0
Financial Contribution	£97,350	£97,350	0
Habitats Mitigation			
Financial Contribution	£10,700		

CIL Contribution Summary Table

Description of Class	GIA New	GIA Existing	GIA Net Increase	CIL Liability
Dwelling houses	372	35	337	£26,960.00

15. RECOMMENDATION

That the Head of Planning and Transportation be **AUTHORISED TO GRANT PERMISSION** subject to:

- i) the completion, by November 30th 2015, of a planning obligation entered into by way of an Agreement pursuant to Section 106 of the Town and Country Planning Act 1990 to secure the provision of an affordable housing contribution.
- ii) the imposition of the conditions set out below.

BUT, in the event that the Agreement is not completed by November 30th 2015, the Head of Planning and Transportation be **AUTHORISED TO REFUSE PERMISSION** for the reasons set out below.

Conditions to be attached to any consent:

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: 8529-200 rev F, 8529-201, 8529-202 rev A, 8529-203 rev B.

Reason: To ensure satisfactory provision of the development.

3. Before development commences, details of the means of disposal of surface water from the site shall be submitted to and approved in writing by the Local Planning Authority. Development shall only take place in accordance with the approved details.

Reason: In order to ensure that the drainage arrangements are appropriate and in accordance with Policy CS2 of the Local Plan for the New Forest District outside the National Park (Core Strategy) and the New Forest District Council and New Forest National Park Authority Strategic Flood Risk Assessment for Local Development Frameworks.

4. Before the development is first occupied, details of the future maintenance of the approved drainage system / watercourse, shall be submitted to and approved in writing by the Local Planning Authority. The approved drainage scheme shall thereafter be maintained in accordance with the approved details at all times.

Reason: In order to ensure that the drainage arrangements are appropriate and in accordance with Policy CS2 of the Local Plan for the New Forest District outside the National Park (Core Strategy) and the New Forest District Council and New Forest National Park Authority Strategic Flood Risk Assessment for Local Development Frameworks.

5. Development shall only proceed in accordance with the recommendations in the Biodiversity Report from Phil Smith dated 3rd July 2015 (REF Amberwood_30062015), unless an amended biodiversity report has been first submitted to and approved in writing by the Local Planning Authority, in which case development shall only proceed in accordance with the approved amended report.

Reason: To safeguard biodiversity / ecological interests in accordance with Policy CS3 of the Core Strategy for New Forest District outside of the National Park.

6. Prior to the commencement of works (including site clearance and any other preparatory works) the scheme for the protection of trees in accordance with the submitted Gwydion's Tree Consultancy Arboricultural Impact Appraisal and Method Statement ref GH1517.2 and Plan Refs: GH1517.1 b and c dated 27/10/15 shall be implemented. At least 3 working days notice shall be given to the Local Planning Authority that the approved tree protective measures have been implemented before any other site works are implemented. The approved tree protection method statement shall be adhered to in full and the approved tree protection measures shall be retained for the full duration of the development or until such time as agreed in writing 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).

7. The development hereby permitted shall not be occupied until the approved spaces shown on plan 8529/200 rev F for the parking and garaging of motor vehicles and cycles have been provided. The spaces shown on plan 8529/200 rev F for the parking and garaging of motor vehicles and cycles shall be retained and kept available for the parking and garaging of motor vehicles and cycles 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 Policy CS2 and CS24 of the Local Plan for the New Forest outside of the National Park (Core Strategy).

8. 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 development in accordance with policy CS2 of the Core Strategy for the New Forest District outside the National Park.

9. 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) the treatment of the boundaries of the site and all 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 prevent inappropriate car parking to comply with Policy CS2 of the Local Plan for the New Forest District outside the National Park (Core Strategy).

10. 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 CS2 of the Local Plan for the New Forest District outside the National Park (Core Strategy).

11. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015 (or any re-enactment of that Order) no extension 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, or means of enclosure otherwise approved by Class A of Part 2 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).

12. The bottom of the first floor rooflights on the north elevation of the approved building on Unit 2 shall be positioned so as to be at least 1.7 metres above the first floor level within the building. No other rooflights shall be installed on this north elevation unless express planning permission has first been granted.

Reason: To safeguard the privacy of the adjoining neighbouring properties in accordance with policy CS2 of the Local Plan for the New Forest District outside the National Park (Core Strategy).

13. No development shall be carried out until proposals for the mitigation of the impact of the development on the New Forest and Solent Coast European Nature Conservation Sites have been submitted to and approved in writing by the local planning authority, and the local planning authority has confirmed in writing that the provision of the proposed mitigation has been secured. Such proposals must:

- (a) Provide for mitigation in accordance with the New Forest District Council Mitigation Strategy for European Sites SPD, adopted in June 2014 (or any amendment to or replacement for this document in force at the time), or for mitigation to at least an equivalent effect;
- (b) Provide details of the manner in which the proposed mitigation is to be secured. Details to be submitted shall include arrangements for the ongoing maintenance and monitoring of any Suitable Alternative Natural Green Spaces which form part of the proposed mitigation measures together with arrangements for permanent public access thereto.
- (c) The development shall be carried out in accordance with and subject to the approved proposals.

Reason: The impacts of the proposed development must be mitigated before any development is carried out in order to ensure that there will be no adverse impacts on the New Forest and Solent Coast Nature Conservation Sites in accordance with Policy DM3 of the Local Plan Part 2 and the New Forest District Council Mitigation Strategy for European Sites Supplementary Planning Document.

Reason(s) for Refusal:

1. The proposed development would fail to make any contribution toward addressing the substantial need for affordable housing in the District. The proposal would therefore conflict with an objective of the Core Strategy for the New Forest District outside the National Park 2009 and with the terms of Policies CS15 and CS25 of the Core Strategy.

Notes for inclusion on certificate:

1. In accordance with paragraphs 186 and 187 of the National Planning Policy Framework and Article 35 of the Town and Country Planning (Development Management Procedure) (England) Order 2015, New Forest District Council takes a positive and proactive approach, seeking solutions to any problems arising in the handling of development proposals so as to achieve, whenever possible, a positive outcome by giving clear advice to applicants.

In this case, there have been negotiations with the applicant since the application was submitted, which has resulted in the submission of amended plans, which has enabled a positive recommendation to be made.

2. In discharging condition No. 13 above the Applicant is advised that appropriate mitigation is required before the development is commenced, either by agreeing to fund the Council's Mitigation Projects or otherwise providing mitigation to an equivalent standard. Further information about how this can be achieved can be found here <http://www.newforest.gov.uk/article/16478/>

Further Information:

Major Team
Telephone: 023 8028 5345 (Option 1)



New Forest
DISTRICT COUNCIL

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

Chris Elliott
Head of Planning & Transportation
New Forest District Council
Appletree Court
Lyndhurst
SO43 7PA

**Planning Development
Control Committee
November 2015**

Item No: 3b

Land of Amberwood
Lower Pennington Lane
Lymington
15/10773
SZ3194

Scale 1:1250

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



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