

Application Number: 15/11072 Outline Planning Permission

Site: DEVON WAY, 11 LIME KILN LANE & land rear of 201 - 209
LONG LANE, HOLBURY, FAWLEY SO45 2HJ

Development: 7 houses; access; demolition of existing (Outline application with details only of access)

Applicant: Mrs Butt

Target Date: 15/09/2015

1 REASON FOR COMMITTEE CONSIDERATION

To agree the waiving of the affordable housing contribution

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)
- CS5: Safe and healthy communities
- 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 - Housing Design, Density and Character
SPD - Mitigation Strategy for European Sites

6 RELEVANT PLANNING HISTORY

None

7 PARISH / TOWN COUNCIL COMMENTS

Fawley Parish Council:- happy to accept a delegated decision

8 COUNCILLOR COMMENTS

None

9 CONSULTEE COMMENTS

- 9.1 Hampshire County Council Highways Engineer:- No objection subject to conditions on parking, turning and visibility.
- 9.2 Land Drainage:- No objection subject to conditions
- 9.3 Tree Officer:- No objection
- 9.4 Estates & Valuation:- considers that it would not be viable for the development to secure an affordable housing contribution.
- 9.5 Ecologist:- No objection subject to conditions / resolving further details at reserved matters stage
- 9.6 Health and Safety Executive:- No objection
- 9.7 Environmental Design (Urban Design):- Supports on the basis that, as a collection, the scheme offers a distinctive character. The buildings as a group remain subservient to the setting, the green garden spaces and the built-up nature of the host block into which they are inserted; details and materials needs to be consistent with the illustrative material.

10 REPRESENTATIONS RECEIVED

- 10.1 13 letters of objection from local residents:- increased traffic to detriment of highway safety; poor access; insufficient on-site parking; adverse impact on local wildlife; adverse impact on neighbours' privacy and light; noise and light pollution; loss of green space; harmful urbanisation of the area; overdevelopment that would appear cramped; inappropriate development in the major hazard consultation zone; increased pressures on local sewerage system; concerns about electricity and telephone cables.

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 £8064 in each of the following six years from the dwellings' completion, and as a result, a total of £48,384 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 £61,415.20.

Tables setting out all contributions are at the end of this report.

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 all the above apply. The application proposals were the subject of pre-application discussions, and have been the subject of amended plans and additional information since the application was registered, and this has enabled a positive recommendation to be made.

14 ASSESSMENT

- 14.1 The application site extends to 0.36 hectares and comprises the property known as Devonway and its large rear garden. The application site also encompasses part of the rear garden of 201 Long Lane, and areas of scrub and paddock to the south of residential dwellings in Lime Kiln Lane, to the west of dwellings in Long Lane and to the north of residential properties in Larch Avenue. The application site is relatively flat. Although the site has an essentially green character, the site does not have any significant landscape features, the trees on the site typically being quite small, and the boundary hedgerows offering limited amenity value.
- 14.2 Devonway is a detached bungalow. The adjacent parts of Lime Kiln Lane are mainly characterised by bungalows and chalet bungalows set within generous sized garden plots, although 1-9 Lime Kiln Lane to the north side of the site is a long 2-storey terrace. The adjacent properties in Larch Avenue to the south are predominantly 2-storey detached dwellings, but with some bungalows as well, while the adjacent properties in Long Lane are mainly 2-storeys high. Properties within the immediate area typically have fairly long rear gardens that give the area an attractively green and spacious character.
- 14.3 The submitted application seeks to demolish the existing dwelling Devonway, so as to create a new access road to the land to the rear, on which it is proposed to build 7 dwellings. The application has been submitted as an outline application with access being the only matter for detailed approval at this stage. The application is accompanied by an illustrative layout plan and illustrative elevations that show a terrace of 3 dwellings and 4 detached dwellings that would be mainly 2-storeys high.
- 14.4 The Highway Authority initially raised concerns about the visibility at the entrance to the site. Subsequently, the applicants have carried out a speed survey, which has enabled the Highway Authority to determine that the required y distance visibility splay should be 44 metres in an easterly direction and 39 metres in a westerly direction. These visibility splays are achievable, but are only achievable in an easterly direction with a reduced x visibility splay distance of 2.0 metres (rather than the normal 2.4 metres). Having regard to the advice contained within the Manual for Streets, which allows for a reduced x distance of 2.0 metres in very lightly trafficked and slow speed situations, the Highway Authority is satisfied that a reduced x distance would be acceptable in this instance, noting the results of the applicant's traffic survey, which has indicated average peak hours flows of only 20 two-way movements on Lime Kiln Lane. Accordingly, the proposed access onto Lime Kiln Lane would be acceptable from a highway safety perspective.
- 14.5 The illustrative layout plan indicates an access road of adequate width. The submitted plans also indicate adequate turning facilities for refuse and emergency vehicles, both within the site and also for access from the highway in Lime Kiln Lane. The submitted layout adequately demonstrates that the requisite amount of on-site parking is achievable. Conditions to secure parking and turning would be more appropriately applied at reserved matters stage when the detailed layout is known.

- 14.6 The application site constitutes a relatively inefficient use of land within the built-up area. Although the land forms an extensive green area, it is not an area that is either well used or of significant landscape value. Indeed, parts of the site seem rather neglected. Against this context, it is felt that the site is one where some additional residential development could be accommodated without detracting from the character and appearance of the area. The layout that is proposed is a moderately intense development, but it would not compromise the generous sized gardens of dwellings which back onto the site. The applicant's design and access statement justifies the level of development that is proposed through innovative design. In particular, through the innovative use of front garden space and communal paths to doors, the applicant has come up with an illustrative layout where cars would be accommodated in a simple courtyard, and where 4 of the dwellings (units 4-7) would be grouped together in an attractive manner in garden settings that would adequately respect the local context. Indicative units 4-7 are shown as being primarily 2-storeys high but, with their suggested narrow roof forms, they would not appear too dominant in this setting, given the retained greenery and their significant distance (over 30 metres) from other existing dwellings. Indicative units 1-3 are shown as having a reduced eaves height. With this reduced scale, it is not felt that such a terrace would be incongruous in this context, having regard to the scale of the terraced units at 1-9 Lime Kiln Lane, and noting that the illustrative plans suggests dwellings with rich details and a high quality appearance. The suggested parking court would still allow small front gardens for these dwellings, to contribute to the greenness of the surroundings.
- 14.7 Based on the illustrative material that has been submitted, it is considered that the applicants have adequately demonstrated that a development of 7 dwellings could be provided on the application site without detriment to the character and appearance of the area. The illustrative plans show a development that, as a group, would appear sufficiently subservient within this rear garden setting. It is felt that the suggested development would offer a high quality and distinctive character within an appropriately green setting, and without appearing intrusive or incongruous within the host building block into which it would be inserted. As the application is only outline there will be a need to ensure that the suggested quality indicated in the illustrative material is followed through into the detailed reserved matters proposals. Furthermore, based on the illustrative material, the development's suggested quality could be materially eroded through future developments that could be carried out under permitted development rights. For this reason, it is felt that permitted development rights should be removed in this instance.
- 14.8 The dwellings would not have a material impact on the light or outlook of other dwellings, given their degree of separation from the application site. Existing dwellings to the north of the site would be about 35 metres away from illustrative units 6 and 7. Dwellings to the south would be in excess of 30 metres away from the rear of illustrative units 1 to 5. With such separation distances, the proposal is not one that would harmfully compromise the privacy of these neighbouring dwellings. Obviously, detailed elevational designs would need to be considered at reserved matters stage, but the applicant has provided adequate evidence to demonstrate that their proposals would not harmfully compromise the amenities of neighbouring properties.

- 14.9 The trees that would be removed are small garden trees that are not of public amenity value. None of the trees that would be removed are worthy of protection with a Tree Preservation Order and their removal is considered to be fully justified.
- 14.10 The application is accompanied by an ecological assessment. The Ecologist initially raised concerns that the reptile survey was deficient due to its timing. The applicants have subsequently provided further information and have suggested additional reptile mitigation measures to ensure that reptiles are not harmed during the course of the development, including a commitment to carrying out a further reptile survey before a reserved matters application is submitted. As the survey work to date has found no reptiles to be present, and given the outline nature of the application, the Ecologist is satisfied that it would be appropriate to condition the submission of further details. There would also be a need to ensure biodiversity enhancements, more generally, as a condition of any planning permission.
- 14.11 The application site is within the Fawley Major Hazard (middle) consultation zone. The Health and Safety Executive has been consulted and have advised that there is no reason to withhold planning permission on public safety grounds.
- 14.12 There is no reason why the development could not secure adequate sewerage arrangements in conjunction with the relevant sewerage authority.
- 14.13 A development of 7 dwellings would normally be expected to secure on-site affordable housing. Based on a 40% affordable housing policy requirement, the submitted scheme should secure 2 on-site affordable housing units and a separate financial contribution of £50,140 towards affordable housing off site. In this case, the applicants have submitted a viability appraisal to support their view that any affordable housing contribution would make the development unviable. This viability appraisal has been considered by the Council's Estates and Valuation team, who agree with the conclusions of this appraisal. As such, it is felt that there would be a reasonable justification to completely waive the affordable housing requirement in this instance.
- 14.14 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 exact contribution could only be determined following the submission of a reserved matters application.
- 14.15 Overall, this proposed development is considered to be consistent with Local Plan policies and objectives. The development would be of an acceptable density and would be sympathetic to its context. Based on the illustrative material submitted with the application, the applicants

have reasonably demonstrated that 7 dwellings could be provided in a manner that would be sympathetic to the character and appearance of the area, and sympathetic to the amenities of neighbouring properties. The development could be provided without detriment to highway safety and without harming ecological interests. Although the application would not make any contribution to affordable housing, this would be justified in the light of the applicant's viability arguments. As such, the application is recommended for permission.

- 14.16 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.

Section 106 Contributions Summary Table

Proposal:			
Type of Contribution	NFDC Policy Requirement	Developer Proposed Provision	Difference
Affordable Housing			
No. of Affordable dwellings	2	0	-2
Financial Contribution	£50,140	0	-£50,140
Habitats Mitigation			
Financial Contribution	not yet known		

CIL Summary Table

Description of Class	GIA New	GIA Existing	GIA Net Increase	CIL Liability
Dwelling houses	848	80.31	767.69	£61,415.20

15. RECOMMENDATION

Grant Subject to Conditions

Proposed Conditions:

1. Approval of the details of the layout, scale, appearance, and landscaping ("the reserved matters") shall be obtained from the Local Planning Authority before any of the development is commenced. The development shall only be carried out in accordance with the details which have been approved.

Reason: To comply with Section 92 of the Town and Country Planning Act 1990.

2. Application for approval of the reserved matters shall be made to the local planning authority before the expiration of three years from the date of this permission.

Reason: To comply with Section 92 of the Town and Country Planning Act 1990.

3. The development hereby permitted shall be begun before the expiration of two years from the date of approval of the last of the 'reserved matters' to be approved.

Reason: To comply with Section 92 of the Town and Country Planning Act 1990.

4. 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.

5. Before the development is first occupied details of the future maintenance the drainage system to be approved under condition 4 shall be submitted to and approved in writing by the Local Planning Authority. The drainage system shall thereafter be maintained in accordance with the approved details unless otherwise agreed in writing with the Local Planning Authority.

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.

6. The visibility splays shown on the approved plans at the junction of the proposed new access with Lime Kiln Lane shall be provided before the commencement of development, and these visibility splays shall thereafter be kept free of any obstacles over 600mm in height at all times.

Reason: In the interest of highway safety and in accordance with Policy CS2 and CS24 of the Local Plan for the New Forest District outside of the National Park (Core Strategy).

7. Before the commencement of development, a detailed schedule of biodiversity mitigation and enhancement measures shall be submitted to and approved in writing by the Local Planning Authority. Development shall only proceed in accordance with the approved details.

Reason: To safeguard biodiversity interests in accordance with Policy CS3 of the Core Strategy for New Forest District outside of the National Park and Policy DM2 of the Local Plan Part 2: Sites and Development Management.

8. Prior to the submission of any application for Reserved Matters approval, an updated Reptile Survey (an update to the Ecosa Phase 2 Reptile Survey dated May 2015) shall be undertaken at an appropriate time of year, and details of that survey together with any necessary mitigation measures shall be submitted to and approved in writing by the Local Planning Authority. Development shall only proceed in accordance with the approved mitigation measures.

Reason: To safeguard protected reptiles that may be present on the site in accordance with Policy CS3 of the Core Strategy for New Forest District outside of the National Park and Policy DM2 of the Local Plan Part 2: Sites and Development Management.

9. 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: The submitted Design and Access Statement has sought to justify a relatively intensive development in what is a green and spacious context by demonstrating that the development would be of a high quality and locally distinctive design as exhibited in the illustrative layout and the supporting documentation. This illustrative layout and design has a design quality and a setting that could be materially compromised by relatively small scale changes and therefore, the Local Planning Authority would want to control such developments in future to ensure the development remains sympathetic to its context and consistent with the requirements of Policy CS2 of the Core Strategy for New Forest District outside of the National Park.

10. 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.

11. The development permitted shall be carried out in accordance with the following approved plans: BUTT140702 SLP-01, BUTT140702 SKL-03 rev C, 5105.001, KTML10815-TLP, KTML10815-TRP, Tree Protection Plan for T5, BUTT140702 ELE-01, 5105.001 rev B, 5105.002, 5105.003.

Reason: To ensure satisfactory provision of the development.

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, the application proposals were the subject of pre-application discussions, and have been the subject of amended plans and additional information since the application was registered, and this has enabled a positive recommendation to be made.

2. Please note that the Local Planning Authority will expect the detailed reserved matters proposals to adhere closely to the illustrative layout, the supporting illustrative information and the key design principles set out in the submitted Design and Access Statement.
3. In discharging condition No. 10 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

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**Planning Development
Control Committee
December 2015**

Item No: 3b

**Devon Way 11 Lime Kiln Lane
& r/o 201-209 Long Lane
Holbury Fawley
15/11072
SU4304**

Scale 1:1250

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

