

Application Number: 13/11276 Outline Planning Permission

Site: Land south of, LYMINGTON ROAD, NEW MILTON BH25 6PR

Development: 4 houses; site of alternative natural green space; access
(Outline Application with details only of access)

Applicant: Mr Chappell

Target Date: 06/12/2013

Extension Date: 30/06/2016

1 REASON FOR COMMITTEE CONSIDERATION

Previous Committee consideration and contrary to policy and to allow additional considerations that have come about following the initial resolution to be taken on board.

2 DEVELOPMENT PLAN AND OTHER CONSTRAINTS

Built-up area
Landscape Feature
Protected trees

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
- CS4: Energy and resource use
- CS7: Open spaces, sport and recreation
- CS10: The spatial strategy
- CS15: Affordable housing contribution requirements from developments
- CS24: Transport considerations
- CS25: Developers contributions

Sites and Development Management Development Plan Document

- DM2: Nature conservation, biodiversity and geodiversity
- DM3: Mitigation of impacts on European nature conservation sites
- NMT12: New public open space south of Lymington Road, north of Chestnut Avenue

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 - New Milton Local Distinctiveness
SPD - Design of Waste Management Facilities in New Development
SPD - Parking Standards
SPD - Mitigation Strategy for European Sites
SPD - Housing Design, Density and Character

6 RELEVANT PLANNING HISTORY

- 6.1 Erection of 6 houses and construct new access (54869) Refused on the 1st September 1994
- 6.2 Erection of 5 houses and construct new access (55862) Refused on the 6th Feb 1995. Appeal dismissed.

7 PARISH / TOWN COUNCIL COMMENTS

New Milton Town Council: recommend refusal - While the principle of enabling development on the open space and Site of Alternative Natural Green Space is accepted

1. The policy objective of providing at least 0.3 hectares of accessible public open space and SANGS is not met; the extension of the road and turning head into the western half of the site urbanises around two thirds of the site such that the area available for delivering open space and natural green space is too small. Further delivery of a pedestrian through route for access is uncertain because the indicative footpaths terminate in private land at the site boundary.
2. Unsafe access onto the A337: there is a lack of confidence in the recorded wet weather speeds used to determine the appropriate easterly visibility splay and uncertainty in delivering a suitable visibility splay due to a lack of control over the necessary land.
3. Protected trees will not be adequately protected; given the absence of an arboricultural method statement there is a lack of confidence that the numerous protected trees on the site will be adequately protected; it is noted that the indicative layout (which could become subject to condition to implement) sites a garage underneath a protected tree making that tree vulnerable to future applications for management to safeguard the building only.

8 COUNCILLOR COMMENTS

None

9 CONSULTEE COMMENTS

- 9.1 Hampshire County Council Highway Engineer: No highway objections

- 9.2 Tree Officer: No objection
- 9.3 Environmental Design (Urban Design): No objection
- 9.4 Policy: No objection
- 9.5 Ecologist: Recommend refusal (revised comment since previous consideration of this application)
- 9.6 Land Drainage: No objection subject to condition
- 9.7 Councils Valuer - The submitted viability assessment is not acceptable

10 REPRESENTATIONS RECEIVED

- 10.1 10 letters of objection concerned that the application only covers half the site and it should be detailed as to what is happening on the other half of the land. There should be restrictions on the land for future plans. There are restrictive covenants on the land. There should be no vehicular access to this site through our private road. The road is too narrow. There is no need for two pathways to be marked onto the plan leading to the existing right of way. Concerns have been expressed about boundary ownership. Concerns over impact on residential amenity including noise and disturbance and overlooking There is a pipeline running through the site.

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 £4608 in each of the following six years from the dwellings' completion, and as a result, a total of £27,648 in government grant under the New Homes Bonus will be received.

13 WORKING WITH THE APPLICANT/AGENT

In accordance with paragraphs 186 and 187 of the National Planning Policy Framework and Article 31 of Town and Country Planning (Development Management Procedure) (England) Order 2010, 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 the concerns raised are significant and are not capable of resolution through negotiation.

14 ASSESSMENT

14.1 Introduction

14.1.1 Members may recall considering this application for the erection of four dwellings and two garages together with the provision of an informal area of open space in the form of a Site of Alternative Natural Green Space (SANGS) on the 8th October 2014. The Committee's decision was that the Head of Planning and Transportation was authorised to grant planning consent subject to the completion of a Section 106 Agreement by the 30th March 2015 to secure a financial contribution for off-site affordable housing, transportation contributions and a minimum of 0.3 hectares of land to be used as SANGS/ Open space. The Section 106 Agreement would have required all of the SANGS/ Open space to be transferred to New Forest District Council.

14.1.2 The Section 106 Agreement was not completed within time and the Committee's resolution has now expired.

14.1.3 The applicant has continuously maintained the view that the affordable housing contribution would render the scheme unviable and he submitted several viability assessments to demonstrate this. However, the case put forward has not been supported by the Council's Valuer. The applicants' concern over viability has resulted in significant delays in reaching a decision. The application is brought back to Committee in order to reach a conclusion. However, it should be noted that there have been three significant changes in policy and circumstances at the site, which are set out below:

- Firstly, on the 6th April 2015, the Community Infrastructure Levy (CIL) was formally adopted by the Council.
- Secondly, the site is now understood to comprise high quality, unimproved grassland and the site has been put forward to be designated as a local wildlife site (Site of Important for Nature Conservation -SINC).

- Thirdly on 19th May 2016 the Government issued planning guidance setting out the specific circumstances in which contributions for affordable housing and tariff style planning obligations (section 106 agreements) should not be sought from small scale and self-build development.
- 14.1.4 This text below describes how the three changes now affect the application. Firstly, the adoption of the Community Infrastructure Levy has implications for how the proposed development can be implemented through Policy NM12 of the adopted Local Plan Part 2 Sites and Development Plan Document.
- 14.1.5 Policy NM12 states that the site in question is proposed as a new public open space to be managed as Suitable Alternative Natural Green Space (SANGS). The policy seeks to mitigate the impact of recreational impacts from residential development on the European Nature Conservation designations and to secure long term public access to this area. However, in order for this area of open space to be implemented, the Council may consider a very limited amount of 'enabling development' on the site provided a minimum of 0.3 hectares of accessible public open space in the form of natural green space is provided. The application site is allocated and identified in the adopted Habitat Mitigation Strategy Document as a SANGS defined as a relevant infrastructure project.
- 14.1.6 When the application was originally submitted pre CIL, the proposed housing was to be provided with the on site public open space and SANGS and all this land (apart from the housing) would have been secured on site and subsequently transferred to New Forest District Council. At the time the application was first considered by this Committee this would have been secured through a Section 106 Agreement. This is why the proposed development was previously recommended for approval at the October 2014 Committee as set out in the Officer's report below (14.2).
- 14.1.7 However, following the adoption of CIL in April 2015, the regulations have affected what can actually be secured or provided through a Section 106 Agreement. CIL regulations prohibit relevant infrastructure (this relates to all habitat mitigation measures and projects) which is set out on the CIL schedule from being funded by a Section 106 Agreement. The application site is allocated and identified in the adopted Habitat Mitigation Strategy Document as a SANGS defined as a relevant infrastructure project for the purposes of CIL and that is why this cannot be collected or secured through a Section 106 Agreement. Accordingly, this would mean that the planning application can no longer legally secure (through a Section 106 Agreement) the on site SANGS as required by policy. The proposed housing was only considered acceptable on the site as enabling development to provide and secure the on site SANGS and the inability to secure such on site provision would fail to comply with policy.
- 14.1.8 Secondly, in relation to the nature conservation issues, the Ecologist previously raised no objection to the application when it was considered in 2014. However, subsequent surveys have been undertaken on the site by Hampshire Biodiversity Information Centre (HBIC) as part of the alternative open space study and the site has now been assessed as

comprising high quality, unimproved grassland. The Ecologist has stated that such sites are increasingly rare in Hampshire and the UK, they are identified as priority habitats within Government legislation and policy which highlight the need for planning authorities to further their conservation (e.g. National Environment and Rural Communities (NERC) Act 2006 Section 40). The site would meet criteria to allow it to be considered a local wildlife site (SINC) and the Hampshire Biodiversity Information Centre (HBIC) have proposed the site as a SINC. Currently there is not much variation across the site that would allow lower quality areas to be identified and enable an area for development to be identified. The type of habitat present and the information gained by HBIC demonstrates the land has intrinsic value that has been present for many years.

14.1.9 Policy DM2 does say development that would damage SINC's or habitats or species of principal importance will not be permitted unless the benefits outweigh the harm. There are no overriding benefits that would outweigh the harm to the nature conservation interests of the site. While it is accepted that when the application was considered in 2014 no ecological concerns were raised, the Ecologist now provides advice that overall the habitat is of regional nature conservation value and comprises a habitat that is recognised in national legislation as something public bodies have duties to show due regard. It would be best maintained as a coherent site, and any partial development would result in impacts on its integrity and loss that would be harmful.

14.1.10 Thirdly in relation to affordable housing contributions, on 19 May 2016 the Government issued planning guidance setting out the specific circumstances in which contributions for affordable housing and tariff style planning obligations (section 106 agreements) should not be sought from small scale and self-build development. This guidance has been reissued following the order of the Court of Appeal dated 13th May 2016 (*West Berkshire District Council and Another v The Secretary of State for Communities and Local Government*). The planning guidance specifies the circumstances in which contributions should not be sought as follows:

“Contributions should not be sought from developments of 10 units or less and which have a maximum combined gross floorspace of no more than 1,000 sqm;

In designated rural areas, local planning authorities may choose to apply a lower threshold of 5 units or less...;

Affordable housing and tariff style contributions should not be sought from any development consisting only of the construction of a residential annex or extension to an existing house”

This national guidance is at odds with Policy CS15 of the Council's Core Strategy. The presumption in favour of the development plan remains, in that the decision should be taken in accordance with the plan unless material considerations indicate otherwise. The new guidance is a material consideration which post-dates the application. However, the Secretary of State, through his Inspectors can be anticipated to give greater weight to the Government's national guidance unless there are reasons to make an exception

- .14.1.11 Whilst the need for affordable housing in this District is pressing, this in itself is unlikely to be considered by the Secretary of State as sufficient reason for the Council to apply its own development plan policy rather than applying national policy. Therefore it is recommended that no affordable housing or tariff style contributions are sought from this development, in accordance with National Planning Practice Guidance, contrary to the provisions of Policy CS15 of the Core Strategy
- 14.1.12 Whilst the need for affordable housing in this District is pressing, this in itself does not give rise to the sort of circumstances that can be considered exceptional. Therefore it is recommended that no affordable housing or tariff style contributions are sought from this development, in accordance with national Planning Practice Guidance, contrary to the provisions of Policy CS15 of the Core Strategy.
- 14.1.13 In conclusion, while the application was previously recommended to be approved, this was subject to the completion of a legal agreement by the end of March 2015. The legal agreement was not completed in time, and because of the adoption of CIL, the proposed on site SANGS can no longer be secured through a Section 106 Agreement. The main objective of the policy is to secure and provide the on site SANGS and due to the lack of a legal ability for this to be secured, the proposal fails to comply with policy. Moreover, while the proposed development no longer requires an affordable housing contribution, the delay in determining the application has led to the nature conservation issues on the site being re-assessed and it is now considered that the site benefits from a much higher degree of nature interest on the site which now prohibits partial housing development.

14.2 Officers previous report (8th October 2014)

- 14.2.1 The application site is a rectangular shaped open piece of grassland within the built up area of New Milton to the south of Lymington Road. There are no buildings on the land and currently the site is not used for any purposes and has the appearance of a paddock. There is currently a single access into the site from Lymington Road provided by a metal gate. There are numerous mostly mature trees around the northern, western and southern boundaries which are protected by a Tree Preservation Order, with a small woodland to the east. The site lies to the north of the rear gardens to properties in Chestnut Avenue, which consist of substantial detached dwellings in generous plots. Smaller terraced and semi detached properties in Oxey Close abut parts of the northern site boundary. On the western boundary of the site are detached properties in Farm Lane North with a public footpath running parallel to part of the site.
- 14.2.2 This planning application proposes the erection of four dwellings and two garages together with the provision of an informal area of open space in the form of a Site of Alternative Natural Green Space (SANGS). The application has been made in outline with details only of access to be considered at this stage. All other matters are reserved. The planning application has been accompanied by an illustrative site layout plan showing the positioning of the four dwellings and internal access road and the area of open space. A minimum of 0.3 hectares of land on the site will form the area of open space to be used as SANGS.

- 14.2.3 The proposed layout of the site shows an internal access road from Lymington Road running through the site with two dwellings sited on the eastern part of the site, and the area of open space to be used as a SANGS is situated on the western part of the site. The internal access road leads onto the area of open space and would effectively be connected to an internal footpath providing a link through the whole site from Lymington Road to the existing footpath to the west of the site. It should be noted that whilst the submitted site layout plan is an illustrative drawing, it does show a possible layout of the site for both the dwellings and area of open space and the full details of the area of open space and housing layout would be assessed as part of a reserved matters application.
- 14.2.4 There have been previous applications on this site back in 1994 and 1995, which were refused permission and dismissed on appeal. The application dismissed on appeal involved a development of five large detached dwellings on the whole of this site with the access to be provided between two existing residential properties in Chestnut Avenue. In dismissing the appeal, the Inspector did not raise any concerns relating to the effect on the character of the area or trees, however, he was concerned with the impact of the proposed access road on the living conditions of the adjoining residents at 30 and 32 Chestnut Avenue. In the decision letter, the Inspector stated that it might be possible to gain access to the site from Lymington Road but it is a relatively busy principle traffic route and in the absence of any detailed evidence on this matter, he was not satisfied that such an access could be provided without prejudicing highway safety.
- 14.2.5 In assessing this proposal, it is important to start with the policy position. In the past, this piece of land was identified in the local plan as a Landscape feature, which is defined as undeveloped areas such as a small amenity space, gaps between parts of settlements, woodlands etc, which are areas of visual amenity value and help create a particular local character. The aim of the policy was to protect the area from developments which would detract from the contribution they make to the quality and character of the local environment. Whilst this policy is still a saved policy, the application site has been removed from its designation as a landscape feature and has been re- allocated in the Local Plan Part 2. .
- 14.2.6 The relevant policy in this case is Policy NM12 of the adopted Local Plan Part 2 Sites and Development Plan Document, which has superseded the saved policies in the local plan. Policy NM12 states that the site in question is proposed as a new public open space to be managed as Suitable Alternative Natural Green Space (SANGS). The policy seeks to mitigate the impact of recreational impacts from residential development on the European Nature Conservation designations and to secure long term public access to this area. However, in order for this area of open space to happen and be implemented, the Council may consider a very limited amount of 'enabling development' on the site provided a minimum of 0.3 hectares of accessible public open space in the form of natural green space is provided. The details of the creation of this area of open space which would be managed as a SANGS is set out in the Councils adopted Mitigation Strategy. It states that provision of the area of natural green space is linked to the public right of way to the west of the site.

- 14.2.7 The proposed illustrative layout of the site shows that an area of open space in the western part of the site which equates to over 0.3 hectares in size would be provided. The area of open space would be an informal grassed area with scattered trees with a footpath link through the site connecting to the existing public footpath to the west in Farm Lane North to Lymington Road. This would enable people to access and utilise this area from the surrounding areas and provide a pedestrian connection through the site. This area of open space would need to be transferred to the District Council for ownership and control so that it can be managed as a SANG, together with the land being laid out in accordance with an approved scheme prior to occupation of the first dwelling on the site and for public access to this area in perpetuity. These matters would be secured through the completion of an acceptably worded legal agreement. It is considered that the provision of four dwellings on this site together with the internal access road from Lymington Road enables the implementation of the area of open space to be accessible to the public and on this basis, it is considered that the proposal would comply with Policy NM12.
- 14.2.8 While concerns have been expressed that the proposed internal access road with its turning head reduces the extent and usable area of open space, the actual level of open space to be provided for the development exceeds the policy requirement which is 0.3 hectares. Accordingly an objection on this basis would not be reasonable and it should be noted that the length of the turning head has been reduced further to maximise the level of open space in this area.
- 14.2.9 Concerns have also been expressed that the proposed internal footpath links onto a private garden area and does not connect to the existing public footpath to the west. This is an important point given the need to provide public access into the site from the existing public right of way to the west of the site. However, the red line extends up to the boundary of the footpath and the illustrative plan showing the internal footpath has now been amended to show a connection and link to the existing footpath, this would ensure that the open space is accessible to the public. It should be noted that the proposal is to create a pedestrian access point onto the existing footpath network.
- 14.2.10 In terms of visual impact, the actual layout of the site, design of the buildings, and the layout of the area of open space will be provided in full in a reserved matters application. The submitted illustrative drawing demonstrates that the proposed number of houses can be acceptably accommodated on the site enabling the required area of open space and also shows a spacious layout with the proposed dwellings benefiting from good sized gardens and space between the buildings together with a housing layout that invites the public into the site to use the area of open space. It should be noted that the proposed area of open space will require modest improvement for such purposes as informal amenity, including some bulb planting, a few additional trees, and some facility for sitting to enjoy the space, but it is not intended to create formal play areas with its associated equipment.
- 14.2.11 Accordingly on the basis that the basic concepts, layout and design principles are followed in the illustrative plans, there is no reason why a high quality development should not result and if planning permission were to be granted, there should be a condition which ensures that the development should reflect the design principles on the illustrative plans.

- 14.2.12 In terms of residential amenity, it is considered that four dwellings could be provided on this site without causing significant impact on the privacy, light and outlook of the adjoining and nearby residents and this has been demonstrated on the submitted illustrative drawing. Overlooking would be a matter to be considered in any reserved matters application when the appearance of the buildings would also be considered. However, the dwellings are sited and orientated away from the residents to the south in Chestnut Avenue in which two dwellings are sited more than 20 metres away from the rear boundary with the residents. One of the proposed dwellings in the south east part of the site is closer at a distance of 8 metres which would be acceptable. The proposed dwellings would be located closer to the residents at Nos. 1 and 2 Oxey Close, however, the distances from the rear elevation of the proposed dwellings to the rear elevation of the neighbours measures more than 22 metres which is acceptable.
- 14.2.13 In terms of tree matters, there are many substantial trees on and adjacent to the site which are protected by a Tree Preservation Order and are mainly located around the perimeter of the site. The Tree Officer considers that there is scope for development of the site which could include the long term retention of the important trees and the submitted illustrative layout shows that the distances to the trees and the level of garden spaces would be acceptable without effecting these trees. The proposed detached garage would be sited under the canopy of the tree located on the southern boundary, however, the Tree Officer considers that the tree is in poor condition and the loss of the tree is acceptable. Accordingly, the Tree Officer is satisfied that the site could accommodate 4 dwellings with access from Lymington Road without undue risk to the protected trees from either construction works or longer term pressure from occupiers.
- 14.2.14 With regard to highway safety matters, it is proposed to provide access onto Lymington Road, which is a classified Road. The applicant commissioned a speed survey which provided an 85%ile wet weather speed of 31mph for vehicles travelling in a westerly direction. The necessary visibility splay required to accommodate this 85%ile speed is indicated to incorporate the splay, however, it should be noted that the part of the splay passes over land in the ownership of a third party.
- 14.2.15 The Highway Authority have raise an objections to the proposal and considers that on the basis that part of the visibility splays (in the eastern direction) passes over unregistered land (a small part of the visibility splay is outside highway land and the applicants land) the provision/ retention of the splays cannot be guaranteed by the imposition of condition.
- 14.2.16 In response, whilst Officers understand the comments made by the Highway Authority, a reason for refusal on the grounds that part of the visibility splay is located on unregistered land would not be reasonable. Planning permission can still be granted with a condition for the visibility splays to be provided and it will be the responsibility of the applicant to ensure that the condition is and can be adhered to. The applicant has enquired to find out who the owner of this piece of land is, however, they have had no success. On other highway matters, the proposed internal access shows a turning head within the layout to ensure refuse and emergency vehicles can enter and leave the site in a forward gear. Matters of car parking spaces and provision would be considered as part of any reserved matters application.

- 14.2.17 The site does have potential for protected species and an ecological report has been submitted in support of the application. It is considered that further survey work is required and this has been requested and will be the subject of an update before Committee.
- 14.18 In terms of contributions, the proposed development would provide an area of 0.3 hectares of land to be used as a SANG and area of informal open space and this would accord with the policy requirement for habitat mitigation and open space for the site. The SANGS on the site will have to be provided and laid out in accordance with an approved scheme as detailed in any reserved matters application and the land must be transferred to the District Council together with a financial contribution towards future maintenance and monitoring (a total of £16,800 and £50 per dwelling). Access to the SANGS through the housing development for the public to use will have to be secured as part of the Section 106 Agreement.
- 14.2.19 The proposed development would also require an off site affordable housing contribution, in which the final payment figure will be dependant on the number of bedrooms in the reserved matters application. The proposed development would also require a contribution towards transport improvements.
- 14.2.20 Concerns have been expressed that there are restrictive covenants on the land, however, this is not a planning matter. Concerns have been expressed that the red line boundary is not correct in terms of land ownership. However the applicant in response has confirmed that the red line boundary is correct. Matters of boundary disputes and ownership are not planning matters.
- 14.2.21 In conclusion, the proposal to develop part of the site for four dwellings would enable the remainder of the site, which equates to 0.3 hectares in size to be used as an area of informal open space to be used as SANGS. The illustrative layout shows how the site could be developed in this context together with a useable area of open space which connects Lymington Road with the existing public footpath at Farm Lane North. Whilst concerns have been expressed from the Highway Authority that part of the visibility splays would be located on unregistered land, this is a matter for the applicant to resolve and ensure that the proposed development can achieve acceptable visibility splays. The applicant has agreed to enter into a Section 106 Agreement to provide contributions towards affordable housing and transportation improvements, together with the provision of on site public open space and its maintenance and monitoring contributions.
- 14.2.22 **Heads of Terms of the Proposed Section 106 Agreement**

The transportation contribution would be based on the following as detailed in the reserved matters application:

For a one bedroom dwelling: £1980

For a two/ three bedroom dwelling: £3745

For a four bedroom dwelling: £5457

The affordable housing contribution would be based upon the following as detailed in the reserved matters application:

For a one bedroom dwelling: £13,750

For a 2 bedroom dwelling: £25,540

For a three bedroom dwelling: £36,720

For a four bedroom dwelling: £38,940

The **open space/ SANGS** contribution would be based on the following:

A minimum of 0.3 hectares of land to be used as SANGS/ Open space to be provided within the identified area (to be shown as hatched on a plan) and all of the SANGS/ Open space must be transferred to New Forest District Council and laid out in accordance with an agreed scheme submitted as part of the Reserved Matters Application. The area of open space/ SANGS must be accessible to the public (right of way through the site) from Lymington Road through the proposed housing development and connect to the existing public right of way to the west in Farm Lane North. The SANGS/ open space maintenance contribution based on the calculation of £56,000 for every hectare (a total of £16,800) will be required, the payments payable on the Transfer of land. The SANGS/ open space will have to be made available for use prior to first occupation of any Dwelling on the land. SANGS monitoring sum of £50 per dwelling to be payable to NFDC when the land is transferred.

- 14.2.23 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 this recommendation, if agreed, may interfere with the rights and freedoms of the applicant to develop the land in the way proposed, the objections to the planning application are serious ones and cannot be overcome by the imposition of conditions. The public interest and the rights and freedoms of neighbouring property owners can only be safeguarded by the refusal of permission.

15. RECOMMENDATION

Refuse

Reason(s) for Refusal:

1. Policy NM12 of the adopted Local Plan Part 2 Sites and Development Plan Document allocates the site as new public open space to be managed as Suitable Alternative Green Space (SANGS) and the site is also identified as a specific mitigation project in the Adopted Mitigation Strategy for European Sites Supplementary Planning Document. The proposed development fails to secure the on site public open space to be managed as a SANGS and in the absence of which the recreational impacts of the proposed development on the New Forest Special Area of Conservation, the New Forest Special Protection Area, the New Forest Ramsar site, the Solent and Southampton Water Special Protection Area, the Solent and Southampton Water Ramsar site, and the Solent Maritime Special Area of Conservation would not be adequately mitigated and the proposed development would therefore be likely to unacceptably increase recreational pressures on these sensitive European nature conservation sites. Moreover, the proposed development fails to secure to make any contribution to on site provision of informal public open space to meet the needs of the occupants of the development for public open space. For these reason, the proposal is contrary to Core Strategy to Policies CS7 and CS25 of the Core Strategy for the New Forest District outside the National Park and Policies NM12 and DM3 of the New Forest District Local Plan Part 2: Sites and Development Management and adopted Mitigation Strategy for European Sites Supplementary Planning Document.
2. The site has been assessed as comprising high quality, unimproved grassland, which is a type of habitat that has intrinsic value that would meet criteria to allow it to be considered a local wildlife site (Site of Importance for Nature Conservation). Local Plan Policy DM2 of the New Forest District Local Plan Part 2: Sites and Development Management states that development that would damage SINC or habitats of species of principle importance will not be permitted unless the benefits outweigh the harm. The proposed development would result in the loss of and unacceptably impact on the integrity, habitat and values of the nature conservation interest of the site, for which there are no overriding benefits that would outweigh the harm to the nature conservation interest of the site. For this reason, the proposal is to Policy CS3 of the Core Strategy for the New Forest District outside the National Park and Policy DM2 of the New Forest District Local Plan Part 2: Sites and Development Management Plan and adopted Mitigation Strategy for European Sites Supplementary Planning Document.

Notes for inclusion on certificate:

1. In accordance with paragraphs 186 and 187 of the National Planning Policy Framework and Article 31 of the Town and Country Planning (Development Management Procedure) (England) Order 2010, 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 concerns raised one significant and are not capable of resolution through negotiation.

2. This decision relates to amended plans received by the Local Planning Authority on the 20th March 2014 and the 12th June 2014.

Further Information:

Major Team

Telephone: 023 8028 5345 (Option 1)



New Forest
DISTRICT COUNCIL

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**Planning Development
Control Committee**
August 2016

Item No: 3a
Land South of
Lymington Road
New Milton
13/11276
SZZ494

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

