

Application Number: 15/10039 Full Planning Permission

Site: Land adjacent 1 DUKESWOOD DRIVE, DIBDEN PURLIEU,
HYTHE SO45 4NH

Development: Detached house

Applicant: BSP Projects Ltd

Target Date: 27/03/2015

Extension Date: 30/09/2016

1 REASON FOR COMMITTEE CONSIDERATION

Previous Committee consideration and contrary to Policy

2 DEVELOPMENT PLAN AND OTHER CONSTRAINTS

Landscape Feature
Public Open Space Existing
Built up area
Flood Zone 1/2/3

3 DEVELOPMENT PLAN, OBJECTIVES AND POLICIES

Core Strategy

Objectives

1. Special qualities, local distinctiveness and a high quality living environment
2. Climate change and environmental sustainability
3. Housing
6. Towns, villages and built environment quality
8. Biodiversity and landscape

Policies

Adopted Local Plan First Alteration

Saved Policy DW-E12: Protection of Landscape Features

Core Strategy

CS2: Design quality
CS4: Energy and resource use
CS6: Flood risk
CS7: Open spaces, sport and recreation
CS10: The spatial strategy
CS15: Affordable housing contribution requirements from developments
CS24: Transport considerations
CS25: Developers contributions

Local Plan Part 2

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 - Mitigation Strategy for European Sites
SPD - Parking Standards

6 RELEVANT PLANNING HISTORY

- 6.1 House, access (91624) Granted with conditions on the 6th March 2008
- 6.2 Erection of a house with integral garage (06811) Refused on the 20th January 1977

7 PARISH / TOWN COUNCIL COMMENTS

Hythe Parish Council: Recommend permission but would support a delegated decision

8 COUNCILLOR COMMENTS

None

9 CONSULTED COMMENTS

- 9.1 Land Drainage: No objection subject to condition
- 9.2 Environment Agency: No objection subject to condition
- 9.3 Hampshire County Council Highway Engineer: No comment received to date
- 9.4 Tree Officer: No objection subject to condition
- 9.5 Open Space Officer: Objection. The proposal would result in the loss of an existing landscape feature and area of public open space.
- 9.6 Council's Valuer: If the target Affordable Homes contribution is included in the appraisal, the residential development land value falls below the current modest Site Value. Therefore it is appropriate to reduce the Affordable Homes contribution in this case. If the Affordable Housing contribution is adjusted to £14,265 the residual development site value is in equilibrium with the threshold Site Value.
- 9.7 Policy: Objection. The proposal would result in the loss of an existing landscape feature and area of public open space.

10 REPRESENTATIONS RECEIVED

None

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 £1152 in each of the following six years from the dwellings' completion, and as a result, a total of £6912 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 £12,048.80

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 proposal was acceptable as submitted.

14 ASSESSMENT

14.1 Introduction

14.1.1 The application was considered by this Committee on the 9th March 2016 and the resolution was for the Executive Head of Economy, Housing and Planning be authorised to Grant Permission subject to the completion by 30th September 2016, 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 an affordable housing

contribution of £14,625. The legal agreement has not been completed and this application is now referred to the Committee following changes to government policy as set out below.

- 14.1.2 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. 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;

- 14.1.3 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 which requires many small scale housing developments including the current application proposal to make affordable housing provision
- 14.1.4 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 adoption of the Local Plan. It is for the Council to decide which should prevail in the determination of a planning 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.
- 14.1.5 While 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.

14.2 Previous Committee Report

- 14.2.1 The site lies on the corner of Whitewater Rise and Dukeswood Drive within the built up area of Hythe. There are no buildings or structures on the site, which is currently vacant. At one time the site possibly formed part of the residential curtilage to No 1 Dukeswood Drive. The site is a square shaped piece of land with dense vegetation and trees to the west, north and south boundaries. The land is on a much lower level than Dukeswood Drive. To the north of the site is a stream and footpath running through a line of trees and the site lies within a high risk flood zone. Part of the site is located within land identified as a Landscape Feature, existing public open space.

- 14.2.2 The character of the surrounding area is residential and comprises detached, semi-detached and terraced housing (linked by garages). Along Dukeswood Drive, the residential properties range from two storey dwellings to chalet style dwellings. For the most part, the dwellings have their ridge lines running parallel to the road, but some of the properties are designed with front gables. To the front of the properties there are no front boundary walls or enclosures. Rear garden areas are typically small with a dense line of trees lining their rear boundaries.
- 14.2.3 The proposal is to construct a detached dwelling with attached garage on this site with access from Dukeswood Drive. The main elevation of the proposed dwelling would front onto Dukeswood Drive and the proposed layout would incorporate a side and rear garden area. The majority of the existing trees along the site boundary would be removed and new tree planting is proposed around the perimeter of the site. Visually the proposed dwelling would be a conventional two storey dwelling with a pitched roof with part front gable end.
- 14.2.4 Planning permission was granted on this site in 2008 for a detached dwelling, which comprised a building which would have fronted onto Dukeswood Drive. That permission has now expired. That approval involved the dwelling having a front and rear garden and the majority of the land to the west of the site where there is dense tree coverage being retained.
- 14.2.5 In assessing the effect on the character and appearance of the area, the site lies within the built up area and part of the site lies within an area designated as a Landscape feature and existing public open space. The landscape feature and public open space designation extends along the stream to the north of the site and the western half of the site on the corner of Dukeswood Avenue and Whitewater Rise. It should be noted that the site is not in public ownership.
- 14.2.6 Saved Policy DW-E12 of the Local Plan (First Alteration) relates to the protection of landscape features and states that development will not be permitted which would cause the loss of, or irreparable damage to, open areas or other landscape features, which contribute to the character or setting of a defined built-up area and/ or screen development which would otherwise have an unacceptable visual impact. The subtext to the policy states that within and adjoining the defined built-up areas, there are undeveloped areas and landscape features, such as small amenity spaces, gaps between parts of settlements, woodlands, ponds etc, which are of visual amenity value, and help to create a particular local character and identity. This policy seeks to protect them from developments which would detract from the contribution they make to the quality and character of the local environment. Where appropriate the local planning authority will also encourage management initiatives to maintain and enhance them.
- 14.2.7 In terms of the loss of open space, part of the site is allocated in the local plan as existing open space (exactly the same area which is identified as a landscape feature). The land has not been developed as public open space and there is no direct access for the public to use this land. The Council's Open Space Officer is concerned that although the land is not currently used as open space, it is allocated

for such purposes and the loss of this area would affect the Council's overall open space requirements and the proposal would also result in the loss of the landscape feature.

- 14.2.8 In response, the proposed dwelling and rear garden area does not extend into these areas. It is the proposed side garden area which would extend into the designated areas. Given that the land has never been laid out as open space or made available for public use, it is very unlikely that it would ever become available for public open space in the foreseeable future. This is not to say that every piece of land which is designated as a landscape feature or area of public open space which is in private ownership can be developed. However, it is felt that in this case, the extent of the area is very small, and it will not be available for public use in the future. The land to the north of the site along the stream is also defined as public open space, however, in this area there is a footpath and it is available for the public to use.
- 14.2.9 Moreover, it is clear that there are a number of trees and vegetation along the western and northern boundaries of the site, some of which are in a poor condition and over the years it would appear that the density of the vegetation has been reduced. None of these trees are protected. The applicant seeks to create a much improved tree planting proposal with a 6 metre screen around the perimeter of the site and this could include a mixture of field maple, scots pine and birch trees. The final details can be dealt with by a suitably worded planning condition.
- 14.2.10 In assessing this proposal, while some of the proposed side garden encroaches into the land designated as a landscape feature, this is only a small area and the proposal seeks to provide a much enhanced landscaped area with a better tree planting scheme extending to 6 metres deep around the perimeter of the site. It is felt that the 6 metre landscape buffer would ensure that a sufficient area of the landscape feature would be retained and a planning condition can also be imposed to prevent sheds or outbuildings in the side garden without the prior approval of the Local Authority. On balance it is considered that any harm from the removal of some trees and vegetation will be improved by an enhanced planting proposal, which would screen the development and retain the important landscape feature on the entrance to Dukeswood Drive.
- 14.2.11 Visually, the proposed dwelling is a different design to some of the other properties in the street, which predominantly have their ridge lines running parallel to the street. However the proposed dwelling has been designed to a high standard and because of its detached form would add interest to this part of the street and would not have a harmful impact on the character of the area.
- 14.2.12 With regard to residential amenity, the first floor windows on the south elevation would face in the direction of Dukeswood Drive, which would be acceptable and would not have any adverse impact in terms of overlooking. In terms of the effect on the resident at No 87 Highlands Way, there is a dense woodland area that separates the proposed north side elevation from the rear garden of that resident. The distance from the proposed bathroom window to the rear boundary of No 87 measures around 12.5 metres, and given the screening, this is unlikely to unacceptably impact on that resident. Indeed the back to back

distance is 25 metres, which is acceptable. Concerning the resident at No 1 Dukeswood Drive the proposed development is located close to the conservatory and side elevation of that property. The proposed attached garage would be sited adjacent to the conservatory, which would help reduce the impact on this neighbouring property.

- 14.2.13 In terms of highway safety matters and car parking, the site layout shows a car parking space and integral garage, which is sufficient for the size of the dwelling. It is also not anticipated that the proposal would prejudice public highway safety.
- 14.2.14 In terms of flooding matters, the application has been submitted with a Flood Risk Assessment. Based upon the Environment Agency flooding maps, the site is in part located within Flood Zone 2/3, which is defined as a high risk flooding area and to the rear of the site is a stream which is approximately 4 metres below the ground level of the site. The Flood Risk Assessment states that if the building has a suspended ground floor level at 21.60 metres Above Ordnance Datum (AOD), this would be 0.6 metres above the highest predicted level on the site during the 100 year event. This would effectively mean that the proposed dwelling would be sited in Flood Zone 1 which would be outside the high risk flood areas and on this basis, the Sequential Test would not be applicable. The Environment Agency raises no objection to the proposal provided that the building is built to this 21.60 metres AOD.
- 14.2.15 The proposed development requires an affordable housing contribution, which is considered fair and reasonable. In this case, the required affordable housing contribution equates to £25,070. The applicants have submitted a viability appraisal which concludes that if the full affordable housing contribution was made, the proposed development would be unviable.
- 14.2.16 The Council's Valuer has assessed the submitted viability appraisal and states that if the target Affordable Homes contribution is included in the appraisal, the residential development land value falls below the current modest Site Value. Accordingly, it is appropriate to reduce the Affordable Homes contribution to £14,625.
- 14.2.17 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.
- 14.2.18 In conclusion, it is considered that the proposed development would not have an adverse impact on the character of the area or living conditions of the adjoining residents and subject to the completion of a Section 106 Agreement to secure contributions towards affordable housing the proposal would be acceptable.

14.2.19 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.

15. RECOMMENDATION

Grant Subject to Conditions

Proposed Conditions:

1. The development hereby permitted shall be begun before the expiration of three years from the date of this permission.

Reason: To comply with Section 91 of the Town and Country Planning Act 1990 as amended by Section 51 of the Planning and Compulsory Purchase Act 2004.

2. The development permitted shall be carried out in accordance with the following approved plans: site identification plans Rev A, adp/1424/p/101, adp/1424/p/102 Rev a, ADP/1424/P/100 rev a.

Reason: To ensure satisfactory provision of the development.

3. Before development commences, samples or exact details of the facing and roofing materials to be used shall be submitted to and approved in writing by the Local Planning Authority. The development shall only be implemented in accordance with the approved details.

Reason: To ensure an acceptable appearance of the building in accordance with policy CS2 of the Core Strategy for the New Forest District outside the National Park.

4. The development hereby permitted shall not be occupied until the spaces shown on plan ADP/1424/P/100 A for the parking and garaging of motor vehicles have been provided. The spaces shown on plan ADP/1424/P/100 A for the parking and garaging of motor vehicles shall be retained and kept available for the parking [and garaging] of motor vehicles for the dwellings hereby approved at all times.

Reason: To ensure adequate parking provision is made in the interest of highway safety and in accordance with Policy CS2 and CS24 of the Local Plan for the New Forest outside of the National Park (Core Strategy).

5. Before development commences a scheme of landscaping of the site shall be submitted for approval in writing by the Local Planning Authority. This scheme shall include :
- (a) the existing trees and shrubs which have been agreed to be retained;
 - (b) a specification for new planting (species, size, spacing and location);
 - (c) areas for hard surfacing and the materials to be used;
 - (d) other means of enclosure;
 - (e) a method and programme for its implementation and the means to provide for its future maintenance.

No development shall take place unless these details have been approved and all planting, seeding or turfing comprised in the approved details of landscaping shall be carried out in the first planting and seeding seasons following the occupation of the buildings or the completion of the development whichever is the sooner. Any trees or plants which within a period of 10 years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of a similar size or species, unless the Local Planning Authority gives written consent to any variation.

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).

6. No buildings, structures, fencing or other hardstanding shall be erected or installed within the landscaped feature as shown on Drawing No ADP/1424/P/100 Rev B unless otherwise agreed by the Local Planning Authority.

Reason: This area of land provides an important landscaped feature and buffer to the entrance to Dukeswood Drive and Partridge Road, and it is important to ensure that the landscaping and tree planting is not further removed and replaced with buildings, hardstanding, and additional garden areas in the future in accordance with Policy DW-E12 of the adopted New Forest District Local Plan First Alteration and CS2 of the Core Strategy for the New Forest outside the National Park.

7. The finished floor levels of the dwelling hereby approved shall be set no lower than 21.60 metres Above Ordnance Datum (AOD) as shown on the submitted plan reference ADP/1424/P/102 A or unless otherwise agreed by the Local Planning Authority.

Reason: To reduce the risk of flooding in accordance with policy CS6 of the Core Strategy for the New Forest District outside the National Park.

8. Before first occupation of the development hereby approved the applicant must design and install a surface water sustainable system to cater for the new impermeable areas (i.e. roofs) on the proposed development such that no additional or increased rate of flow of surface water will drain to any water body or adjacent land for storms up to 1 in 100 years including climate change.

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.

9. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015 (or any re-enactment of that Order) no extension (or alterations) 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).

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.

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 all the above apply and as the application was acceptable as submitted no specific further actions were required.

2. This decision relates to amended plans received by the Local Planning Authority on the 10th December 2015.
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
August 2016**

Item No: 3d
Land Adj 1
Dukeswood Drive
Dibden Purlieu
15/10039
SU4106

Scale 1:1250

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

