

Application Number: 15/11765 Variation / Removal of Condition

Site: POLICE STATION, 68-74 OLD MILTON ROAD,
NEW MILTON BH25 6DX

Development: Variation of condition 2 of Planning Permission 14/11441 to allow amended plan no's for variation to plot 3

Applicant: Perbury (Developments) Ltd

Target Date: 12/02/2016

Extension Date: 11/08/2016

1 REASON FOR COMMITTEE CONSIDERATION

Contrary to Policy and previous Committee consideration.

2 DEVELOPMENT PLAN AND OTHER CONSTRAINTS

Built up area
Town Centre

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

CS2: Design quality
CS10: The spatial strategy
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 - Parking Standards
SPD - Mitigation Strategy for European Sites
SPD - New Milton Local Distinctiveness

6 RELEVANT PLANNING HISTORY

6.1 Development of 7 dwellings comprised of 1 two storey block of 4 flats, 1 two storey block of 2 flats and 1 detached dwelling, parking and landscaping (11441) Granted with conditions on the 14th October 2015

7 PARISH / TOWN COUNCIL COMMENTS

New Milton Town Council: acceptable

8 COUNCILLOR COMMENTS

None

9 CONSULTEE COMMENTS

None

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 £8064 in each of the following six years from the dwellings' completion, and as a result, a total of £48384 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 £7,670.55.

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

14 ASSESSMENT

- 14.1 Planning permission has been granted for the redevelopment of this site for a total of 7 dwellings under planning reference 15/11441. The only work that has taken place on the site is the clearance of the buildings and the site is now prepared for development. There is no other evidence to indicate that planning permission 15/11441 has been implemented.
- 14.2 This application seeks consent to vary condition 2 of planning permission 15/11441 to allow a slight change to the size and design of the dwelling on plot 3. The changes entail the width of the rear projection being increased from 4.5 metres to 5.4 metres at ground floor level with a cat slide roof. The first floor window on the south west elevation would be relocated and fitted with obscure glass. No other changes are proposed.
- 14.3 Firstly in assessing applications to vary planning conditions, in effect, if approved, it would result in the issue of a new planning permission. This means that all planning issues have to be considered in light of policy, whether there has been any changes in circumstances at the site and any legal obligations. In this case, a Section 106 Agreement previously secured affordable housing and habitat mitigation contributions. All conditions previously imposed need to be re-considered and applied where necessary.

- 14.4 In assessing the proposed changes to plot 3, it is considered that the amendments to the size of the dwelling are very minor and would not have any adverse impact on the character of the area and living conditions of the adjoining neighbouring properties.
- 14.5 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.
- 14.6 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; 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
- 14.7 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.
- 14.8 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.

- 14.9 In conclusion, the current application to vary condition 2 in relation to the design and size of plot 3 is acceptable and would have no adverse impact on the character of the area and living conditions of the adjoining neighbouring properties. This application would essentially result in a new permission for the redevelopment of the site.
- 14.10 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
Habitats Mitigation			
Financial Contribution			

CIL Summary Table

Description of Class	GIA New	GIA Existing	GIA Net Increase	CIL Liability
Dwelling houses	91.99	0	91.99	£7,670.55 *

15. RECOMMENDATION

GRANT the VARIATION of CONDITION

Proposed Conditions:

- 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.

- The development permitted shall be carried out in accordance with the following approved plans: 15/1870/100B, 13/1870/102C, 13/1870/105 A, 13/1870/104 A, 13/1870/101 B

Reason: To ensure satisfactory provision of the development.

3. The development hereby approved shall only be constructed from the following materials unless otherwise agreed by the Local Planning Authority:

Plots 1 and 2

Existing materials reused and supplemented

Plots 3, 4 and 6-9

Facing Brick: Ibstock Thakenham red multi

Detail: Warnham Teracotta Stock

Roofing: Sandtoft Plain Tiles, Dark Heather Smooth with matching hips and ridges

Windows: White UPVC Cottage style as detailed on Drawing No 13/1870/101 B

RW Goods: UPVC Black

Rear Dormer to plots 4 and 5: Lead roof

Bay windows to plots 6 and 7 only: K Render buttermilk or similar

Balcony: Powder coated steel frame and hand rail. Glass guarding. Framing colour dark grey

Cycle store

Steel frame and mesh with sheet roof.

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 slab levels in relationship to the existing ground levels set to an agreed datum shall only take place in accordance with those details shown on Drawing No 15/1870/100B unless otherwise agreed by the Local Planning Authority.

Reason: To ensure that the development takes place in an appropriate way in accordance with policy CS2 of the Local Plan for the New Forest District outside the National Park (Core Strategy).

5. The first floor windows on the side [north east] elevation of the approved building identified as unit 9 shall be obscurely glazed and other than fan light opening fixed shut at all times.

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

6. No other first floor windows other than those hereby approved shall be inserted into the rear elevation (north west) of the building identified as Unit 3 unless express planning permission has first been granted.

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

7. The first floor window serving the bedroom/study on the rear (north west) elevation of the building identified as unit 3 shall at all times have a cill height of no lower than 1.7m above the floor of the room in which the window is installed.

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

8. The development hereby permitted shall not be occupied until the spaces shown on plan 15/1870/100B for the parking of motor vehicles and cycles have been provided. The spaces shown on plan 15/1870/100B for the parking of motor vehicles and cycles shall be retained and kept available for the parking of motor vehicles and cycles for the dwellings hereby approved at all times.

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

9. The landscaping scheme (hard and soft) shall be implemented in accordance with the submitted TGD Landscaping drawing 1515-0101; Landscape Maintenance plan 1515-401; 15/1870/101A by the end of the first planting and seeding seasons following the completion of development. Any trees or plants which within a period of 5 years from the completion of the development die, are removed or become seriously damaged or diseased, shall be replaced in the next planting season with others of similar size or species, unless the Local Planning Authority gives written consent to any variation.

Reason: To ensure the achievement and long term retention of an appropriate quality of development and to comply with Policy CS2 of the Local Plan for the New Forest District outside the National Park (Core Strategy).

10. The disposal of surface water from the site shall only take place in accordance with Drawing No 64919/05 Rev C and calculations, unless otherwise agreed in writing by 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.

11. Unless otherwise agreed by the Local Planning Authority, development other than that required to be carried out as part of an approved scheme of remediation must not commence until conditions relating to contamination no 12 to 13 have been complied with.

If unexpected contamination is found after development has begun, development must be halted on that part of the site affected by the unexpected contamination to the extent specified by the Local Planning Authority in writing until condition 14 relating to the reporting of unexpected contamination has been complied with in relation to that contamination.

Reason: To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors in accordance with policy CS5 of the Core Strategy for the New Forest District outside the National Park.

12. A detailed remediation scheme to bring the site to a condition suitable for the intended use by removing unacceptable risks to human health, buildings and other property and the natural and historical environment must be prepared, and is subject to the approval in writing of the Local Planning Authority. The scheme must include all works to be undertaken, proposed remediation objectives and remediation criteria, timetable of works and site management procedures. The scheme must ensure that the site will not qualify as contaminated land under Part 2A of the Environmental Protection Act 1990 in relation to the intended use of the land after remediation.

Reason: To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors in accordance with policy CS5 of the Core Strategy for the New Forest District outside the National Park.

13. The approved remediation scheme must be carried out in accordance with its terms prior to the commencement of development other than that required to carry out remediation, unless otherwise agreed in writing by the Local Planning Authority. The Local Planning Authority must be given two weeks written notification of commencement of the remediation scheme works. Following completion of measures identified in the approved remediation scheme, a verification report that demonstrates the effectiveness of the remediation carried out must be produced, and is subject to the approval in writing of the Local Planning Authority.

Reason: To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors in accordance with policy CS5 of the Core Strategy for the New Forest District outside the National Park.

14. In the event that contamination is found at any time when carrying out the approved development that was not previously identified it must be reported in writing immediately to the Local Planning Authority. An investigation and risk assessment must be undertaken in accordance with the requirements of condition 11, and where remediation is necessary a remediation scheme must be prepared in accordance with the requirements of condition 12, which is subject to the approval in writing of the Local Planning Authority. Following completion of measures identified in the approved remediation scheme a verification report must be prepared, which is subject to the approval in writing of the Local Planning Authority in accordance with condition 13.

Reason: To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors in accordance with policy CS5 of the Core Strategy for the New Forest District outside the National Park.

15. A monitoring and maintenance scheme to include monitoring the long-term effectiveness of the proposed remediation over a period of years as stated in the remediation scheme, and the provision of reports on the same must be prepared, both of which are subject to the approval in writing of the Local Planning Authority. Following completion of the measures identified in that scheme and when the remediation objectives have been achieved, reports that demonstrate the effectiveness of the monitoring and maintenance carried out must be produced, and submitted to the Local Planning Authority. This must be conducted in accordance with DEFRA and the Environment Agency's *'Model Procedures for the Management of Land Contamination, CLR 11'*.

Reason: To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors in accordance with policy CS5 of the Core Strategy for the New Forest District outside the National Park.

16. 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. In discharging condition No 16 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: 3h

Police Station
68-74 Old Milton Road
New Milton
15/11765
SZZ394

Scale 1:1250

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

