

**Application Number:** 16/10524 Full Planning Permission

**Site:** 35-37 HAMPTON LANE, BLACKFIELD, FAWLEY SO45 1ZA

**Development:** Use of ground floor as 2 flats; single-storey front & rear extensions; associated alterations; cycle store

**Applicant:** Millsam Development Co Ltd

**Target Date:** 09/06/2016

**Extension Date:** 17/08/2016

## 1 REASON FOR COMMITTEE CONSIDERATION

Contrary to Local Plan Policy in respect of affordable housing contribution

## 2 DEVELOPMENT PLAN AND OTHER CONSTRAINTS

HSE Consultation Zone  
Built-up Area  
Plan 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
- CS8: Community services and infrastructure
- 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
- DM19: Small local shops and public houses

## 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

Parking Standards  
Policy CS15 (Affordable Housing)  
Housing design, density and character  
Mitigation Strategy for European Sites

## 6 RELEVANT PLANNING HISTORY

14/10801	Use as single dwelling, fenestration alterations	Granted: 17 September 2014
80/NFDC/17200	Alterations and addition of a shop storage area and staff room and an additional unit of living accommodation consisting of lounge, 2 bedrooms, kitchen and bathroom (existing storeroom to be demolished)	Refused: 11 August 1980
79/NFDC/15243/ADV	Double sided projecting advertisement sign affixed to wall above fascia	Refused: 7 January 1980
77/NFDC/07384	2 attached garages (existing garage to be demolished)	Withdrawn: 8 June 1977
XX/NFR/13554	Extension to shop with additional living accommodation on 1st floor and construction of new shop front	Granted: 22 September 1964
XX/NFR/13394	Addition to dwelling and extension of store	Granted 17 July 1964
XX/NFR/09558	Addition of staff toilet accommodation	Granted: 22 December 1960

## 7 PARISH / TOWN COUNCIL COMMENTS

- 7.1 Fawley Parish Council:  
We recommend permission subject to the drawings listed on line being correctly titled; there is no good reason to retain this property as a retail unit with other retail outlets in the area.
- 7.2 The drawing titles on the Council's website have subsequently been corrected with the 'existing floor plans' and 'proposed floor plans' wrongly applied.

## 8 COUNCILLOR COMMENTS

No comments received

## 9 CONSULTEE COMMENTS

- 9.1 Land Drainage: no comment
- 9.2 Southern Gas: no objection

9.3 Hampshire County Council Highways Engineer: no objection subject to conditions

9.4 HSE: not within consultation distance

## **10 REPRESENTATIONS RECEIVED**

10.1 Two letters received raising the following concerns (summary):

- The property is already twice the size of all surrounding bungalows- is making it bigger 'the right way to go'?
- The front extension will bring the building further forward of the building line;
- The issue of parking has not been considered;
- The area of grass and gravel drive to the front of 39- 57 is private owned by the bungalows and new residents will not be allowed to park here;
- The sewage drain runs to the rear of the neighbouring property - this should be removed and rerouted along their own drive.

## **11 CRIME & DISORDER IMPLICATIONS**

n/a

## **12 LOCAL FINANCE CONSIDERATIONS**

If this development is granted permission and the dwellings built, the Council will receive £2304 in each of the following six years from the dwellings' completion, and as a result, a total of £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 £10,923.38.

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, the agent has been contacted to discuss the merits of the proposal while revised/ corrected plans have been submitted to indicate the allocated garden area to the proposed ground flat at the rear.

## 14 ASSESSMENT

### Introduction

- 14.1 The application relates to a detached two-storey building on the west side of Hampton Lane, Blackfield. The ground floor was previously used as a retail store although this use has ceased and planning permission has previously been granted for use of the building as a four-bedroom property. The first floor is already in residential use comprising a three bedroom flat.
- 14.2 The premises has a shopfront with a fascia board and a large area of hardstanding to the front for car parking. The site is within a predominantly residential area where there is a mix of property types and styles although the immediate area is characterised by bungalows with single-storey/ chalet style dwellings either side of the premises.
- 14.3 This application would allow the change of use and extension of the ground floor to create 2 two-bedroom flats; this would be in addition to the existing first floor flat.
- 14.4 Amended plan forms part of this application comprising:
- Correction to the proposed side elevation owing to the omission of a new side facing kitchen window which was shown on the proposed floor plan. This new plan shows that this would comprise a high level window;
  - Amended site layout plan to show the allocated garden for the rear ground floor flat;
  - A further amended site plan removing the far end of the rear garden from the application site because this land is not owned by the applicant. This new plan appears correct given that the end of the rear garden aligns with that of the neighbouring property as now shown.

## Principle of Development

- 14.5 Policy DM19 relates to small local shops and public houses. This policy states that outside of town centres and defined local shopping frontages, development that results in the loss of small local shops will not be permitted where this would result in the loss of an important local facility or if this would leave the local area without such a facility. In this case, the principle of conversion has already been established by 14/10801 at which time it was determined that in view of the alternative facilities which are available, such as Tesco Express and Sainsbury's local, it was not considered essential to retain this shop. As such, there is no objection to the application on this basis.
- 14.6 While the principle of the development is considered acceptable, there is some concern regarding the number of units proposed given the general pattern of surrounding development which is predominantly characterised by detached dwellings on regular sized plots and, further, given the proposed layout with the rear ground floor flat 'tucked' away at the rear. It is considered that this intensity of use would also be apparent given the creation of 3 parking spaces.
- 14.7 This matter has been discussed with the agent with it suggested that two flats (i.e. one at ground floor with the existing above) would be likely to provide a more satisfactory layout. In reply, the agent considers the current proposal to be acceptable and thus this scheme must be determined as submitted.
- 14.8 Accordingly, subject to those considerations outlined below, it is considered that it would be difficult to mount any sustainable objection to this proposal. In this regard, use as a retail store would have attracted a greater number of visitors while the parking area already comprises an area of hardstanding. Further, the design alterations would provide the appearance of a single dwelling while the agent has referenced landscaping that would be provided which, they feel, would enhance the appearance of this dilapidated site.

## Design/ Visual Amenity

- 14.9 The front extension would introduce two ground floor bay windows with a central entrance and it is considered that this would enhance the appearance of the building if used for residential purposes. Further, while the building already stands forward of the building line, this extension would be single-storey, of limited depth and appear subservient to the existing building. For this reason, there is no associated objection.
- 14.10 The rear extension would comprise a flat roof addition albeit with a dummy pitch, and would measure 6.7m in length and 7.2m in width; it would replace a smaller flat roofed extension. There is an element of concern given that this extension would risk an overly extended appearance to the building. Nevertheless, the extension would not be readily visible from any public viewpoint and thus it is considered that any associated refusal reason would be difficult to sustain.
- 14.11 The bike shed would replace an existing dilapidated outbuilding and would be typical of a small garden shed. There is no objection to this

- 14.12 The creation of 3 car parking spaces would be a regrettable element to this scheme having regard to the previous approval that could have allowed a front garden. The agent was prepared to reduce the number of spaces, given the existing drive and garage, to allow for additional landscaping but Hampshire Highways have resisted this. Given that this area is already an area of hardstanding, it is not considered that planning permission could be reasonably withheld, subject to a condition pertaining to planting and surface materials.

#### Residential Amenity

- 14.13 The neighbouring dwelling to the north comprises a bungalow which sits further back on its plot, aligning with the proposed rear extension. A 1.7m high (approx.) boundary wall aligns this boundary, with planting on both sides; no side facing windows in this neighbouring property are visible.
- 14.14 Given the single-storey nature and position of the proposed rear extension, it is not considered that any significant adverse impact in residential amenity would be caused; the same is true of the front extension which would be of limited depth and inset from the boundary. Regarding new side facing windows, bedroom 2 of flat 2 could allow views over this adjoining front garden; with bedroom 2 of flat 1 also potentially allowing views in this direction (the kitchen window would be a high level window). Nevertheless, the front garden is already overlooked from the road while the plans show a new boundary fence to screen views. It is recommended that this form the basis of an appropriately worded condition in the event that permission is granted. In addition, this change of use would reduce visitor numbers to the site. For this reason, it would be difficult to substantiate an objection having regard to the number of units proposed in relation to the intensity of use and level of activity likely to be generated.
- 14.15 The neighbouring property to the south is also single-storey (albeit with a room in the roof) but which aligns with the host building. It has no side facing windows but benefits from a rear conservatory on this boundary. The existing outbuildings to the rear of the application site screen views between these two gardens.
- 14.16 The existing garage which comprises one of the rear outbuildings might be retained, with a cycle store to replace the rearmost building. These would screen views of the rear extension which would remain inset from the boundary. Further, this neighbouring property lies to the south thus sun light would not be impacted, while again, the new kitchen window would have a high level opening. For these reasons, again it is not considered that any objection having regards to the impact on the amenities of these neighbouring occupiers would prove sustainable
- 14.17 With regards to the residential amenity of the proposed and existing occupiers on site, the two flats would provide a reasonable level of accommodation and while the windows to bedroom 2 of both flats would be side facing onto a boundary fence, the main outlook from each unit would be to the front and rear. On this matter, the updated site

plan showing part of the rear garden allocated to the rear ground floor flat would help to prevent any views into this new flat. It is recommended that a condition be attached regarding boundary treatments in the event that planning permission is granted.

- 14.18 All other neighbouring dwellings are positioned at an appreciable distance from the premises and therefore it is not considered that any significant adverse impact in residential amenity would be caused.

#### Highway Safety

- 14.19 Hampshire Highways advise that the proposal would generate a demand for 3 on site car parking spaces compared with approximately 6 spaces for the retail use. The proposal would therefore result in a reduction in demand for on site parking. No objection has therefore been raised, subject to a condition ensuring the provision and retention of the car parking spaces.

#### Affordable Housing

- 14.20 The applicant had commenced work on a proposed S106 agreement to secure an affordable housing contribution. This S106 agreement has not been completed and therefore this application has been put forward for a decision without any S106 agreement. This is for the following reasons:

- 14.21 On 19<sup>th</sup> 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 13<sup>th</sup> 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”*

- 14.22 This national guidance is at odds with Policy CS15 of the Council's Core Strategy which requires affordable housing provision to be made for all housing developments except:
- a single replacement dwelling;
  - an agricultural/ forestry workers dwelling or commoners' dwelling (but the removal of an occupancy condition will require an affordable housing contribution);
  - the conversion or subdivision (without significant extension) of an existing dwelling;

- a residential redevelopment scheme for 4 or less dwellings, involving the demolition of at least 1 dwelling, and where the site size is smaller than 0.1 hectare.

14.23 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.

14.24 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.

#### Outstanding Matters

14.25 With regards to the concerns raised about the foul sewer, the Council's Building Control team have advised that this would be for the two landowners to agree and that any changes would require the consent of Southern Water. It is not considered that these works could be reasonably required as a part of this planning application.

#### Habitats Mitigation

14.26 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.

#### Human Rights

14.27 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

<b>Proposal:</b>			
<b>Type of Contribution</b>	<b>NFDC Policy Requirement</b>	<b>Developer Proposed Provision</b>	<b>Difference</b>
<b>Affordable Housing</b>			
No. of Affordable dwellings	0	0	0
Financial Contribution	0	0	0
<b>Habitats Mitigation</b>			
Financial Contribution	£6,100	0	0

## CIL Summary Table

Description of Class	GIA New	GIA Existing	GIA Net Increase	CIL Liability
Dwelling houses	131	0	131	£10,923.38 *

## 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 external facing materials shall match those used on the existing building.  
  
Reason: To ensure an acceptable appearance of the building in accordance with policy CS2 of the Local Plan for the New Forest District outside the National Park Core Strategy.
  
3. The building shall not be first occupied until:
  - (a) details of the treatment of the site boundaries and boundary treatments in the rear garden area have been approved in writing by the Local Planning Authority, and
  - (b) these means of enclosure have been implemented in accordance with the details thus approved with these boundary treatments thereafter retained unless otherwise agreed in writing by the Local Planning Authority.

Reason: To ensure that the development takes place in an appropriate way and in the interests of residential amenity, all to accord with Policy CS2 of the Local Plan for the New Forest District outside the National Park (Core Strategy).

4. Before development commences a scheme of landscaping for the site shall be submitted for approval in writing by the Local Planning Authority. This scheme shall include :

- (a) a specification for new planting (species, size, spacing and location);
- (b) areas for hard surfacing and the materials to be used;
- (c) a method and programme for its implementation and the means to provide for its future maintenance.

No development shall take place unless these details have been approved and then only in accordance with those details.

Reason: To ensure that the development takes place in an appropriate way and to prevent inappropriate car parking to comply with Policy CS2 of the Local Plan for the New Forest District outside the National Park (Core Strategy).

5. The development hereby permitted shall not be occupied until the spaces shown on plan 4835:6B for the parking of motor vehicles and cycles have been provided. The spaces shown on plan 4835:6B for the parking of motor vehicles and cycles shall be retained and kept available for the parking of motor vehicles and cycles for the residential units 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).

6. 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.

7. The development permitted shall be carried out in accordance with the following approved plans: Existing Floor Plan: drg no. 4835:1; Existing Elevations; drg no. 4835:2; Proposed Ground Floor Plan: drg no. 4835:4; Proposed Elevations; drg no. 4835:5; Proposed Site Layout Plan: drg no. 4835:6B

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 agent has been contacted to discuss the merits of the proposal whilst an updated plan has been submitted showing how the amenity area would be divided.

**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: 30**

**35-37**

**Hampton Lane  
Blackfield Fawley  
16/10524  
SU4401**

**Scale 1:1250**

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



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