

Application Number: 16/10621 Full Planning Permission

Site: 9 HURST ROAD, MILFORD-ON-SEA SO41 0PY

Development: 2 pairs of semi-detached houses; parking; access;
demolition of existing

Applicant: Pathway Construction Ltd

Target Date: 26/07/2016

Extension Date: 10/08/2016

1 REASON FOR COMMITTEE CONSIDERATION

Contrary to policy and Parish Council view.

2 DEVELOPMENT PLAN AND OTHER CONSTRAINTS

Built up area

3 DEVELOPMENT PLAN, OBJECTIVES AND POLICIES

Core Strategy

Objectives

1. Special qualities, local distinctiveness and a high quality living environment
6. Towns, villages and built environment quality

Policies

- CS1: Sustainable development principles
- CS2: Design quality
- CS15: Affordable housing contribution requirements from developments
- 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
- Achieving Sustainable Development
- NPPF Ch. 6 - Delivering a wide choice of high quality homes
- NPPF Ch. 7 - Requiring good design

5 RELEVANT SUPPLEMENTARY PLANNING GUIDANCE AND DOCUMENTS

SPD - Housing Design, Density and Character
SPG - Milford-on-Sea Village Design Statement
SPD - Parking Standards

6 RELEVANT PLANNING HISTORY

- 6.1 15/10595 - (O/L) 2 pairs of semi-detached houses, access, parking. Refused 9.7.15, appeal dismissed (Appeal 2).
- 6.2 15/10008 - 2 pairs of semi-detached houses, parking, access, demolition of existing. Refused 12.3.15.
- 6.3 12/98339 - 2 pairs of semi-detached houses, access, parking, demolition of existing. Refused 10.5.12, appeal dismissed (Appeal 1).
- 6.4 07/90117 - terrace of 4 houses, 1 block of 2 flats. Refused 11.7.07, appeal dismissed.
- 6.5 05/86262 - one pair of semi-detached houses, one block of 3 apartments, new access. Refused 13.12.05, appeal dismissed.

7 PARISH / TOWN COUNCIL COMMENTS

Milford on Sea Parish Council - recommend refusal and would not accept a delegated approval. The proposal would negatively affect the open nature of the area with particular concerns in respect of the gable to plot 4 and the proximity of its driveway to the junction of Hurst Road and Sea Road. Affordable housing should be appropriately resolved (this comment relates to the original submission).

8 COUNCILLOR COMMENTS

Cllr Kendal - supports local objections relating to design, requests a firm stance to be taken on affordable housing

9 CONSULTEE COMMENTS

- 9.1 Land Drainage - recommend approval subject to conditions
- 9.2 Hampshire County Council Highway Engineer - no objections
- 9.3 Southern Gas Networks - offer advice

10 REPRESENTATIONS RECEIVED

- 10.1 Objections have been received from 8 local residents. Their concerns are:
- gable end of plot 4 extends further than it should into open area
 - loss of light
 - poor design and layout
 - increased traffic congestion
 - fails to comply with CS2
 - proposal will be an eyesore
 - over crowded site
 - gable doesn't enhance the environment

- existing property is sited appropriately
- loss of privacy
- there have been no significant changes to the scheme
- proximity of access to corner is dangerous and highway safety issues have not been properly addressed
- amendments will not fully address concerns

10.2 Three further letters of objection have been received following re-consultation. raising concerns already referred to in paragraph 10.1 above.

11 CRIME & DISORDER IMPLICATIONS

None

12 LOCAL FINANCE CONSIDERATIONS

If this development is granted permission and the dwellings built, the Council will receive £4,608 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.

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 £40,750.06.

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 view of the outline nature of the previous application, dismissed due to the lack of affordable housing contributions, guidance was sought from previous Inspector's decisions with regard to the siting and design of the dwellings, in particular, plot 4. Amended plans have been received to address the outstanding issues which were readvertised and any further responses will be reported to Committee.

14 ASSESSMENT

- 14.1 The site lies within the built up area of Milford on Sea along the popular seafront. There is a lengthy planning history for this site dating back over 10 years and this is partly due to the difficult nature of the plot with flats to the west, a three storey property to the rear and a large open space to the east bound by a variable unruly hedge and which is considered to be an important feature of the locality. The proposal follows the dismissed appeal for a similar scheme but which was in outline form. The current scheme is a full planning application for two pairs of semi-detached three storey houses with integral garages. Access to the dwellings would be provided off Hurst Road.
- 14.2 The main issues to consider with this application are the siting and design of the proposed dwellings, neighbour amenity, highways and the affordable housing situation. The lack of a contribution towards the latter was the only reason for the last appeal to fail.

Affordable Housing

- 14.3 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.

- 14.4 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.
- 14.5 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.

Siting

- 14.6 With regard to the siting of the proposed dwellings, it reflects that from the outline proposal and the previous full application. In determining these appeals, the Inspectors concluded that plot 4 would be set back by a reasonable distance from the corner and that a condition could protect the general openness of the corner in terms of built form, but not restricting vegetation which is already quite tall in places. It is not considered therefore, that a recommendation for refusal could be justified on the grounds of the proposed built form being sited too far east. In terms of the spacing between the two buildings, the Inspector, in determining appeal 2 concluded that 'whilst there are some wider gaps between buildings to the west, ... there are also similarly closely-spaced buildings along the sea front to the east'. It would therefore be inappropriate to refuse permission on the grounds that there was inadequate space between the buildings.
- 14.7 Given the corner location of the site, it has always been considered appropriate to ensure that the easternmost dwelling addresses the corner and does not offer a blank side elevation to Sea Road. The design put forward in appeal 1 was criticised for resulting in almost a full three-storey structure which, at the time of the appeal decision, was contrary to the now superseded policy MS-1 which allowed only appropriately designed accommodation within the roof space. Combined with front and rear gables, it was considered to be overly urban and intensive. By contrast, the proposal has no projecting elements to the east of the side wall to plot 4. However, the first floor living space and bedroom above have an additional side window which rises above the eaves, culminating in a dormer to the side elevation. There are other examples of floor to ceiling windows and glazed dormers elsewhere along Hurst Road and it is considered that the design would reflect the character of the development to the opposite side of Sea Road.

Highways

- 14.8 It is noted that many comments raise the access for plot 4 as being of concern, although the Highway Authority has consistently accepted that this layout is acceptable in highways terms and Inspectors have agreed with this point.

Amenity

- 14.9 With regard to residential amenity, the rear windows above ground floor level are indicated as being obscure glazed. They relate to landings, staircases, WCs or kitchens. While the comments of local residents have been noted with regard to the potential loss of privacy, the Inspector for appeal 1 considered that, in view of the open nature of the kitchen/living area, subject to the windows being obscure glazed and fixed shut, overlooking from these windows would be avoided.
- 14.10 In dismissing Appeal 2 the Inspector recognised that the proposed development would have an impact on views from No.50 Sea Road at first and second floor level. He stated that the appeal development has the potential to curtail "private views from No. 50 to the south west, particularly from the first floor, whilst retaining the present open views to the south east and the Isle of Wight" and that "I consider that to be reasonable given that there is no right in planning law, policy or practice, to keep open a view from private land across other private land".

Other Matters

- 14.11 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.
- 14.12 This site has been considered at appeal on several occasions with the design of the dwelling and the lack of affordable housing contributions the only outstanding matters. The current proposal has been designed such that there are no additional issues such as residential amenity or highway safety to re-consider and the outstanding matters are now considered to have been satisfactorily addressed.
- 14.13 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
No. of Affordable dwellings	0	0	0
Habitats Mitigation			
Financial Contribution	£17,000		

CIL Summary Table

Description of Class	GIA New	GIA Existing	GIA Net Increase	CIL Liability
Dwelling houses	664.5	0	664.5	£40,750.06 *

15. RECOMMENDATION

That the Executive Head of Economy, Housing and Planning be **AUTHORISED TO GRANT PERMISSION** subject to:

- i) the receipt of no new material objections to the submitted amended plans before August 10th 2016.
- ii) the imposition of the conditions set out below.

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: Design and Access Statement, 106B, 10C, 11C, 209A.

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. Before use of the development is commenced provision for parking shall have been made within the site in accordance with the approved plans and shall be retained thereafter.

Reason: To ensure adequate on-site car parking provision for the approved development and in accordance with policy CS2 of the New Forest District Council Core Strategy.

5. Prior to the occupation of the first dwelling, plans and particulars showing details of the provisions of cycle storage within the site shall be submitted for approval in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved details before the use of the development is commenced and shall be retained thereafter.

Reason: To ensure adequate provision within the site and in accordance with policy CS2 of the New Forest District Council Core Strategy.

6. Before first occupation of the development hereby approved the applicant shall have set up a detailed scheme for the future maintenance of the sustainable drainage system, including arrangements of the responsible parties for the maintenance of the sustainable drainage system. The system shall thereafter be retained and maintained in accordance with the scheme.

Reason: In order to ensure that the drainage arrangements are appropriate and in accordance with Policy CS6 of the Core Strategy for the New Forest District outside the National Park and the New Forest District Council and New Forest National Park Authority Strategic Flood Risk Assessment for Local Development Frameworks.

7. 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

8. The first and second floor windows on the north elevation of the approved buildings shall be obscurely glazed and fixed shut at all times unless the parts that can be opened are more than 1.7m above the floor.

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

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).

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 view of the outline nature of the previous application, dismissed due to the lack of affordable housing contributions, guidance was sought from previous Inspector's decisions with regard to the siting and design of the dwellings, in particular, plot 4. Amended plans have been received to address the outstanding issues.

2. In discharging condition No. 7 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

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**Planning Development
Control Committee
August 2016**

Item No: 3r

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Hurst Road
Milford on Sea
16/10621
SZ2991

Scale 1:1250

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

