

**Application Number:** 16/10681 Full Planning Permission

**Site:** LAND AT FLAXFIELDS END, FORDINGBRIDGE SP6 1RT

**Development:** 2 pairs of link-attached houses; bike stores; associated parking

**Applicant:** Mr Ward

**Target Date:** 12/07/2016

**1 REASON FOR COMMITTEE CONSIDERATION**

Contrary to Policy.

**2 DEVELOPMENT PLAN AND OTHER CONSTRAINTS**

Built-up area  
Flood Zone 2

**3 DEVELOPMENT PLAN, OBJECTIVES AND POLICIES**

Core Strategy

CS1: Sustainable development principles

CS2: Design quality

CS6: Flood Risk

CS10: The spatial strategy

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

**5 RELEVANT SUPPLEMENTARY PLANNING GUIDANCE AND DOCUMENTS**

SPD - Mitigation Strategy for European Sites  
SPD - Parking Standards  
SPD - Fordingbridge Town Design Statement

## 6 RELEVANT PLANNING HISTORY

- 6.1 16/10111 - Two pairs of semi-detached houses and associated parking - refused March 2016, due to concerns regarding overdevelopment, adjoining amenity, lack of affordable housing contribution and highway safety.
- 6.2 12/99301 - One pair of semi-detached houses; 1 detached house (affordable housing) (Outline Application with details only of access) - approved September 2013

## 7 PARISH / TOWN COUNCIL COMMENTS

Fordingbridge Town Council - recommend refusal due to concerns over loss of amenity of existing properties, parking, overdevelopment of the site and flood risk.

## 8 COUNCILLOR COMMENTS

None

## 9 CONSULTEE COMMENTS

- 9.1 Land Drainage Engineer: There has been internal flooding of property from the Ashford Water, so a flood risk assessment must be provided to show that existing properties or proposed properties or gardens will not suffer flooding as a result of the proposals or from any external source, for the expected life of the proposed construction. No objections, subject to flood risk conditions and informatives.
- 9.2 Environmental Health (Contaminated Land): No objection subject to conditions.
- 9.3 Hampshire County Council Highway Engineer: The site would be accessed through an existing parking area which would result in the loss of approximately 2 existing car parking spaces. On street parking in Flaxfields End is currently oversubscribed and therefore any parking provision for the new development should be in accordance with the 'Parking Standards Supplementary Planning Document' (SPD) adopted in October 2012, and also seek to replace those spaces lost within the existing parking area used to gain access onto the site. The SPD provides an average car parking provision of 2 spaces for each of the 2 bedroom dwellings where parking is allocated / on plot or 1.5 spaces where parking is unallocated. The proposals seek to provide 8 parking spaces, however it is not clear from the plans if any of the 8 spaces will be un-allocated and for the use of the existing dwellings on the adjacent site in Flaxfield End. The applicant should therefore provide additional details indicating which spaces if any will be allocated to each of the new dwellings and any spaces that will be unallocated and therefore available to any existing or proposed dwelling in Flaxfield End. This will enable the highway authority to fully evaluate the suitability of the proposed parking arrangements. Recommend refusal as it has not been demonstrated that the development can be accommodated in a manner that would not cause increased danger and inconvenience to highway users.
- 9.4 MoD – no comments received
- 9.5 Natural England - no objections

## **10 REPRESENTATIONS RECEIVED**

Correspondence has been received from three separate parties objecting to the proposal on the following grounds:

- Proximity to neighbouring properties;
- Flood risk;
- Land ownership is disputed;
- Loss of off street parking spaces;
- Disturbance caused by building operations

In addition a petition of 36 signatures has been received raising similar concerns.

## **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 £29,351.38. 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 instance no pre-application advice was sought by the applicant from the Planning Authority in seeking to overcome the concerns raised in refusing the application for four dwellings in March 2016, in relation to the form of development proposed. The concerns of the Council, consultees and notified parties regarding character, amenity and highway impacts were made available online, with no response from the applicant seeking to address those concerns. In view of the limited time constraints imposed on Planning Authorities to determine applications within specified timeframes, in this instance, due to the unacceptable plans and the level of justifiable harm the scheme would cause, it is reasonable to refuse the application.

## 14 ASSESSMENT

- 14.1.1 The site is rectangular in shape, and has recently been cleared of trees and vegetation. It occupies some 0.064 hectares and is no longer associated with any residential property. It used to be associated with No 24 West Street, but was always physically remote from that property, being connected only by a narrow track that runs for some distance to the rear of development in Flaxfields End. The land lies at a slightly lower ground level than the neighbouring sites. Rear gardens of the neighbouring residential properties back onto the application site, although the site directly fronts onto an area of green open space and car parking courtyard. The development of Flaxfields End has, to all intents and purposes, rendered the site land-locked and it is now only readily accessible by vehicles crossing other private land, as it has no highway frontage itself. The site lies within the built up area of Fordingbridge.
- 14.1.2 The context of the area is residential, which predominantly comprises terraced two storey dwellings, although there are some residential flats in the area and semi-detached dwellings. The surrounding residential area is a planned development of closely knit dwellings positioned around short cul-de-sacs with intervening parking spaces, courtyards, gardens and landscaping. Property types are fairly uniform in their design, style and use of materials.
- 14.1.3 This planning application proposes four two-storey link-attached dwellings on the site, of similar design and appearance to those at Flaxfields End. Access into the site would be gained through an existing car parking courtyard, which would result in the loss of two car parking spaces for existing residents. The proposed layout of the site, shows that the proposed dwellings would be provided to the east and west flanks of the site, at right angles to existing dwellings to the north and south. Off street parking for eight vehicles would be provided within the site (two fewer than the previously refused scheme).

- 14.1.4 In terms of the principle of development for residential use, given that the site lies within the built up area and is situated within a predominantly residential area, there is no objection. However, the main issues to consider are whether the site can accommodate the proposed number of residential units (four) and whether it is shown to be achieved without compromising the living conditions of the adjoining neighbouring properties or highway safety.
- 14.1.5 Careful consideration needs to be given to the impact of the proposed development on the character and appearance of the area, in the context of Policy CS2 and the Fordingbridge Town Design Statement. Policy CS2 of the Core Strategy, stipulates that new development will be required to be well designed to respect the character, identity and context of the area's towns and countryside. The layout of the site would result in a considerable level of built development and hardsurfacing, indeed the level of built form is greater than that proposed by the previously refused scheme, as oversailing first floor accommodation is now proposed over the parking spaces for Plots 2 and 4. Notwithstanding the reduction in parking spaces from the previously refused scheme, the access road and dwellings would dominate the site with little space for soft landscaping or for front gardens, although small rear garden areas are provided. The frontage of the development would be dominated by parking, access and turning arrangements with little space provided for soft landscaping that would be out of character with the area and create a poor environment. The rear gardens would be extremely shallow, ranging from 5 to 7m in depth. In these respects the proposal is considered to be overdevelopment of the site, with very limited opportunities for green space (both landscaping and private amenity space), which would be harmful to the character of the area, contrary to Policy CS2 of the Core Strategy.
- 14.1.6 Policy CS2 also requires the impact of development proposals upon adjoining amenity to be considered. In terms of the physical relationship of the proposed buildings, the dwellings would be very close to the rear gardens of the surrounding neighbouring properties to the south. While situated at a lower ground level, the two storey nature of the development proposed in such close proximity to the common boundary (particularly Plot 1) is considered to be unacceptable in relation to its impact on the outlook from properties to the south. The first floor fenestration arrangements in the rear of Plot 3 would present overlooking opportunities into the rear curtilage of the dwelling to the east (within 8.5m) and is considered unacceptable in this respect. By virtue of its two storey form, siting, cramped form, orientation and fenestration arrangements, the proposal would present overlooking opportunities and have an overbearing and oppressive impact on adjoining occupiers, contrary to the amenity related provisions of Policy CS2.
- 14.1.7 With regard to highway impacts, the Highway Authority requires further information in respect of parking allocation, as the proposal would result in the loss of at least two parking spaces for existing residents of Flaxfields End. The initially approved outline application for three dwellings included spaces within the development for existing residents, but through the course of subsequent applications on this site, parking provision for existing residents has been eroded. The parking provision for the three units approved by the outline

application was 8, for the last application for 4 units it was 10 spaces and now it is proposed to provide 8 spaces. The applicant has not responded to the Highway Authority's concerns on parking allocation and it is concluded that the development cannot be accommodated in a manner that would not cause increased danger and inconvenience to highway users, due to the loss of off-street parking provision for existing residents.

- 14.1.8 The proposal will be CIL liable and the applicant will also be required to make a habitat mitigation contribution. 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. Had planning permission been granted for the proposed development, a condition would have been 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. The CIL contribution would be paid following determination and prior to commencement.
- 14.9 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...;”*
- 14.10 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 proposals to make affordable housing provision.
- 14.11 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.

- 14.12 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.
- 14.13 Only a small portion of the access road is within Flood Zone 2, which the Environment Agency did not previously raise concerns over. The Land Drainage Section do not have any concerns with the proposed development subject to surface water conditions. Consequently, it is not considered that a reason for refusal can be substantiated on flood risk grounds.
- 14.14 With regard to the comments of notified parties regarding boundary disputes, this is a private legal matter for resolution between the parties involved. Disturbance caused by building operations is an inevitable consequence of any development. It is not envisaged that the proposal is likely to give rise to significant levels of disturbance and this reason cannot be used to substantiate a reason for refusal.
- 14.15 In conclusion, while the site lies within the built up area, it is considered that it cannot satisfactorily accommodate the proposed number of residential dwellings without compromising the character and appearance of the area, adjoining amenity and highway safety. Accordingly it is recommended for refusal.
- 14.16 In coming to this recommendation, consideration has been given to the rights set out in Article 8 (Right to respect for private and family life) and Article 1 of the First Protocol (Right to peaceful enjoyment of possessions) of the European Convention on Human Rights. Whilst it is recognised that this recommendation, if agreed, may interfere with the rights and freedoms of the applicant to develop the land in the way proposed, the objections to the planning application are serious ones and cannot be overcome by the imposition of conditions. The public interest can only be safeguarded by the refusal of permission.

## 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>Habitats Mitigation</b>			
Financial Contribution	£12,200	£12,200	0

## CIL Summary Table

<b>Description of Class</b>	<b>GIA New</b>	<b>GIA Existing</b>	<b>GIA Net Increase</b>	<b>CIL Liability</b>
Dwelling houses	352		352	£29,351.38 *

## 15. RECOMMENDATION

### Refuse

#### Reason(s) for Refusal:

1. The proposed development would be harmful to the character of the area, due to the overly large dwelling footprints, domination of the site by access, parking and turning arrangements, with no opportunity for meaningful landscaping and green space. Consequently the proposed development would be contrary to the provisions of Policy CS2 of the Core Strategy for the New Forest District outside the National Park (2009) and the Fordingbridge Town Design Statement.
2. The proposed development has a close relationship to the boundaries of existing dwellings, to the south and east and would create unacceptable impacts upon the amenity of adjoining and future occupiers, by virtue of its two storey form, siting, cramped form, orientation and fenestration arrangements, which would present overlooking opportunities and have an overbearing and oppressive impact upon adjoining occupiers, contrary to the amenity related provisions of Policy CS2 of the Core Strategy for the New Forest District outside the National Park (2009).
3. The development cannot be accommodated in a manner that would not cause increased danger and inconvenience to highway users, by virtue of the reduced off street car parking arrangements for existing residents, contrary to the provisions of Policy CS2 and CS24 of the Core Strategy for the New Forest District outside the National Park (2009).

#### 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.

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#### 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: 3u**

Land at  
Flaxenfields End  
Fordingbridge  
16/10681  
SU1414

Scale 1:1250

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

