

**Application Number: 16/10833** Full Planning Permission

**Site:** Land of 8 MALTHOUSE GARDENS, MARCHWOOD SO40 4XY

**Development:** Two-storey extension to form dwelling

**Applicant:** Mr & Mrs Bundy

**Target Date:** 10/08/2016

**1 REASON FOR COMMITTEE CONSIDERATION**

Contrary to Policy

**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
- 3. Housing
- 6. Towns, villages and built environment quality

Policies

- CS2: Design quality
- 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 - Mitigation Strategy for European Sites

**6 RELEVANT PLANNING HISTORY**

- 6.1 Two-storey side extension (14/11216) - granted 18/2/15
- 6.2 Two-storey extension to form dwelling (15/10409) - refused 9/7/15

## **7 PARISH / TOWN COUNCIL COMMENTS**

Marchwood Parish Council:- Recommend refusal - development is out of character and will be detrimental to the street scene; over development of the site; inadequate amenity space for the dwellings; car parking areas and associated hard surfacing will give rise to a cramped appearance.

## **8 COUNCILLOR COMMENTS**

None

## **9 CONSULTEE COMMENTS**

9.1 Hampshire County Council Highway Engineer:- No objection subject to conditions

9.2 Land Drainage:- No comment

9.3 Southern Gas Networks:- advise of site's proximity to gas main

## **10 REPRESENTATIONS RECEIVED**

10.1 3 letters of objection from local residents / neighbouring dwellings:- concerns over access and parking which will give rise to an additional highway hazard; overdevelopment of small plot; development would appear out of keeping in the streetscene; concerns about overlooking.

## **11 CRIME & DISORDER IMPLICATIONS**

No relevant considerations

## **12 LOCAL FINANCE CONSIDERATIONS**

If this development is granted permission and the dwelling built, the Council will receive £1152 in each of the following six years from the dwelling's 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 £5,970.34.

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 application proposals were not the subject of any discussion since the refusal of the same proposal last year. It is not considered that there is scope to work with the applicant to secure a positive recommendation on this application.

## 14 ASSESSMENT

- 14.1 8 Malthouse Gardens is a link detached dwelling that occupies a prominent plot in a residential cul-de-sac that dates from the early 1980s. The dwelling fronts onto the road at an angle, which consequently means that the property has a fairly long frontage to the highway. The areas to the front of the dwelling are fairly open, being enclosed by some low railings. Areas of garden to the side and to the rear of the dwelling are enclosed by wooden panel fencing, including a solid access gate onto Malthouse Gardens. There is a public footpath to the rear of the property. Other nearby houses in Malthouse Gardens are predominantly 2 storey link-detached dwellings with strong front gabled forms.
- 14.2 Planning permission was granted for a 2-storey extension to the side of the dwelling in February 2015. This was considered to have an acceptable impact on the character and appearance of the area. The permission remains extant, but has yet to be implemented.
- 14.3 In July 2015, planning permission was refused for a 2-storey extension, similar to the one that was granted in February 2015, the main difference being that the extension was to provide a separate self-contained dwelling. The proposal also differed from the February 2015 planning permission in that it included a lean-to porch canopy, and it proposed to widen the site's access onto Malthouse Gardens in order to provide 2 off-street car parking spaces for the new dwelling. The application refused in July 2015 had been recommended for permission by officers.

However, Committee members disagreed with the officer recommendation and refused the scheme on the basis that the increased level of car parking and hard surfacing would be out of character with the green, sylvan appearance of the area and would give rise to a cramped form of development.

- 14.4 The application that has now been submitted is identical to the application that was refused by the Local Planning Authority last year. There has not been any material change in design policies or site circumstances since July 2015. Therefore, there is not felt to be any reason to come to a different conclusion to that reached by Committee last year, namely that the proposal would be harmful to the character and appearance of the area due, primarily, to the increased level of car parking and associated hard surfacing.
- 14.5 The proposed dwelling would not have a materially greater impact on the amenities and privacy of neighbouring dwellings than the extension which was approved in February 2015. The properties to the rear at 6 and 7 Malthouse Gardens would be set an acceptable distance away from the proposed rear first floor windows. The rear garden of 6 Malthouse Gardens would be 16 metres away and the side of 7 Malthouse Gardens (a bungalow) would be 13 metres away. These properties would be separated from the site by a public footpath link.
- 14.6 One of the proposed parking bays would be within the Root Protection Area of 2 Norway Maple trees, which have significant amenity value and which are protected by a Tree Preservation Order. The Council's tree officer has previously confirmed that it would be feasible to install the parking bay without damaging these trees if a suitable non-dig engineered surface was used. As such, subject to an appropriate tree protection condition, it is considered the development could take place without harming important trees.
- 14.7 The level of car parking being provided accords with the Council's recommended standards. The Highway Authority are satisfied that the access and parking arrangements are acceptable and accordingly, there is no basis to conclude that this proposal would be harmful to highway safety.
- 14.8 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”*

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.

- 14.9 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.
- 14.10 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.
- 14.11 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 were to be granted for the proposed development, a condition would be required 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 Overall, the proposed development would not be consistent with Local Plan policies and objectives. The development would be no different to the scheme refused by Committee last year. It would harm the character and appearance of the area, and the application can therefore only be recommended for refusal.
- 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 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 and the rights and freedoms of neighbouring property owners 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>Affordable Housing</b>			
No. of Affordable dwellings			
Financial Contribution	£18,060	0	-£18,060
<b>Habitats Mitigation</b>			
Financial Contribution	£3050		

Type	Proposed Floorspace (sq/m)	Existing Floorspace (sq/m)	Net Floorspace (sq/m)	Chargeable Floorspace (sq/m)	Rate	Total
Dwelling houses	71.6		71.6	71.6	£80/sqm	£5,970.34 *
Subtotal:	£5,970.34					
Relief:	£0.00					
Total Payable:	£5,970.34					

\* The formula used to calculate the amount of CIL payable allows for changes in building costs over time and is Index Linked using the All-in Tender Index Price published by the Build Cost Information Service (BICS) and is:

*Net additional new build floor space (A) x CIL Rate (R) x Inflation Index (I)*

### 15. RECOMMENDATION

#### Refuse

#### Reason(s) for Refusal:

1. The proposed development would, as a result of the increased level of car parking and associated hard surfacing, result in a form of development that would be out of character with the green, sylvan appearance of this area and give rise to a cramped form of development. As a result the proposal would be contrary to Policy CS2 of the Core Strategy for the New Forest District outside the National Park.

**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 application proposals were not the subject of any discussion since the refusal of the same proposal last year. It would not be considered that there was scope to work with the applicant to secure a positive recommendation on this application.

**Further Information:**

Major Team

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DISTRICT COUNCIL

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**Planning Development  
Control Committee  
August 2016**

**Item No: 3dd**  
Land of 8  
Malthouse Gardens  
Marchwood  
16/10833  
SU3810

Scale 1:1250

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

