

**Application Number:** 16/10840 Full Planning Permission

**Site:** 5A HARFORD CLOSE, PENNINGTON, LYMINGTON SO41 8EX

**Development:** Bungalow; access; parking

**Applicant:** Mrs Fry

**Target Date:** 15/09/2016

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**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

- CS1: Sustainable development principles
- CS2: Design quality
- CS7: Open spaces, sport and recreation
- 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 - Lymington Local Distinctiveness

SPD - Mitigation Strategy for European Sites  
SPD - Parking Standards

## **6 RELEVANT PLANNING HISTORY**

6.1 Two storey dwelling, access (10708) Refused on the 14th Aug 2014

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

Lymington Town Council: Recommend refusal. In support of neighbours and Case Officers comments.

## **8 COUNCILLOR COMMENTS**

None

## **9 CONSULTEE COMMENTS**

9.1 Tree Officer: No objection subject to condition.

9.2 Hampshire County Council Highway Engineer: no highway objection subject to condition.

9.3 Land Drainage: No objection subject to condition.

## **10 REPRESENTATIONS RECEIVED**

10.1 4 letters of objection concerned over construction traffic in Harford Close. What provision is there to prevent the applicant removing the hedge in the future. Impact on flooding and surface water drainage. Proposed building will be out of character with the area. Loss of green space and landscaped area. The existing property at No 5A operates as a Bed and Breakfast. There is insufficient car parking.

10.2 5 letters of support: low impact; innovative new build; add interest to the area; other concerns have been addressed.

10.3 The applicant has written in support of the application stating that the proposal would be appropriate in this location and that the garden and car parking areas would be contextually acceptable. The applicant also confirms that the hedge would be retained.

## **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 £1152 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 £0.00.

### **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.

This planning application follows a recent application dismissed on appeal. No pre application advice was sought from the applicant. The proposal for a dwelling on this site is not acceptable in principle and accordingly, Officers cannot seek revised plans or amendments to address their concerns.

### **14 ASSESSMENT**

- 14.1 The application site comprises part of the garden area associated with 5a Harford Close. The property at No 5a is a recently built dwelling which previously formed the garden to No 5. Harford Close is a small, distinctive cul de sac of chalet style bungalows with wide, open frontages which provide the area with an attractive sense of spaciousness.
- 14.2 The site sits at the end of the cul de sac behind a tall evergreen hedge. It backs onto Milford Road where there is a belt of mature trees and planting, which is identified in the Lymington Local Distinctiveness Supplementary Planning Document (2011) as an important tree group.
- 14.3 This planning application proposes a detached bungalow on land that currently forms part of the garden area to 5a. Access to the site would

be gained from Milford Road. The proposed layout of the site would entail the proposed building being sited to the north of the plot with the garden and car parking to the south. Visually the proposed dwelling would be single storey of a contemporary design with a very shallow pitched 'green' roof incorporating glazing along the southern elevation. The existing hedgerow along the north boundary has been shown to be retained. The proposed building would be 'sunk' approximately 1m metre into the existing ground levels in order to reduce its overall scale.

- 14.4 This application follows a previous proposal for a detached dwelling on this site that was dismissed on appeal in 2014 under reference 10708. The previous planning application proposed a chalet style bungalow which would have fronted onto the end of the cul de sac with its rear garden area backing onto Milford Road.
- 14.5 That application was dismissed on appeal on the grounds of the adverse impact on the character and appearance of the area. In dismissing the appeal, the Inspector stated that:

*'the appeal site sits at the end of the cul-de-sac behind a tall evergreen hedge. It backs on to Milford Road where there is a belt of mature trees and planting, which is identified in the Lymington Local Distinctiveness Supplementary Planning Document (LLDSDP) as an important tree group. These trees are seen above the evergreen hedge and frame the view towards the end of the cul-de-sac. The Council states that the original design of this part of the estate, which was developed around 1981, included areas of open landscape as a buffer area between the dwellings and Milford Road, the main approach into Lymington'.*

- 14.6 The Inspector stated that:

*'The proposed dwelling in this case would mean the erosion of much of that remaining area, and the loss of the 'green' view at the end of this pocket of housing which contributes to its distinctive character: the evergreen hedge would be lost and much of the views of the trees to the rear would be obscured. Although the appellant argues that every such development results in the loss of an existing space, some spaces make a stronger contribution to the visual quality and character of an area than others as in this instance'. 'Furthermore, the dwelling would lack the open frontage typical of the other houses in Harford Close making it appear more cramped on its plot in comparison. The proposed dwelling would not noticeably impact on views along Milford Road, but there would be a marked change in the appearance of Harford Close to the detriment of its distinctive open character'.*

- 14.7 This current application attempts to address the concerns raised in the appeal. Most noticeably, the dwelling will be a much lower building in terms of its height and this is largely achieved by the fact the building will be 'sunk' into the ground by around 1 metre and be only single storey high. The other main change is the proposed dwelling will have its frontage, access and car parking from Milford Road.
- 14.8 In assessing this current proposal, while improvements have been made by reducing the scale of the building, it is considered that the proposal has not addressed the concerns previously raised. The proposed building would lack an active frontage onto Harford Close and the building would still erode the important open gap and landscaped area at

the head of the cul de sac. Although the submitted plans indicate that the existing hedgerow adjacent to Harford Close would remain, there can be no assurances in the future that the hedgerow would not be reduced in height or completely removed. It would not be reasonable to impose planning conditions for the existing hedgerow to be retained or control its height and accordingly, any future alterations to the hedgerow that exposes the proposed building would be damaging to the distinctive features of Harford Close.

- 14.9 The proposed layout of the site would have a much more cramped setting compared to the previous application. The site would be dominated by a building, car parking and turning with a very small garden area. In comparison to the more spacious plots generally in the area, including the size of gardens, the application site would be significantly smaller and out of character with the area.
- 14.10 Visually, the proposed design of the dwelling with its low roof form would differ from the distinctive character of Harford Close which is characterised by chalet style bungalows with dormer windows. While the proposed dwelling attempts to address Milford Road, the proposed building would still appear as part of Harford Close. The overall design does not respond to the features in the design of the properties in Harford Close and the proposed development would also appear incongruous when viewed from Milford Road.
- 14.11 It would seem that the design approach does not attempt to reflect the distinctive character of Harford Close, but has been designed to address the concerns raised by the Inspector in the appeal decision. As such, it is considered that the proposed design would unacceptably detract from the distinctive character of Harford Close.
- 14.12 Overall it is considered that the application site makes a positive contribution to the character of this part of Harford Close and Milford Road. The proposed development would not only remove a positive element of the street scene, which is the visual amenity of the open and landscaped plot with views of trees beyond, but would also introduced a negative element to the street scene in both Milford Road and Harford Close.
- 14.13 In terms of public highway safety matters the proposed vehicular access would utilise an existing dropped kerb vehicular access point from Milford Road. The access benefits from adequate visibility splays and is therefore deemed appropriate. The Highway Authority has stated that the highway boundary extends to the existing fence line from Milton Road and therefore an appropriate highways licence will be required in order to carry out works within the existing verge. The number of parking spaces accord with the NFDC Supplementary Planning Document, and the proposed layout has demonstrated that vehicles can access the site before manoeuvring into each of the parking spaces and then egress the site in a forward gear. On this basis, the Highway Authority have not raised any objections.
- 14.14 In terms of other matters, given the scale and siting of the building, it will not have any adverse impact on the living conditions of the adjoining neighbouring properties. The Tree Officer does not raise any objections subject to conditions.

- 14.15 Concerns have been expressed about the problems with foul and surface water drainage in the area, especially at times of heavy rainfall. No evidence has been submitted to back up this evidence, and it is considered that this is a matter that could be dealt with by condition given that only a single dwelling is proposed were the proposal otherwise acceptable.
- 14.16 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.
- 14.17 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.
- 14.18 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.
- 14.19 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.

- 14.20 In conclusion, it is considered that this proposal would have an unacceptable impact on the character and appearance of the area resulting in a cramped form of development with little space around the building. The proposal has not addressed the concerns previously raised.
- 14.21 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	N/A	N/A	N/A
Financial Contribution			

### CIL Requirement

Type	Proposed Floorspace (sq/m)	Existing Floorspace (sq/m)	Net Floorspace (sq/m)	Chargeable Floorspace (sq/m)	Rate	Total
Self Build (CIL Exempt)	61.16	0	61.16	61.16	£80/sqm	£5,099.80*
Subtotal:	£5,099.80					
Relief:	£5,099.80					
Total Payable:	£0.00					

\* 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. By virtue of its openness, greenery, trees and vegetation, the application site positively contributes to the spatial character and appearance of the area. It is considered that by virtue of its siting, design and positioning on the site, the proposed development would introduce a negative element with a cramped and harsh layout that would unacceptably encroach into this open part of the site diminishing the spacious positive features that contribute to the character of the area. For this reason, the proposed development is contrary to policies CS2 and CS10 of the Core Strategy for the New Forest District outside the National Park and the adopted Lymington Local Distinctiveness Document Supplementary Planning Guidance.

#### 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.

This planning application follows a recent application dismissed on appeal. No pre application advice was sought by the applicant. The proposal for a dwelling on this site was not acceptable in principle and accordingly, Officers did not seek revised plans or amendments to address their concerns.

2. This decision relates to additional plans received by the Local Planning Authority on the 29th August 2016.

#### Further Information:

Major Team  
Telephone: 023 8028 5345 (Option 1)





**New Forest**  
DISTRICT COUNCIL

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**Planning Development  
Control Committee  
September 2016**

**Item No: 3m**

5a  
Harford Close  
Pennington Lymington  
16/10840  
SZ3094

Scale 1:1250

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

