

Application Number: 16/10130 Full Planning Permission

Site: 57/59 HIGH STREET, MILFORD-ON-SEA SO41 0QG

Development: Application for the Modification or Discharge of a Section 106
Obligation in respect of Planning Permission 16/10130 for
Attached house to rear; pitched roofs to existing flat roof
extension; window alterations to 57a

Applicant: Mr Butler

Target Date: 28/03/2016

1 REASON FOR COMMITTEE CONSIDERATION

Contrary to Policy CS15 (Affordable housing contribution requirements from developments) and Parish Council View.

2 DEVELOPMENT PLAN AND OTHER CONSTRAINTS

Milford-on-Sea Conservation Area
Built-Up Areas

3 DEVELOPMENT PLAN, OBJECTIVES AND POLICIES

Core Strategy

CS1: Sustainable development principles
CS2: Design quality
CS3: Protecting and enhancing our special environment (Heritage and Nature Conservation)
CS10: The spatial strategy
CS15: Affordable housing contribution requirements from developments

Local Plan Part 2 Sites and Development Management Development Plan Document

DM1: Heritage and Conservation

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

Milford-on-Sea Design Statement

6 RELEVANT PLANNING HISTORY

16/10130 - Attached house to rear; pitched roofs to existing flat roof extension;
window alterations to 57a - approved 24/03/16

7 PARISH / TOWN COUNCIL COMMENTS

MILFORD ON SEA PARISH COUNCIL: object to this application to discharge the affordable housing contribution. The Committee did not wish for this to set a precedent for other developers in the village.

8 COUNCILLOR COMMENTS

None

9 CONSULTEE COMMENTS

None

10 REPRESENTATIONS RECEIVED

None received

11 CRIME & DISORDER IMPLICATIONS

None

12 LOCAL FINANCE CONSIDERATIONS

None

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 all the above apply and following receipt of appropriately amended plans in light of the Conservation Officer's comments the application was acceptable as submitted no specific further actions were required.

14 ASSESSMENT

- 14.1 An application for an attached house was approved by the Local Planning Authority in March 2016. The permission is subject to a Section 106 legal agreement that requires the development to make a contribution of £31,925 towards affordable housing.
- 14.2 An application has now been submitted to the Local Planning Authority that seeks to discharge the Section 106 Legal Agreement so that no affordable housing contribution will be payable. The application has been submitted in the light of recent changes to national planning guidance. Specifically:-

On 28th November 2014 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”

- 14.3 With this latest application, the only matter that needs to be considered is whether the previously secured affordable housing obligation should be discharged in the light of the recent change to national guidance, which is at odds with Policy CS15 of the Council's Core Strategy. In circumstances such as this, the law gives no priority to either the Council's Core Strategy or to the Government's national guidance. It is for the decision maker to assess both policies as “material considerations” and to decide which should have greater weight 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 exceptional circumstances which indicate otherwise. While the need for affordable housing in this District is pressing, this in itself does not give rise to the sort of circumstances that can be considered exceptional.

- 14.4 Accordingly, it is felt that the new national guidance should carry greater weight than the Council's own Core Strategy Policy CS15, and therefore, it is felt that the affordable housing contribution secured within the existing Section 106 legal agreement is an obligation that should be discharged. In essence, it is felt the development should be allowed to proceed without any requirement to make a contribution towards the provision of affordable housing.

15 RECOMMENDATION

That the Section 106 Affordable Housing Obligation be discharged in full and that the Service Manager Planning and Building Control be authorised to revoke the Section 106 legal agreement accordingly.

Further Information:

Major Team

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Planning Development
Control Committee
October 2016

Item No: 3b
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Scale 1:1250

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scale.

