

**Application Number: 16/11144** Full Planning Permission

**Site:** Land of 19 HALE AVENUE, NEW MILTON BH25 6EZ  
**Development:** Detached house; associated parking  
**Applicant:** Mr Elliott  
**Target Date:** 13/10/2016

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**1 REASON FOR COMMITTEE CONSIDERATION**

Contrary to policy CS15 (Affordable housing contribution requirements from developments)

**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  
SPD - New Milton Local Distinctiveness

## **6 RELEVANT PLANNING HISTORY**

None

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

New Milton Town Council - no comments received to date

## **8 COUNCILLOR COMMENTS**

None received

## **9 CONSULTEE COMMENTS**

9.1 Southern Gas Networks - offer advice

9.2 Tree Officer - no objection

9.3 Hampshire County Council Highway Engineer - recommend refusal due to inadequate access width and car parking provision

## **10 REPRESENTATIONS RECEIVED**

10.1 Seven objection letters have been received raising the following issues:

- cramped backland development
- spoils amenity value of existing house
- future boundary maintenance concerns
- limited amenity space
- access appears too narrow
- would set a precedent
- long drives and extra parking spoil the character of the area
- disruption of peace in neighbouring gardens
- concern that the existing house may be subdivided into flats
- loss of privacy
- out of character with the area
- site area not correct adjacent Milton Grove
- noise and disturbance during construction

## **11 CRIME & DISORDER IMPLICATIONS**

None

## **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.

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.

The application follows pre-application advice which did not offer support for a dwelling in this location in view of its backland nature. The minor changes to the parking layout do not address this concern.

## **14 ASSESSMENT**

- 14.1 The site lies within the built up area of New Milton in a residential area. The site presently contains a detached two storey dwelling with a large, if somewhat overgrown, rear garden. There is much vegetation within and along the boundaries of the plot. The proposal entails the provision of a single storey dwelling comprising kitchen, utility, study, WC, bathroom, lounge/dining room, two bedrooms (one ensuite) and an attached garage. Access would be provided as an extension of the existing drive to the host dwelling which would have two parking spaces provided to the front of the site.
- 14.2 It is not considered that the principle of an additional dwelling accessed in this way is an appropriate form of development in this location. The access would be an alien feature in Hale Avenue and the new dwelling would not have any active street frontage, contrary to the pattern of development in the area. While there are properties to the rear of this site which are similarly sited, the access to them is a harsh intrusion to the street (Milton Grove).

- 14.3 Residential amenity has been raised as an issue although it is unlikely that the proposal would adversely affect the amenity of neighbouring properties. Being ground floor accommodation only, there would be no overlooking and the provision of the drive would be adjacent to the neighbour's drive which would limit its impact. However, the proposed dwelling would have a limited amenity space being just 5m from the western boundary and just 15m from the first floor windows of the host dwelling to the east. It is appreciated that there is a group of fruit trees and substantial shrubs between the existing and proposed dwellings although these are not shown on the proposed site plan and could not mitigate in the long term against overlooking between the dwellings.
- 14.4 The Highway Authority has raised concerns in respect of the proposed layout of parking spaces in that there is inadequate turning space for vehicles to access them. As the access would be shared between two dwellings, it should provide a greater width to enable two cars to pass without the need to reverse back onto the highway. The application form states that the existing house has two bedrooms which would require 2 spaces to be provided. While there are no plans of the existing property, it is likely that it has more than 2 bedrooms and therefore, the parking requirement is likely to be more than the two spaces indicated.
- 14.5 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.
- 14.6 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"*

This national guidance is at odds with Policy CS15 of the Council's Core Strategy. In these circumstances, 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.

- 14.7 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. 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.
- 14.8 The proposal would result in a small site, out of context with the immediate area and offering a poor level of amenity for future occupiers. The access and parking arrangements are not satisfactory and the proposal as a whole would not be considered to contribute positively to local distinctiveness.
- 14.9 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	0	0	0
Financial Contribution			
<b>Habitats Mitigation</b>			
Financial Contribution	£3,050		

Type	Proposed Floorspace (sq/m)	Existing Floorspace (sq/m)	Net Floorspace (sq/m)	Chargable Floorspace (sq/m)	Rate	Total
Self Build (CIL Exempt)	117		117	117	£80/sqm	£9,756.00 *

Subtotal:	£9,756.00
Relief:	£9,756.00
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. The proposal would result in a cramped form of development, out of context with the immediate area with no active street frontage and offering a poor level of amenity for future occupiers. This would be contrary to policy CS2 of the New Forest District Council Core Strategy in that it would not be considered to contribute positively to local distinctiveness nor would it offer an appropriate level of amenity for future occupiers.
2. The proposal incorporates inadequate car parking provision within the site clear of the highway and due to the inadequate width of the first section of the vehicular access, the proposal would result in unacceptable vehicular access arrangements to the site. These deficiencies would be likely to cause undue interference with the safety and convenience of users of the adjacent highway and interruptions to the free flow of traffic to the detriment of highway safety. The proposal is therefore contrary to policy CS2 of the New Forest District Council 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.

The application follows pre-application advice which did not offer support for a dwelling in this location in view of its backland nature. The minor changes to the parking layout do not address this concern.

#### Further Information:

Major Team  
Telephone: 023 8028 5345 (Option 1)



**New Forest**  
DISTRICT COUNCIL

Tel: 023 8028 5000  
[www.newforest.gov.uk](http://www.newforest.gov.uk)

David Groom  
Service Manager  
Planning and Building Control  
New Forest District Council  
Appletree Court  
Lyndhurst  
SO43 7PA

**Planning Development  
Control Committee  
October 2016**

**Item No: 3f**

Land of  
19 Hale Avenue  
New Milton  
16/11144  
SZ2494

Scale 1:1250

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

