

**Application Number:** 16/11176 Full Planning Permission

**Site:** 5 BINGHAM DRIVE, LYMINGTON SO41 3PR

**Development:** One pair of semi-detached houses; 2 detached houses; parking; landscaping; demolition of existing

**Applicant:** Bourn Homes

**Target Date:** 17/10/2016

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

**Policies**

- CS2: Design quality
- CS3: Protecting and enhancing our special environment (Heritage and Nature Conservation)
- 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 - Lymington Local Distinctiveness  
SPD - Mitigation Strategy for European Sites  
SPD - Parking Standards

## **6 RELEVANT PLANNING HISTORY**

None

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

Lymington & Pennington Town Council:- Recommend refusal; unattractive design; not in keeping with the streetscene; disproportionately large scale of development

## **8 COUNCILLOR COMMENTS**

None

## **9 CONSULTEE COMMENTS**

9.1 Hampshire County Council Highway Engineer: recommend refusal:- inadequate car parking provision and inadequate access width

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

9.3 Tree Officer: No objection subject to condition

9.4 Ecologist:- views awaited

## **10 REPRESENTATIONS RECEIVED**

10.1 14 letters of objection from local residents:- overdevelopment of the plot; development would be out of keeping with the neighbourhood and the streetscene; semi-detached dwellings would be inappropriate in this context; inadequate on-site parking to detriment of highway safety; poor design; development would have a cramped appearance; additional pressures on drainage infrastructure leading to increase flood risk; overlooking of neighbouring properties to the detriment of their privacy; increased noise disturbance; concerns about building over a mains sewer; adverse impact on neighbour's light and outlook; contravention of covenant; adverse impact on local distinctiveness; loss of trees; lack of garages; overbearing impact; adverse impact on local wildlife.

10.2 1 letter of support from interested person:- site is in need of redevelopment; proposal will provide much needed family homes that would be affordable to young families.

10.3 Lymington Society:- strongly oppose - having 4 houses next to each other in a terrace is completely out of keeping with the character of the area and will set a precedent for remaining houses to be redeveloped in a new format characterised by overdevelopment.

## **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 £3456 in each of the following six years from the dwellings' completion, and as a result, a total of £20,736 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 £34,062.62.

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 pre-application advice. The application gives rise to a significant objection which cannot be reasonably resolved through negotiation within the available timeframes for dealing with this planning application.

### **14 ASSESSMENT**

- 14.1 5 Bingham Drive is a 2-storey detached dwelling house that occupies a large and spacious garden plot at the end of a quiet residential cul-de-sac. Other dwellings in Bingham Drive are also set within generous sized garden plots, but these are not as large as the garden of 5 Bingham Drive which is more than twice the size of a number of other plots in Bingham Drive, stemming from the fact that it occupies what was

originally intended to be 2 plots; hence, the reason there is no 4 Bingham Drive. To the rear of the plot, the site is bounded by the gardens of dwellings in Daniell's Close and Church Lane.

- 14.2 The submitted application seeks to demolish the existing dwelling at 5 Bingham Drive and its associated outbuildings. In their place it is proposed to erect 4 dwellings comprised of 2 detached dwellings and a pair of semi-detached houses. All dwellings would be 2-storeys high. The dwellings would be served by a single access drive that would serve a large parking area to the front of the dwellings. None of the dwellings would be provided with garages or other outbuildings.
- 14.3 There would be no objection to the principle of redeveloping this site for residential purposes, and given the large size of the plot, it is accepted that there would be scope to provide more than the single dwelling that exists on the site at present. However, the provision of 4 dwellings in the manner proposed is not felt to be a sympathetic or appropriate response to the site's particular context. The development would feel too cramped, lacking the gaps between buildings and the sense of space that are an important feature of Bingham Drive. The proposed pair of semi-detached dwellings would be wholly uncharacteristic in this particular setting, all other dwellings in Bingham Drive being detached. Moreover, the semi-detached dwellings would be set back into the site in a rather awkward manner, appearing unacceptably squeezed in between the detached dwellings on either side. Whilst areas of greenery would be provided to the front of the site, the large parking area to the front of the 4 dwellings would not reflect the green and spacious character of other frontages to Bingham Drive, and as such, this area of hardstanding would appear too harsh and incongruous in this particular setting.
- 14.4 While set back into the site, the dwellings would all have acceptable sized rear gardens and would not erode unduly an area of rear garden that forms part of a wider tranquil rear garden area that is identified as important in the Lymington Local Distinctiveness Supplementary Planning Document.
- 14.5 The proposed development would evidently have some impact on adjacent properties. First floor windows facing both 3 and 6 Bingham Drive are windows that could be reasonably glazed with obscure glass to ensure these neighbouring dwellings are not unduly overlooked. Plot 4 lies to the north side of 6 Bingham Drive and impact on this property's light and outlook is not felt to be significant. The outlook of 3 Bingham Drive would be affected to a greater degree by Plot 1. However, the rooms on the side of that dwelling that would be most affected serve rooms with dual aspects. Given this and given the gap between the 2 buildings, it is not felt the impact on the outlook and amenities of 3 Bingham Drive would be unreasonable. Plot 1 would be set about 15 metres away from the rear garden of 56 Church Lane. This degree of separation would be acceptable and enough to ensure that there would be no undue overlooking of this property. Other properties in Church Lane and Daniell's Close would also be set sufficiently away from the proposed new dwellings as not to be unacceptably overlooked (the nearest dwelling at 3 Daniell's Close being about 24 metres away from plot 4), taking into account existing boundary screening. Overall, it is considered the development would not cause material harm to any neighbouring property.

- 14.6 Applying the Council's recommended parking provision as set out in its Parking Supplementary Planning Document, the development is one that should secure 11 car parking spaces, whereas it would actually only provide 8. The Highway Authority consider this shortfall in parking would be likely to lead to additional vehicles parking in the existing turning head at the end of Bingham Drive, which they believe would be detrimental to highway safety. The Highway Authority have also objected to the application on the basis that access into the site would be too narrow for cars to pass, resulting in the possibility of vehicles reversing out into Bingham Drive. In combination, it is accepted that the 2 concerns raised by the Highway Authority would cause an unacceptable degree of harm to the safety and convenience of users of the public highway.
- 14.7 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 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. In this case, the full habitat mitigation contribution that would be required is £14,950.
- 14.8 Based on the requirements of Core Strategy Policy CS15, the proposed development is one that should secure an affordable housing contribution of £189,150. However, 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 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 The concerns of local residents in respect of drainage are noted. However, it is considered that drainage matters could reasonably be addressed by condition were the planning application otherwise acceptable. In addition, concerns about covenants are a legal matter that fall outside the scope of planning control.
- 14.12 Overall, the proposed development is considered to be inconsistent with local and national planning policies in that the proposed development would be a poor design in this particular context that would fail to respond positively to local distinctiveness. The development would harm the character and appearance of the area, as well as harm highway safety, and as such, the proposed development can 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	£189,150	0	-£189,150
<b>Habitats Mitigation</b>			
Financial Contribution	£14,950		

Type	Proposed Floorspace (sq/m)	Existing Floorspace (sq/m)	Net Floorspace (sq/m)	Chargeable Floorspace (sq/m)	Rate	Total
Dwelling houses	536.4	127.9	408.5	408.5	£80/sqm	£34,062.62 *
Subtotal:	£34,062.62					
Relief:	£0.00					
Total Payable:	£34,062.62					

\* 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 be a poor design that would be inappropriate to its context and detrimental to the locally distinctive character of Bingham Drive. In particular the proposed development would be too intensive a development in this setting, lacking the gaps between buildings and the sense of space that are an important feature of the area, and including an uncharacteristic semi-detached building that would appear squeezed in between the detached dwellings on either side. As such, the proposed development would have a cramped and unsympathetic appearance that would be compounded by the large and somewhat incongruous parking area to the fronts of the dwellings. As such, the proposal would be detrimental to the character and appearance of the area, contrary to Policy CS2 of the Core Strategy for New Forest District outside of the National Park, as well as conflicting with the Council's "Lymington Local Distinctiveness" Supplementary Planning Document.
2. The proposed development would be detrimental to the safety and convenience of users of the public highway because:-
  - a) inadequate parking provision would be made on the site, which would be likely to result in vehicles parking on the public highway which would interrupt the free flow of traffic;
  - b) the access would not be of adequate width to enable 2 vehicles to pass, which would be likely to result in additional highway dangers through vehicles reversing onto the public highway.
 As such, the proposed development would be contrary to policies CS2 and CS24 of the Core Strategy for New Forest District outside of 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 pre-application advice. The application gives rise to a significant objection which cannot be reasonably resolved through negotiation within the available timeframes for dealing with this planning application.

**Further Information:**

Major Team

Telephone: 023 8028 5345 (Option 1)





**New Forest**  
DISTRICT COUNCIL

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**Planning Development  
Control Committee  
October 2016**

**Item No: 3h**

**5**

Bingham Drive  
Lymington  
16/11176  
SZ3295

**Scale 1:1250**

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

