

Application Number: 16/11005 Full Planning Permission

Site: Land adjacent 10 LINFORD CLOSE, NEW MILTON BH25 5RL
Development: Detached house
Applicant: M & R Build UK LLP
Target Date: 08/09/2016
Extension Date: 12/10/2016

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
CS3: Protecting and enhancing our special environment (Heritage and Nature Conservation)
CS15: Affordable housing contribution requirements from developments
CS25: Developers contributions

Local Plan Part 2 Sites and Development Management Development Plan Document

NPPF1: National Planning Policy Framework – Presumption in favour of sustainable development
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
SPD - Parking Standards

6 RELEVANT PLANNING HISTORY

13/10492 - house, balcony, decking, access alterations to Fernhill Lane.
Granted 15.8.13

7 PARISH / TOWN COUNCIL COMMENTS

New Milton Town Council - acceptable (delegated) subject to Highways and Trees

8 COUNCILLOR COMMENTS

None received

9 CONSULTEE COMMENTS

9.1 Tree Officer - no objection subject to conditions

9.2 Hampshire County Council Highway Engineer - no objection subject to conditions

10 REPRESENTATIONS RECEIVED

Two objections have been received from local residents concerned with:

- the proposal doesn't satisfy any housing demand
- pure financial gain
- overlooking/privacy issues to the rear
- noise and disturbance during construction
- would open the floodgates to develop small back gardens

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 £6,912 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 £11,840.62.

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 view of the initial objection from the Highway Authority, the layout was amended to address the parking and turning issues.

14 ASSESSMENT

- 14.1 The site lies within the built up area of New Milton in a residential area. It was formed from subdividing the garden of 10, Linford Close and an access has been provided onto Fernhill Lane. There are several protected trees within the site together with domestic outbuildings. The proposal entails the provision of a 4-bed two-storey house comprising lounge, hall, WC, dining room and kitchen at ground floor level with 4 bedrooms (one ensuite) and a family bathroom at first floor level. It follows pre-application advice for the scheme where residential amenity issues were raised and prior to that, permission was granted for a new dwelling albeit of a different design.
- 14.2 The previous consent was for a two-storey dwelling comprising kitchen, hall, living room, dining room and WC at ground floor level with three bedrooms (one ensuite) and a family bathroom upstairs. The layout was specifically designed having regard to the protected trees and avoiding significant residential amenity issues by having no first floor windows to the east and only obscure glazed ones to the north. A similar parking and turning arrangement was also proposed.

- 14.3 In order to address concerns raised prior to submission of this application, the proposed footprint has been moved further from the boundary with No.9, Linford Close. This results in the property having a rear garden of 9.5m which is still considered to be a little less than an acceptable distance. The rear bedroom and landing windows would have oblique views into the rear garden of No.9 and from that property, the perception of overlooking would be sufficient at that distance to warrant refusal of the scheme. The proposal would have a limited impact on light to adjoining properties, this is a reflection of the previous permission.
- 14.4 Visually, the proposed dwelling is of standard double fronted design, a contrast to the previous consent which was designed having regard to the constraints at the time which included more statutorily protected trees and, of course, the proximity of residential properties. While the form of the proposal allows for amendments to the window positions to lessen the impact on residential amenity, these chances have not been taken. While the bulk and massing of the proposed dwelling is larger than those in Linford Close, it would not be seen as out of character given the larger dwelling to the south and former care home beyond this. In addition to this, there are limited views into the site given the tree cover and 2m high boundary fencing. The proposal would have a limited impact on Linford Close.
- 14.5 The proposal provides adequate parking facilities for a dwelling of this size and the plans show that the necessary turning would be possible. The position of the existing gates would also allow a car to pull off the road while the gates are opened.
- 14.6 Since the previous consent, some of the statutorily protected trees have fallen down due to adverse weather conditions. The Tree Officer has considered this and has raised no objection to the proposed dwelling subject to conditions which would include the replacement of those trees lost. Other work to the trees relate to general maintenance and would ensure the important tree buffer is retained.
- 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 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.
- 14.8 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”

- 14.9 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.
- 14.10 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.
- 14.11 In conclusion it is considered that this proposal would result in an unacceptable impact on the neighbouring property at No.9 Linford Close due to a perception of overlooking.
- 14.12 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

Proposal:			
Type of Contribution	NFDC Policy Requirement	Developer Proposed Provision	Difference
Affordable Housing			
No. of Affordable dwellings	0	0	
Financial Contribution	£38,940	0	-£38,940
Habitats Mitigation			
Financial Contribution	£5,350		

Type	Proposed Floorspace (sq/m)	Existing Floorspace (sq/m)	Net Floorspace (sq/m)	Chargable Floorspace (sq/m)	Rate	Total
Dwelling houses	142		142	142	£80/sqm	£11,840.62 *
Subtotal:	£11,840.62					
Relief:	£0.00					
Total Payable:	£11,840.62					

* 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. In view of the close proximity of the proposed dwelling to the rear garden of No.9, Linford Close, the proposal would give rise to an unacceptable effect due to the perception of overlooking having three first floor windows just 9.5m from the boundary with this property. This would conflict with the aims of 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.

In view of the initial objection from the Highway Authority, the layout was amended to address the parking and turning issues.

Further information:

Major Team
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DISTRICT COUNCIL

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**Planning Development
Control Committee
October 2016**

Item No: 31

Land adj
10 Linford Close
New Milton
16/11005
SZ2495

Scale 1:1250

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

