

Application Number: 16/11028 Full Planning Permission

Site: Land rear of 4 KENNARD ROAD, NEW MILTON BH25 5JU

Development: Detached bungalow; parking; landscaping

Applicant: Mr & Mrs McLeod

Target Date: 14/09/2016

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
Section 197 Trees
Town and Country Planning Act 1990

5 RELEVANT SUPPLEMENTARY PLANNING GUIDANCE AND DOCUMENTS

SPD - New Milton Local Distinctiveness
SPD - Parking Standards

6 RELEVANT PLANNING HISTORY

16/10279 - one pair of semi-detached bungalows, parking, landscaping.
Refused 7.6.16

7 PARISH / TOWN COUNCIL COMMENTS

New Milton Town Council - object and would not allow a delegated approval.
Contrary to Local Distinctiveness SPD and concerns raised in respect of the lack of information regarding protected trees.

8 COUNCILLOR COMMENTS

None received

9 CONSULTEE COMMENTS

- 9.1 Southern Gas Networks - offer advice
- 9.2 Tree Officer - no objection subject to condition
- 9.3 Hampshire County Council Highway Engineer - no objection subject to conditions

10 REPRESENTATIONS RECEIVED

10.1 Objections have been received from 6 local residents concerned with the following:

- loss of privacy
- removal of flora and fauna
- impact on utilities
- additional traffic generation
- noise and disturbance during construction and use of drive
- garden infills should be restricted
- parking adjacent to existing dwellings
- messy overdevelopment
- some locals not notified of the proposals
- flood risk
- loss of sunlight
- bungalow large enough to have three bedrooms
- drive close to adjacent bedrooms
- proposal would devalue no.4
- impact on road safety
- proposal wouldn't have a sympathetic relationship with the host dwelling

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 £1152 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 a previous refusal although the changes between the two schemes are not considered sufficient to address all previous reasons for refusal.

14 ASSESSMENT

- 14.1 The site lies within the built up area of New Milton in a residential area. It currently contains a large detached four bedroom chalet style property with mature gardens and a large drive to the front. There is a large tree to the frontage which is statutorily protected and is a material consideration. The proposal entails the demolition of the existing outbuildings (greenhouse and sheds) and attached garage to the host dwelling and the provision of a single storey dwelling to the rear garden area comprising two bedrooms (one ensuite), bathroom, study/dining room, hall and large open plan living, kitchen, dining area. There would be a single attached garage with two further parking spaces abutting Alexander Close. Cycle hoops are indicated for both existing and proposed dwellings.
- 14.2 The previous scheme was refused for three reasons. One of these relates to affordable housing contributions which are dealt with later in this assessment. The first reason for refusal concerned the fact that the development was a form of backland development; this is still clearly the case. While the current scheme has halved the number of units to one, the footprint has only reduced by approximately 25% and the extent of hard surfacing seems comparable to the refused scheme.
- 14.3 The supporting documentation identifies the site on aerial photographs from 1999, 2005 and 2014 which depict the progressive development which has occurred in the 'block' bound by Lake View Road, Fernhill Road, Kennard Road and Avenue Road. These photographs also highlight the fact that the southern section of this block is the least developed and therefore more important to retain as an area of green space in an otherwise significantly built up area.
- 14.4 The applicant considers that in view of the extent of the built up nature of this area, there are no valid reasons why this development should not be permitted. However, in this respect, the main infill developments in this block are on sites which were large enough to provide streets (Pond Close, Alexander Close and The Ferns) and therefore these properties have an association with the new street. This would not be the case for the current proposal which would have no active street frontage being tucked behind the host dwelling. This is not a form of development which would contribute positively to a sense of place.
- 14.5 The Highway Authority have advised that the proposal provides an adequate level of parking provision which should ensure that there is no displaced parking on the highway which in turn would not only cause highway safety issues but would impact on the grass verges in the area. The second reason for refusal is therefore considered to have been addressed.
- 14.6 Residential amenity was not previously a reason for refusal and the changes to the scheme do not raise any issues which would warrant this view changing although the concerns raised above have been noted.
- 14.7 With regard to the trees, the proposal offers limited changes under the canopy of the protected trees within and adjacent to the site and the tree officer has raised no objection to the proposal subject to conditions.

- 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”

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.

- 14.9 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.
- 14.10 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.
- 14.11 However, in view of the backland nature of the proposed development, it is considered that the proposal fails to contribute positively to a sense of place and refusal is recommended.
- 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	£3,672	0	
Habitats Mitigation			
Financial Contribution	£4,250		

Type	Proposed Floorspace (sq/m)	Existing Floorspace (sq/m)	Net Floorspace (sq/m)	Chargable Floorspace (sq/m)	Rate	Total
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Dwelling houses	121.3	38	83.3	83.3		£0.00 *
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Subtotal:	£0.00
Relief:	£0.00
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 is contrary to policy CS2 of the Core Strategy for the New Forest District outside the National Park by virtue of the backland nature of the new dwelling having no active street frontage and resulting in the loss of green space which is already limited in this area.

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 a previous refusal although the changes between the two schemes are not considered sufficient to address all previous reasons for refusal.

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: 3v
Land rear of
4 Kennard Road
New Milton
16/11028
SZ2395

Scale 1:1250

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

