

Application Number: 16/11187 Full Planning Permission

Site: Land of ELGIN HOUSE, ROMAN ROAD, DIBDEN PURLIEU,
HYTHE SO45 4QJ

Development: Detached house; shed

Applicant: Mr & Mrs Aalen

Target Date: 19/10/2016

Extension Date: 11/11/2016

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

CS1: Sustainable development principles
CS2: Design quality
CS7: Open Spaces
CS10: The spatial strategy
CS25: Developers contributions

Local Plan Part 2 Sites and Development Management Development Plan Document

Policy DM3 – Habitat Mitigation
Conservation Area: N :
Tree Preservation Order: Y TPO No:2/94

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

Parking Standards SPD (Oct 2012)
SPD - Mitigation Strategy for European Sites

6 RELEVANT PLANNING HISTORY

6.1 15/11798 - House and parking - granted March 2016

6.2 15/11163 - Bungalow and parking - withdrawn August 2015

7 PARISH / TOWN COUNCIL COMMENTS

Hythe & Dibden Parish Council: recommend permission, but would accept the decision reached by the District Council Planning Officers under their delegated powers, subject to the following condition. That due to the narrowness of the private road and Monks Walk all builders and construction deliveries to the site should be made via Elgin House .

8 COUNCILLOR COMMENTS

None

9 CONSULTEE COMMENTS

9.1 New Forest National Park Authority - no objections, subject to appropriate mitigation being secured for the New Forest SPA and Solent SPA.

9.2 Hampshire County Council Highway Engineer - No objections subject to car and cycle parking conditions.

9.3 Southern Gas Networks - Although SGN has a high pressure gas pipeline in the vicinity, the safety and integrity of our assets will not be affected by the proposal.

10 REPRESENTATIONS RECEIVED

10.1 Four letters have been received citing the following reasons for objection:

- Increased traffic using Monks Walk
- Damage caused to Monks Walk, which is unadopted
- Loss of highway safety
- Loss of privacy
- Loss of light
- Potential damage to trees

11 CRIME & DISORDER IMPLICATIONS

None

12 LOCAL FINANCE CONSIDERATIONS

If this development is granted permission and the dwelling built, the Council will receive £1152 in each of the following six years from the dwelling's 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 £14,675.69, however as the applicant has declared the dwelling will be

constructed as a self build, it may be exempt from CIL. 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 all the above apply and as the application was acceptable following submission of amended plans showing use of obscure glazing and top quarter opening windows in the front elevation, the proposal was considered to be acceptable.

14 ASSESSMENT

- 14.1 The site is currently occupied by a two storey detached dwelling within a garden similar in size to the gardens of other dwellings in the locality. A bungalow at no. 1 Monks Walk has been erected in the rear curtilage of Fairmead, dating from the 1970's. The property is located within a built up area, that is characterised by detached residential properties, comprised of bungalows and two storey dwellings. Roman Road is characterised by dwellings generally set back from the pavement edge, with front gardens bounded by mature hedges. To the rear the site is bound by a close boarded fence (to be removed) and by mature hedges.

- 14.2 The application is made to site a two storey, four bed dwelling in the rear garden of Elgin House. Off-street parking for at least 3 no. vehicles, to serve the new dwelling would be provided, accessed via an existing track from Monks Walk. The materials of construction would be buff brickwork with Siga hanging tiles and roof tile. Planning permission was granted in March this year for a dwelling on this plot with a very similar footprint and layout, while the design has altered, the impacts of this current proposal would be similar in many respects.
- 14.3 Policy CS2 of the Core Strategy seeks to ensure that all new development is appropriate and sympathetic to its setting and shall not cause unacceptable effects on adjoining land uses in terms of visual amenity or adverse impacts upon residential amenity.
- 14.4 In terms of the impact of the proposal upon the character of the area, the proposal occupies part of the rear garden of Elgin House. The proposal has a similar footprint and is of very similar scale and appearance to the previously approved dwelling on this site, the main changes being minor alterations to the fenestration. Consequently the proposal is considered to be appropriate in the context of the area's character.
- 14.5 With regard to the amenity provisions of Policy CS2, it needs to be considered whether the scale and siting of the proposal would present any significant overbearing impact, loss of light, privacy or outlook to adjoining occupiers. It also needs to be considered whether the depth and level of amenity space proposed for future occupiers of the development, around the proposed dwelling would be acceptable. With regard to the second point the proposal offers an adequate level of garden curtilage, including off-street parking, for future occupiers of the development. Regarding adjoining amenity, windows on the front elevation would overlook the rear garden of No.2 Monks Walk at a distance of about 9 metres from the boundary. In the interests of preserving the privacy of no. 2 Monks Walk, the first floor windows should be obscure glazed and with restricted opening and amended plans have been received to address this issue. The proposal would not have any overbearing impact or result in any significant light loss to adjoining properties, being of modest height (7m), reducing to 4.5m closest to the boundary with no. 1 Monks Walk.
- 14.6 The Highway Authority raises no objections to the proposal, pointing out that it is similar in respect of highway matters to the previous application at the site ref 15/11798. Vehicular access to the site would be from the shared access onto Monks Walk which is an unadopted road and serves approximately 15 other properties. Monks Walk joins the highway at its junction with Roman Road and although this junction is substandard in terms of visibility and width there are no records of any injury accidents at this location over the past 5 years. Given that the proposals would only increase the vehicular movements at this junction by less than 10% it is considered that any refusal in respect of the suitability of the junction of Monks Walk and Roman Road would not be appropriate in this instance.
- 14.7 With regard to comments that the narrow access will prove problematic insofar as access by construction traffic and potential damage to the road surface, an informative will be placed on any approval requesting the applicant to consider the use of smaller vehicles for access via Monks Walk or otherwise gain access directly from Roman Road, through Elgin House.

- 14.8 With regard to concerns raised over potential tree damage there is a group of prominent, protected, Beech trees growing on a neighbouring property along the boundary of the access track. The Tree Officer previously considered the existing track provides satisfactory ground protection for these trees and that no damage would occur to these specimens. The proposed construction traffic access informative should assist in this regard.
- 14.9 The proposal is for a net gain of 1 no. dwelling, where contributions towards affordable housing and habitat mitigation would be required, in addition to any CIL liability. The proposed development has a CIL liability, but is likely to be exempt on the basis of the CIL Self-Build procedure. The applicant will need to apply for exemption at the appropriate time, following the grant of any approval. However, 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. CIL exemption dictates payment of the full habitat mitigation contribution (including management and monitoring).
- 14.10 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”*
- 14.11 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.

- 14.12 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.
- 14.13 In conclusion it is considered that the proposed dwelling would be appropriate to the character and appearance of the area with no adverse implications for neighbours. The access and parking arrangements would be appropriate and the relevant contributions would be secured by a Section 106 Agreement.
- 14.14 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 there may be an interference with these rights and the rights of other third parties, such interference has to be balanced with the like rights of the applicant to develop the land in the way proposed. In this case it is considered that the protection of the rights and freedoms of the applicant outweigh any possible interference that may result to any third party.

Section 106 Contributions Summary Table

Proposal:			
Type of Contribution	NFDC Policy Requirement	Developer Proposed Provision	Difference
Affordable Housing			
No. of Affordable dwellings	0	0	0
Financial Contribution	£25,050	£0	£25,050
Habitats Mitigation			
Financial Contribution	£5,350	£5,350	0

Type	Proposed Floorspace (sq/m)	Existing Floorspace (sq/m)	Net Floorspace (sq/m)	Chargeable Floorspace (sq/m)	Rate	Total
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Self Build (CIL Exempt)	176		176	176	£80/sqm	£14,675.69 *
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Subtotal:	£14,675.69
Relief:	£14,675.69
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:

$Net\ additional\ new\ build\ floor\ space\ (A) \times CIL\ Rate\ (R) \times Inflation\ Index\ (I)$

15. RECOMMENDATION

Grant Subject to Conditions

Proposed Conditions:

1. The development hereby permitted shall be begun before the expiration of three years from the date of this permission.

Reason: To comply with Section 91 of the Town and Country Planning Act 1990 as amended by Section 51 of the Planning and Compulsory Purchase Act 2004.

2. The development permitted shall be carried out in accordance with the following approved plans: aale sht 1 Rev A (amended plan), aale sht 2, aale sht 3 and aale sht 4

Reason: To ensure satisfactory provision of the development.

3. Before development commences, samples or exact details of the facing and roofing materials to be used shall be submitted to and approved in writing by the Local Planning Authority. The development shall only be implemented in accordance with the approved details.

Reason: To ensure an acceptable appearance of the building in accordance with policy CS2 of the Core Strategy for the New Forest District outside the National Park.

4. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015 (or any re-enactment of that Order) no extension (or alterations) otherwise approved by Classes A, B or C of Part 1 of Schedule 2 to the Order, garage or other outbuilding otherwise approved by Class E of Part 1 of Schedule 2 to the Order, or means of enclosure otherwise approved by Class A of Part 2 of Schedule 2 to the Order shall be erected or carried out without express planning permission first having been granted.

Reason: In view of the physical characteristics of the plot, the Local Planning Authority would wish to ensure that any future development proposals do not adversely affect the visual amenities of the area and the amenities of neighbouring properties, contrary to Policy CS2 of the Local Plan for the New Forest District outside the National Park (Core Strategy).

5. No development shall be carried out until proposals for the mitigation of the impact of the development on the New Forest and Solent Coast European Nature Conservation Sites have been submitted to and approved in writing by the local planning authority, and the local planning authority has confirmed in writing that the provision of the proposed mitigation has been secured. Such proposals must:

- (a) Provide for mitigation in accordance with the New Forest District Council Mitigation Strategy for European Sites SPD, adopted in June 2014 (or any amendment to or replacement for this document in force at the time), or for mitigation to at least an equivalent effect;

- (b) Provide details of the manner in which the proposed mitigation is to be secured. Details to be submitted shall include arrangements for the ongoing maintenance and monitoring of any Suitable Alternative Natural Green Spaces which form part of the proposed mitigation measures together with arrangements for permanent public access thereto.
- (c) The development shall be carried out in accordance with and subject to the approved proposals.

Reason: The impacts of the proposed development must be mitigated before any development is carried out in order to ensure that there will be no adverse impacts on the New Forest and Solent Coast Nature Conservation Sites in accordance with Policy DM3 of the Local Plan Part 2 and the New Forest District Council Mitigation Strategy for European Sites Supplementary Planning Document.

6. Before first occupation of the development hereby approved, a surface water sustainable drainage system (SuDS) shall be designed and installed to accommodate the run-off from all impermeable surfaces including roofs, driveways and patio areas on the approved development such that no additional or increased rate of flow of surface water will drain to any water body or adjacent land and that there is capacity in the installed drainage system to contain below ground level the run-off from a 1 in 100 year rainfall event plus 30% on stored volumes as an allowance for climate change as set out in the Technical Guidance on Flood Risk to the National Planning Policy Framework.

Infiltration rates for soakaways are to be based on percolation tests in accordance with BRE 365, CIRIA SuDS manual C753, or a similar approved method.

In the event that a SuDS compliant design is not reasonably practical, then the design of the drainage system shall follow the hierarchy of preference for different types of surface water drainage system as set out at paragraph 3(3) of Approved Document H of the Building Regulations.

The drainage system shall be designed to remain safe and accessible for the lifetime of the development, taking into account future amenity and maintenance requirements.

Reason: In order to ensure that the drainage arrangements are appropriate and in accordance with Policy CS6 of the Core Strategy for the New Forest District outside the National Park and the New Forest District Council and New Forest National Park Authority Strategic Flood Risk Assessment for Local Development Frameworks.

7. The first floor windows in the north east elevation of the approved dwelling shall at all times be glazed with obscure glass and only top quarter opening, as shown on amended drawing no. aale sht 1 Rev A

Reason: To safeguard the privacy of the adjoining neighbouring properties in accordance with policy CS2 of the Local Plan for the New Forest District outside the National Park (Core Strategy).

8. Before use of the development is commenced provision for parking shall have been made within the site in accordance with the approved plans and shall be retained thereafter.

Reason: To ensure adequate on-site car parking provision for the approved development, in accordance with policy CS2 of the Core Strategy of the New Forest District outside the National Park.

9. Before use of the development is commenced provision for cycle storage, shall have been made within the site in accordance with the approved plans and shall be retained thereafter.

Reason: To ensure adequate on-site cycle parking provision for the approved development, in accordance with policy CS2 of the Core Strategy of the New Forest District outside 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 all the above apply and as the application was acceptable following submission of amended plans showing use of obscure glazing and top quarter opening windows in the front elevation, the proposal was considered to be acceptable.

2. The applicant/developer is requested to consider use of smaller construction vehicles for accessing the development site via Monks Walk or otherwise gain access directly from Roman Road, through Elgin House, in the interests of maintaining the surface of the unadopted highway and avoiding damage to protected trees, which adjoin the access to the site.

Further Information:

Major Team

Telephone: 023 8028 5345 (Option 1)



New Forest
DISTRICT COUNCIL

Tel: 023 8028 5000
www.newforest.gov.uk

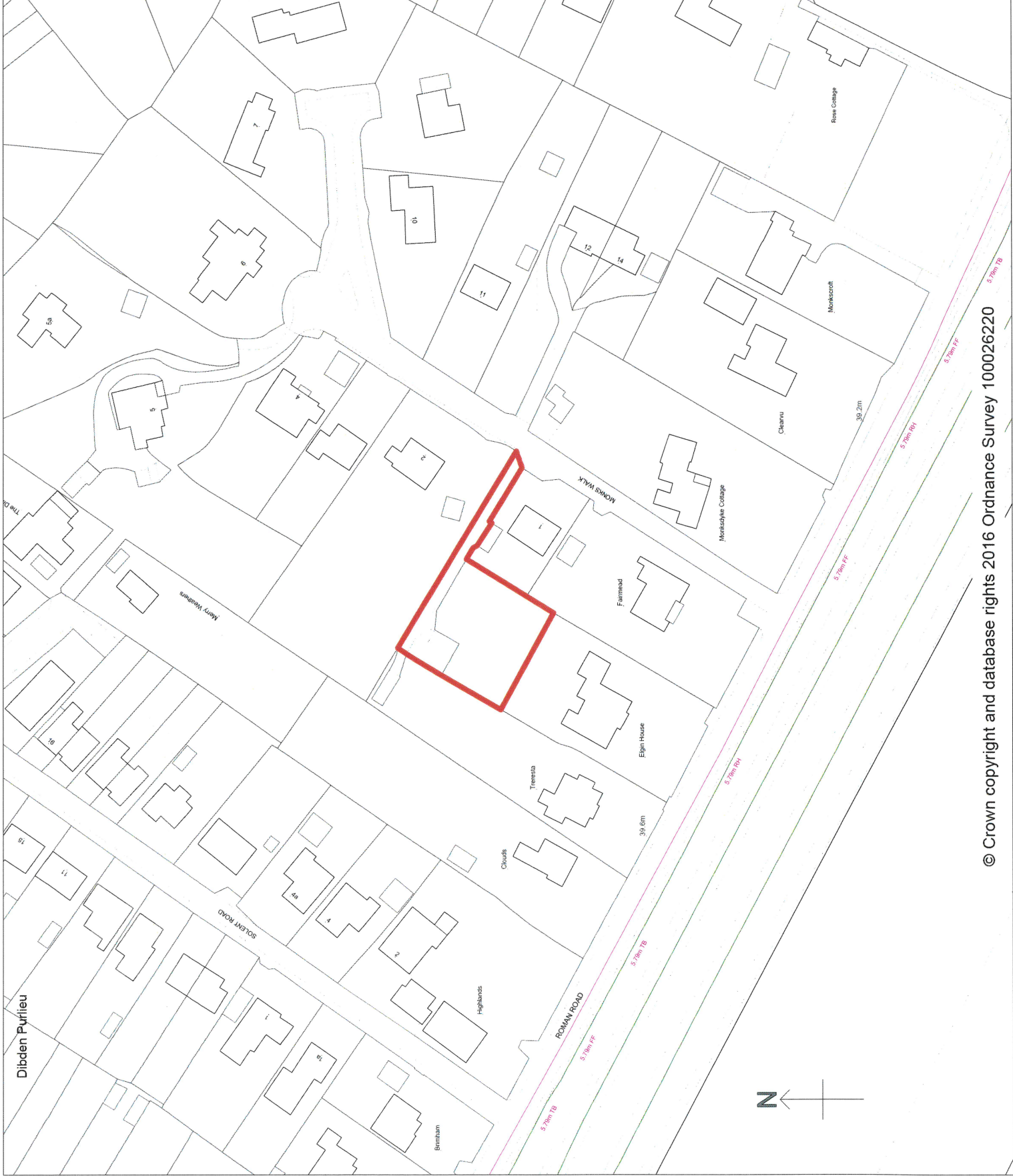
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**Planning Development
Control Committee
November 2016**

Item No: 31
Land of Elgin House
Roman Road
Dibden Purlieu
16/11187
SU4105

Scale 1:1250

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



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