

**Application Number:** 16/11266 Full Planning Permission

**Site:** Land of HOLLY COTTAGE, 9 WAINSFORD ROAD,  
PENNINGTON, LYMINGTON SO41 8GD

**Development:** House

**Applicant:** Mr Finch

**Target Date:** 15/11/2016

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**1 REASON FOR COMMITTEE CONSIDERATION**

Contrary to Town Council view; Contrary to Policy (in respect of affordable housing contribution requirements)

**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**

DM1: Heritage and Conservation

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**

6.1 House; parking (14/11657) - refused 16/2/15

6.2 House (15/10577) - refused 8/7/15

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

Lymington & Pennington Town Council:- recommend refusal on grounds of impact on character of area; adverse impact on highway safety; adverse impact on Listed Building

## **8 COUNCILLOR COMMENTS**

None

## **9 CONSULTEE COMMENTS**

9.1 Highway Authority:- Views awaited

9.2 Southern Gas:- Advise of site's proximity to gas main

## **10 REPRESENTATIONS RECEIVED**

10.1 3 letters of objection from neighbouring properties:- plot is not large enough to accommodate a dwelling; concerns about disruption during construction; lack of on site-parking would result in additional congestion and highway safety concerns; loss of neighbour's light and privacy; adverse impact on the setting of The Old School.

## **11 CRIME & DISORDER IMPLICATIONS**

No relevant considerations

## **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 £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.

In this case, all the above apply and as the application was acceptable as submitted no specific further actions were required.

## 14 ASSESSMENT

- 14.1 The application site forms part of the garden curtilage of 9 Wainsford Road, which forms one half of a traditional pair of 2-storey semi-detached dwellings within the centre of Pennington Village. This pair of cottages is recognised as an important building in the Lymington Local Distinctiveness Supplementary Planning Document (SPD). The site is bounded on its western side by a more modern 2-storey detached dwelling at 9a Wainsford Road. The rear garden of 7 Wainsford Road wraps around the rear of the site. Opposite the frontage of the site is the Grade II Listed Old School.
- 14.2 An application for a new 2-storey detached dwelling was refused at this site in February 2015. The development, which involved demolition of an existing double garage building to the west side of the main dwelling at 9 Wainsford Road, was deemed to be of a poor design that was thereby harmful to the local distinctiveness and the character and appearance of the area. The development was also deemed to result in unacceptable overlooking of a neighbouring dwelling, and the development,

furthermore, failed to secure various contributions required under policy. More recently, an application for a 2-storey detached dwelling was also refused but only on the grounds that the proposal failed to secure contributions to affordable housing and habitat mitigation measures. In all other respects, it was concluded that the dwelling would have an acceptable impact.

- 14.3 This latest application is identical to the development that was refused in July 2015. The main thing that has changed since the previous application was determined is the Council's approach to affordable housing.
- 14.4 Based on the requirements of Core Strategy Policy CS15, the proposed development is one that should secure an affordable housing contribution of £45,900. However, on 19<sup>th</sup> May 2016 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.
- 14.5 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.
- 14.6 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 now 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. As such,

the most significant objection to the previously refused scheme would no longer apply.

- 14.7 The other reason why application 15/10577 was refused, namely a failure to secure habitat mitigation contributions, is still a relevant concern, but one that could now be addressed by a planning condition 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. The imposition of such a condition would ensure that there is no conflict with the Habitat Regulations 2010 and would ensure compliance with the Council's Local Part 2 Policy DM3. The condition is necessary as, without it, likely significant adverse effects on both the New Forest and the Solent European Nature Conservation Sites cannot be ruled out.
- 14.8 The development that is proposed is considered to respect the scale and appearance of the adjacent semi-detached cottages. The dwelling would have a traditional roof form and appearance that would relate appropriately to 9 Wainsford Road. The plot would be a small one with limited depth. However, in view of the site's location and context in the centre of Pennington village, it is felt that the plot size would be adequate, taking into account the dwelling's setting, which would include an enclosed front garden without any parking, and therefore with the scope to provide sufficient areas of greenery to the front of the dwelling to soften its visual impact. The rear garden, while small, would provide a pleasant southerly outlook. Therefore, on balance, it is felt that the scheme would be of an acceptable design quality, subject to appropriate materials and landscaping. However, this design quality could potentially be swiftly eroded by some fairly small scale changes that would normally be permitted development. As such, any permission would need to be the subject of a condition removing permitted development rights to ensure the design quality of the proposed scheme is not unduly compromised by unsympathetic future changes.
- 14.9 The proposed development would affect the setting of the adjacent Grade II Listed Building at the Old School. There is a reasonable separation distance between the Old School and the application site. Given the conclusion that the proposed development is of an acceptable design quality, it is felt that the development's impact on the setting of the Old School would be acceptable.
- 14.10 The dwelling that is proposed would have some impact on the outlook from a first floor bathroom window in the neighbouring dwelling at 9a Wainsford Road. However, this impact would be relatively marginal, and one which would be unacceptable. The development's impact on the amenities of the occupants of the host dwelling is also considered to be acceptable. A first floor window on the side elevation of the proposed dwelling could reasonably be glazed with obscure glass, given that the room affected is also lit by 2 large rooflights. A first floor window on the rear elevation of the building would serve a bathroom window rather than a sole bedroom window. Therefore, this window could also be conditioned to be glazed with obscure glass, and on this basis, it is felt the development would not unduly overlook the rear garden of 7 Wainsford Road, which wraps around the rear of the application site. It is felt that the development's overall impact on neighbouring properties would be acceptable.

- 14.11 The application does not propose any off-street parking for either the proposed or existing dwellings. The Council's Parking Standards Supplementary Planning Document recommends that a 3-bedroom dwelling should provide 2.5 on-site parking spaces. Therefore, the level of car parking that is proposed would not accord with the Council's recommended level of provision. However, having regard to the site's sustainable location, close to local shops and facilities, the Highway Authority previously advised that an objection based on an under-provision of parking would be inappropriate, and unsustainable at an appeal situation (their views on the current application are still awaited, but are expected to be unchanged). In reaching their conclusion on the previous application, the Highway Authority had regard to recent national planning policy advice, which makes it clear that parking standards should only be imposed where there is a clear and compelling justification that such standards are necessary to manage the local road network.
- 14.12 When previously concluding that a car free development would be acceptable, the Highway Authority noted that parking already occurs along Wainsford Road and is tolerated. They did not feel the additional on-street parking from 2 dwellings in this specific location would cause demonstrable harm to highway safety. There is a good range of shops and community facilities within easy walking distance of the dwellings, and the site is near to a local bus route. The new dwelling might therefore be attractive to non-car users. The Local Planning Authority has approved other car free developments or developments with reduced car parking in Lymington and Pennington in recent years, where those developments are sustainably located. Taking into account all of these factors, it is felt that the car free nature of the development would be acceptable and justified from a highway safety perspective.
- 14.13 Overall, the proposed development is considered to be consistent with Local Plan policies and Core Strategy objectives. The proposed development would be of an acceptable design quality that would be sympathetic to the character and setting of the wider area. The proposal would have an acceptable impact on neighbouring properties. It is felt the previous objection relating to a lack of affordable housing provision would no longer apply whilst habitat mitigation requirements could be reasonably met by condition. As such, the application is recommended for permission.
- 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

<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	£45,900	0	-£45,900
<b>Habitats Mitigation</b>			
Financial Contribution	£4250		

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)	80.6	39	41.6	41.6	£80/sqm	£3,468.80 *
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Subtotal:	£3,468.80
Relief:	£3,468.80
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:

- 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: MD.01, LP.01, PPE.01, ESS.01.

Reason: To ensure satisfactory provision of the development.

3. 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.

4. 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.

5. Before development commences a scheme of landscaping of the site shall be submitted for approval in writing by the Local Planning Authority. This scheme shall include :

- (a) the existing trees and shrubs which have been agreed to be retained;
- (b) a specification for new planting (species, size, spacing and location);
- (c) areas for hard surfacing and the materials to be used;
- (d) the treatment of the boundaries of the site and other means of enclosure;
- (e) a method and programme for its implementation and the means to provide for its future maintenance.



No development shall take place unless these details have been approved and then only in accordance with those details.

Reason: To ensure that the development takes place in an appropriate way and to prevent inappropriate car parking to comply with Policy CS2 of the Local Plan for the New Forest District outside the National Park (Core Strategy).

6. All planting, seeding or turfing comprised in the approved details of landscaping shall be carried out in the first planting and seeding seasons following the occupation of the buildings or the completion of the development, whichever is the sooner. Any trees or plants which within a period of 5 years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size or species, unless the Local Planning Authority gives written consent to any variation.

Reason: To ensure the appearance and setting of the development is satisfactory and to comply with Policy CS2 of the Local Plan for New Forest District outside the National Park (Core Strategy).

7. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015 (or any re-enactment of that Order) no extension, 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, hard surface otherwise approved by Class F 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, provided 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).

8. 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.

9. The first floor bathroom window on the rear elevation of the approved building and the first floor bedroom window on the side elevation of the approved building shall at all times be glazed with obscure glass.

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).

10. No other first floor windows other than those hereby approved shall be inserted into the building unless express planning permission has first been granted.

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).

#### **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, as the application was acceptable as submitted no specific further actions were required.

#### **Further Information:**

Major Team  
Telephone: 023 8028 5345 (Option 1)



**New Forest**  
DISTRICT COUNCIL

Tel: 023 8028 5000  
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  
November 2016**

**Item No: 30**  
Land at Holly Cottage  
9 Wainsford Road  
Pennington Lymington  
16/11266  
SZ3095

Scale 1:1250

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

