

Application Number: 16/11288 Outline Planning Permission

Site: 3 LOWER BUCKLAND ROAD, LYMINGTON SO41 9DH

Development: House; detached garage; parking; access
(Outline application with details only of access)

Applicant: Ms Baxter

Target Date: 21/11/2016

1 REASON FOR COMMITTEE CONSIDERATION

Contrary to Policy CS15 (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
- 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:- Views awaited

8 COUNCILLOR COMMENTS

None

9 CONSULTEE COMMENTS

9.1 Hampshire County Council Highway Engineer:- Views awaited

10 REPRESENTATIONS RECEIVED

None

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 £691 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 £5,920.31.

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 the subject of negative pre-application advice. The objections to the application are not capable of being satisfactorily resolved through negotiation.

14 ASSESSMENT

- 14.1 3 Lower Buckland Road is a hipped roofed chalet bungalow that is set back from the road in a generous sized garden plot. The dwelling is elevated above the level of the road, with banks of greenery and vegetation set either side of the existing access drive. The plot is bounded on its south side by a group of modern terraced houses at Lyric Place and by the long back garden of 35 Avenue Road. To its north side, the site is bounded by 1 and 2 Shrubbs Avenue, which is a pair of semi-detached dwellings set at a slightly lower level than the rear garden of 3 Lower Buckland Road. To its west side, the site is bounded by a dwelling at 45 Shrubbs Avenue.
- 14.2 The submitted application is for a new detached dwelling and a detached garage within the rear garden of 3 Lower Buckland Road. The application has been submitted as an outline planning application with access being the only matter of detail for determination at this stage. The application specifically proposes to alter the existing access onto the highway by extending the access position up to the site's boundary with 1 Shrubbs Avenue. The proposed new dwelling would be served by a driveway extending along the northern side of the plot.
- 14.3 The development proposed would be an uncharacteristic form of backland development that would not relate well to the character and form of adjacent development. Although layout is not a matter for detailed consideration at this stage, it is anticipated that any dwelling in the modest backland plot that is proposed would project awkwardly to the front of 45 Shrubbs Avenue. From viewpoints in Shrubbs Avenue, the new dwelling would also be seen in close proximity to the rear of 3 Lower Buckland Road, and with the taller dwellings of Lyric Place behind, a new dwelling in this backland location would have a cramped and congested appearance. The new dwelling's uncharacteristic form and cramped appearance would also be discernible from Lower Buckland Road, where the widening of the existing access and the loss of bank and vegetation would materially compound the proposed dwelling's adverse visual impact. Overall, it is not considered that a

detached dwelling (of any scale) in this backland location would be contextually appropriate or sympathetic to local distinctiveness, and therefore the proposal would be harmful to the character and appearance of the area.

- 14.4 The proposed dwelling would have the potential to harm the privacy of neighbouring dwellings if a 2-storey dwelling with poorly sited first floor windows were to be proposed. However, it is not inevitable that the dwelling should be 2-storeys. If it was only a single-storey property, there should be no resulting overlooking of neighbouring dwellings. Moreover, even if the dwelling were to be 2-storey, overlooking issues could potentially be addressed by designing the dwelling in such a way that any first floor windows are obscure glazed, high level or rooflights. If all else was acceptable, it is felt that an acceptable impact on neighbouring dwellings could be achieved through conditions and through appropriate designs at the reserved matters stage. Moreover, it is felt the proposed dwelling would have satisfactory levels of amenity in this context, even though it would have only a small garden area.
- 14.5 At the time of writing, the views of the Highway Authority are still awaited. However, it is understood that they have concerns with the proposed access due to its limited visibility, and they are also concerned due to the likely lack of an appropriate on-site turning facility. The views of the Highway Authority will be the subject of further update. It is, however, anticipated that they will raise an objection.
- 14.6 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 were to be 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.
- 14.7 On 19th 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 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 which requires many small scale housing developments including the current application proposals to make affordable housing provision.

- 14.8 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.
- 14.9 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.
- 14.10 Overall the proposed development would not be consistent with Local Plan policies and objectives. The proposed development would be an inappropriate design that would not be sympathetic to the site's context. Given the development's harmful visual impact and anticipated adverse impact on highway safety, the application can only be recommended for refusal.
- 14.11 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	0
Financial Contribution		0	

Habitats Mitigation			
Financial Contribution			

Type	Proposed Floorspace (sq/m)	Existing Floorspace (sq/m)	Net Floorspace (sq/m)	Chargeable Floorspace (sq/m)	Rate	Total
Dwelling houses	71		71	71	£80/sqm	£5,920.31 *

Subtotal:	£5,920.31
Relief:	£0.00
Total Payable:	£5,920.31

* 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

Refuse

Reason(s) for Refusal:

1. The proposed development would be an incongruous form of backland development that would be materially out of keeping with the character of adjacent development, and which would have a cramped and awkward appearance in this rear garden setting due to the small size of the plot and the dwelling's close proximity to other adjacent buildings. The development's adverse visual impact would be compounded by the access alterations onto Lower Buckland Road which would have a relatively harsh appearance due to the increased expanse of hardstanding and the loss of a bank with vegetation. As such, the proposed development would be contrary to Policy CS2 of the Core Strategy for New Forest District outside of the National Park.
2. A reason for refusal to reflect the anticipated objection from the Hampshire County Council Highway Engineer.

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 the subject of negative pre-application advice. The objections to the application are not capable of being satisfactorily resolved through negotiation.

2. Please note that had the Local Planning Authority deemed the impact of the development acceptable, it would have imposed a condition requiring that any dwelling be either single-storey or, if two-storey, restricted so as to have no clear glazed first floor windows (unless high level or rooflights).

Further Information:

Major Team

Telephone: 023 8028 5345 (Option 1)



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DISTRICT COUNCIL

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**Planning Development
Control Committee
November 2016**

Item No: 3p

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Lower Buckland Road
Lymington
16/11288
SZ3295

Scale 1:1250

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

