

Application Number: 16/11361 Full Planning Permission

Site: Land of GARDEN HOUSE, PRIVATE ROAD, MARSH LANE,
LYMINGTON SO41 9EW

Development: House; access; parking

Applicant: Belmore Developments Ltd

Target Date: 12/12/2016

1 REASON FOR COMMITTEE CONSIDERATION

Contrary Town Council view

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

- CS1: Sustainable development principles
- CS2: Design quality
- 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 - Design of Waste Management Facilities in New Development
SPD - Lymington Local Distinctiveness
SPD - Mitigation of Impacts on European Nature Conservation Sites

6 RELEVANT PLANNING HISTORY

None

7 PARISH / TOWN COUNCIL COMMENTS

Lymington and Pennington Town Council - recommend permission and would not accept a delegated refusal

8 COUNCILLOR COMMENTS

None received

9 CONSULTEE COMMENTS

9.1 Environmental Health (Contamination) - request informative

9.2 Southern Gas Networks - offer advice

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

9.4 Southern Water - request condition and informative

10 REPRESENTATIONS RECEIVED

10.1 One letter from a neighbour commenting that they have concerns about overlooking and make suggestions about how this can be overcome.

10.2 The occupant of the host dwelling has offered their support for the dwelling.

11 CRIME & DISORDER IMPLICATIONS

None

12 LOCAL FINANCE CONSIDERATIONS

If this development is granted permission and the dwellings built, the Council will receive £1,152 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 £8,672.00.

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.

Although the applicant has taken previously given advice, this proposal is still considered to be unacceptable on this difficult plot, in view of its impact on residential and visual amenity.

14 ASSESSMENT

- 14.1 The site lies within the built up area of Lymington formed from part of the garden area to the host dwelling and accessed through a car park for a retail premises. The levels vary within the site with the host dwelling being at a higher level than the site, as are other adjoining dwellings to the west and south. Other dwellings in Private Road are chalet style with single storey eaves. The application follows pre-application advice from 2010 and 2015 and entails the provision of a detached two storey dwelling comprising study, WC/utility, hall and open plan kitchen and lounge area at ground floor level with three bedrooms (one ensuite) and a family bathroom at first floor level. Two parking spaces would be provided to the front and a 1.8m high close boarded fence provided to separate the property from the host dwelling. The existing parking and turning space for Garden House would not be affected.

- 14.2 At the later pre-app stage, it was considered that while an additional dwelling could potentially fit on the site, its design required some modification before reaching an acceptable scheme. Some elements of concern have been addressed but the design remains significantly different to the other dwellings in the road which have single storey eaves. Those in Private Road do have upper floors but other adjoining properties are single storey. The design of the proposed dwelling would therefore appear at odds with the other properties in the road. In addition to this, the other properties all have a large front garden area which the proposed dwelling would not have. If a dwelling is to be considered acceptable in this location, it is considered that a smaller scale dwelling with single storey eaves would be needed.
- 14.3 With regard to residential amenity, the proposed dwelling has been designed so as not to overlook the host dwelling significantly - all main habitable and bedroom windows face in a different direction. However, the stair window would be 16m from the front elevation of the existing property and, should permission be granted, this window could be restricted to be obscure glazed. There is a semi-detached bungalow to the rear of the site and the rear facing bedroom windows are proposed to be angled, oriel type windows in order to avoid direct overlooking to 16, Broomfield Lane. There would be much vegetation between the two properties including two large trees outside of the site but much of this could become damaged during construction. It is not considered to be a very satisfactory solution as the windows could still give rise to overlooking of the property to the rear which is just 16m away.
- 14.4 The proposed dwelling would have a small amenity area all around the dwelling although much of this would be at a higher level, some behind a retaining wall. The extent of level amenity space for the property would be limited and is not shown as being directly accessible from the house. It would also be overshadowed by the existing vegetation at the higher level. Overall, it is not considered that the proposed dwelling would benefit from a very good level of amenity.
- 14.5 The Highway Engineer has advised that although the proposed parking provision would be marginally less than the recommended standard, they would have no objection to the proposal subject to parking and turning being provided. They also request the provision of secure cycle parking facilities which are not shown on the submitted plan. The provision of cycle parking could potentially reduce the amenity space further.
- 14.6 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.

- 14.7 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.
- 14.8 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. Approval of the proposal would also generate a CIL payment.
- 14.9 The proposed dwelling is considered to offer limited residential amenity for future occupiers and could potentially impact upon residential amenity to the occupants of 16, Broomfield Road. Further, the design of the dwelling would be out of context in this small street and would be harmful to visual amenity.
- 14.10 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.

CIL Summary Table

Type	Proposed Floorspace (sq/m)	Existing Floorspace (sq/m)	Net Floorspace (sq/m)	Chargeable Floorspace (sq/m)	Rate	Total
Dwelling houses	104		104	104	£80/sqm	£8,672.00 *

Subtotal:	£8,672.00
Relief:	£0.00
Total Payable:	£8,672.00

* 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

Refuse

Reason(s) for Refusal:

1. By virtue of the site's topography and design of the proposed dwelling, the proposal would offer limited residential amenity to future occupiers, be harmful to the amenities currently enjoyed by 16, Broomfield Road and would be out of context in the street scene. It would not contribute positively to local distinctiveness nor be appropriate in its setting in terms of layout and its relationship with adjoining buildings and landscape features. The proposal is therefore contrary to 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.

Although the application has taken previously given advice on board, it is still considered to be unacceptable on this difficult plot in view of its impact on residential and visual amenity.

Further Information:

Major Team
Telephone: 023 8028 5345 (Option 1)



New Forest
DISTRICT COUNCIL

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**Planning Development
Control Committee
December 2016**

Item No: 3j
Land of Garden House
Private Road Marsh Lane
Lymington
16/11361
SZ3296

Scale 1:1250

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

