Application Number: **17/10346** Variation / Removal of Condition

Site:	NONSUCH, MOCKBEGGAR LANE, ELLINGHAM, HARBRIDGE & IBSLEY BH24 3PR
Development:	Removal of Condition 4 of Planning Permission 16/10786 to allow Permitted Development Rights
Applicant:	Mr Robinson
Target Date:	04/05/2017
Extension Date:	10/05/2017

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1 REASON FOR COMMITTEE CONSIDERATION

Contrary view to Parish Council

2 DEVELOPMENT PLAN, OBJECTIVES AND POLICIES

Constraints

Aerodrome Safeguarding Zone
Meteorological Safeguarding
Plan Area
Flood Zone

Conservation Area: Ibsley Conservation Area

Plan Policy Designations
Countryside

National Planning Policy Framework
Section 7

Core Strategy
CS2: Design quality
CS3: Protecting and enhancing our special environment (Heritage and Nature Conservation)

Local Plan Part 2 Sites and Development Management Development Plan Document
DM1: Heritage and Conservation
DM20: Residential development in the countryside

Supplementary Planning Guidance And Documents
SPG - Residential Design Guide for Rural Areas

3 RELEVANT LEGISLATION AND GOVERNMENT ADVICE

Section 38 Development Plan
Planning and Compulsory Purchase Act 2004
National Planning Policy Framework

4 RELEVANT SITE HISTORY

Proposal	Decision Date	Decision Description	Status	Appeal Description
16/10786 Roof alterations to extend first floor; Juliet balcony; rooflight; fenestration alterations	30/08/2016	Granted Subject to Conditions	Decided	
16/10086 Roof alterations to extend first floor; Juliet balcony; rooflights; side porch; fenestration alterations	24/03/2016	Refused	Decided	
14/10557 Roof alterations to extend first floor; balcony; rooflights; porch	09/07/2014	Refused	Decided	
03/79968 Rear roof alterations	08/01/2004	Granted Subject to Conditions	Decided	
03/78075 Pitch roof to form room	10/07/2003	Refused	Decided	
02/76646 Pitched roof to existing flat roof to form room in roof	17/01/2003	Refused	Decided	
XX/RFR/13331 Double garage.	23/01/1970	Granted	Decided	
XX/RFR/10847 Additions.	28/01/1966	Granted Subject to Conditions	Decided	

5 COUNCILLOR COMMENTS

None received

6 PARISH / TOWN COUNCIL COMMENTS

Ellingham, Harbridge & Ibsley Parish Council propose to recommend permission under option PAR3 to NFDC with the following comments:-

The Parish Council believe the imposition of condition 4 on PP 16/10786 removing permitted development rights to be unreasonable in this circumstance. While the intent behind the removal has merit, and might otherwise find support from the Parish Council, its application must be even-handed and seen to be fair.

This is not evidenced in other developments that have been permitted in this part of the Harbridge / Ibsley Conservation Area.

The continued absence of a management plan for the Conservation Area ensures that a lack of clarity for residents and the Parish Council endures as to its objectives beyond recognising the significance of the area.

7 CONSULTEE COMMENTS

Natural England - no comment

8 REPRESENTATIONS RECEIVED

Letter from applicant in response to the officer briefing and comments made by the Parish Council. Research has been undertaken into other previous applications in Mookbeggers Lane, Ibsley and none have had permitted development rights removed. A number of these applications related to roof alterations, side and rear extensions which increase floor space 30% and none were subject of restrictive conditions.

9 CRIME & DISORDER IMPLICATIONS

None Relevant

10 LOCAL FINANCE CONSIDERATIONS

From the 6 April 2015 New Forest District Council began charging the Community Infrastructure Levy (CIL) on new residential developments.

Local financial considerations are not material to the decision on this application

11 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 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 applicant did not use the Pre-application advice service available from the Council. The Officer's initial briefing was published on the Council's website which indicated some of the Case Officer's concerns with the proposal. No request to withdraw the application was received.

12 ASSESSMENT

12.1 This is a detached residential property located in the countryside, outside of the built up area as defined under the Council's current adopted local plan. It is also located within the Ibsley Conservation Area. The property is a modest bungalow set back from the road.

12.2 Planning permission was granted on 30th August 2016 under PA 16/10786 for development of the property which altered the roof space to allow for further floor area of the first floor. With reference to the local plan objectives as expressed under Policy DM20 (Local Plan Part 2: Sites and Development Management Plan), in order to maintain a balance in the District's rural housing stock and to resist the cumulative effects of significant enlargements being made to rural dwellings, restrictions are placed on relative floorspace increases.

12.3 In the case of this approved development the floorspace as proposed by 16/10786 would see a 28% increase. Although it was within the 30% policy limitations - so as not to raise objection - the property would still

benefit from the ability to further enlarge in the future under its permitted development rights. Such further enlargement would be contrary to the aforementioned policy objectives and there would be no planning control available. On this basis it was considered to be appropriate for permitted development rights to be removed in order to control future extensions and as such condition (No 4) was applied to the approval.

12.4 In granting planning permission the Local Planning Authority are able to impose such conditions as they think fit as specified under Section 70(1)(a) of the Town and Country Planning Act 1990. For the reasons noted above it was considered appropriate with reference to the adopted policy objectives under DM20 to apply this condition which meets with the relevant Government tests. It is noted such conditions restricting permitted development rights are applied to approved development throughout the District where considered relevant, having regard to the current development plan.

12.5 This application seeks to remove this condition on the grounds that it fails to meet the 6 tests set by Government for the use of conditions in planning permissions. Furthermore the applicant states that such a condition was not imposed on related development at the adjacent property now known as Kookaburra, under PA 14/10457. They also refer to other grants of permission along Mockbeggar Lane over the previous 10 years.

12.6 In the case of the adjacent property, originally classed as a small dwelling, the retrospectively approved development did not fully utilise the permissible floorspace under Policy DM20. In that case, a condition was not considered necessary.

12.7 The development on Springfield (further east) was approved in 1998 . A further extension was added in 2003 but this was in the form of a conservatory. Policy DM20, or the equivalent policy which was in place at that time, allows for a conservatory over and above the floorspace restriction provided it is appropriate in design and scale. It is therefore not appropriate to compare the different properties in this location given the variety of forms of development which have been approved.

12.8 In conclusion, each application has to be considered on its own merits and while the condition was not applied to a planning approval on a neighbouring property this does not set a precedent for the area. The Parish Council has implied that there is a lack of clear guidance given as there is not a management plan for this location. However it should be noted that the Local and Government policies laid out for properties within the Countryside outside the New Forest covers this location. Overall the long term protection of the Countryside is paramount and the restriction of further development on the property is considered justified and appropriate to maintain a mix of housing stock and to restrict the impact on the local area. Therefore the application to remove condition 4 on planning permission 16/10786 is recommended for recommended for refusal.

12.9 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.

13. RECOMMENDATION

REFUSE the VARIATION of CONDITION

Reason(s) for Refusal:

1. In order to safeguard the long term future of the countryside, the Local Planning Authority considers it important to resist the cumulative affect of significant enlargements being made to rural dwellings. Consequently Policy DM20 of the Local Plan Part 2: Sites and Development Management Plan seeks to limit the proportional increase in the size of such dwellings recognising the benefits this would have in minimising the impact of buildings and human activity generally in the countryside and the ability to maintain a balance in the housing stock. The development approved under planning approval,16/10786, would result in an increase of floor space in relation to the original dwelling just below the limit under the aforementioned policy. To ensure the dwelling remains of a size which is appropriate to its location in the countryside and in the interests of visual amenity it is considered appropriate to withdraw permitted development for Classes A and D of Part 1 of Schedule 2 to the Order unless express planning permission being granted. Therefore the application to remove condition 4 of Planning Permission 16/10786 is refused as it would be contrary to Policy DM20 of the Local Plan Part 2: Sites and Development Management Plan.

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 applicant did not use the Pre-application advice service available from the Council. The Officer's initial briefing was published on the Council's website which indicated some of the Case Officer's concerns with the proposal. No request to withdraw the application was received.

Further Information:

Householder 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

May 2017

Item No: 3i

Nonsuch
Mockbeggar Lane
Ellingham Harbridge & Ibsley
17/10346
SU1509

Scale 1:1250

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