

Application Number: 17/10258 Variation / Removal of Condition

Site: VALLEY COTTAGE, LITTLE BROOK, LYMORE LANE,
MILFORD-ON-SEA SO41 0TS

Development: Variation of Condition 3 of Planning Permission 03/78794 to
extend occupancy from 4 weeks to 11 months of the year

Applicant: Mrs Spenser

Target Date: 04/05/2017

Extension Date: 10/05/2017

1 REASON FOR COMMITTEE CONSIDERATION

Contrary Councillor view

2 DEVELOPMENT PLAN AND OTHER CONSTRAINTS

Countryside outside the New Forest
Green Belt

3 DEVELOPMENT PLAN, OBJECTIVES AND POLICIES

Core Strategy

Objectives

1. Special qualities, local distinctiveness and a high quality living environment
7. The countryside

Policies

- CS1: Sustainable development principles
CS2: Design quality
CS19: Tourism

Local Plan Part 2 Sites and Development Management Development Plan Document

- NPPF1: National Planning Policy Framework – Presumption in favour of sustainable development
DM13: Tourism and visitor facilities

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.1 - Building a strong, competitive economy
NPPF Ch. 9 - Protecting Green Belt land

5 RELEVANT SUPPLEMENTARY PLANNING GUIDANCE AND DOCUMENTS

SPG - Milford-on-Sea Village Design Statement

6 RELEVANT PLANNING HISTORY

6.1 12/98369 - removal of conditions 2 & 3 of 03/78794 to allow use of property March to January in accordance with nearby holiday accommodation. Refused 19.11.12

6.2 03/78794 - use of garage for tourist accommodation. Granted 16.9.03

7 PARISH / TOWN COUNCIL COMMENTS

Milford on Sea Parish Council - recommend refusal but would accept a delegated decision. Considers the proposal would conflict with CS19.

8 COUNCILLOR COMMENTS

Cllr Kendal - supports application

9 CONSULTEE COMMENTS

9.1 Natural England - no comment

9.2 Environmental Health (Contamination) - no concerns

9.3 Environment Agency - no comment

10 REPRESENTATIONS RECEIVED

10.1 Objections have been received from three local residents who consider that the proposal is contrary to policy and too similar to the previously refused scheme. The proposal would amount to an additional dwelling in the Green Belt.

10.2 A letter in support of the proposal has been received.

11 CRIME & DISORDER IMPLICATIONS

None

12 LOCAL FINANCE CONSIDERATIONS

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

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.

The application was submitted without the benefit of pre-application advice and is a similar request to a previously refused proposal.

14 ASSESSMENT

- 14.1 The site lies within the Green Belt in a rural area just outside Milford on Sea. It is part of the wider property containing the host dwelling, Little Brook. The holiday let has its own vehicular access and gravel drive behind a timber five bar gate, typical of other properties in the area. The proposal entails the removal of condition 3 of 03/78794 in order to allow holiday makers to stay at the property in excess of 4 weeks at a time with a view to allowing occupation for 11 months of the year.
- 14.2 In 2012, permission was sought to remove this condition and that restricting the use of the property to being holiday accommodation only (condition 2) with a view to allowing use for 11 months of the year. This application was refused on the grounds that it would be tantamount to the creation of a new dwelling in the Green Belt which is contrary to policy. The removal of the condition and its replacement with a condition allowing occupation for 11 months of the year would be tantamount to a dwelling as there would be no restriction on the length of a stay other than after 11 months of occupation. This is not considered to be a holiday let and would be difficult to enforce.
- 14.3 It is considered that the current 4 week restriction allows a reasonable amount of flexibility for holiday makers. The applicant has put forward limited information for altering this restriction other than it being difficult to let the property in the winter or to overseas visitors. Reference is also made to local holiday companies who have 11 months continuous letting. It is likely that this is a reference to the nearby Lytton Lawn holiday park which has several lodges and mobile homes which are restricted in this way. The following paragraph is taken from the officers report from the 2012 application:

'In the past, in order to retain holiday homes within the district, including at Lytton Lawn not far from this site, restrictions have been imposed such that the properties are not able to be used for holiday purposes for a month of the year - very often this is around February. Generally speaking, properties which have such restrictions are within holiday parks where there are several mobile homes or lodges which are privately owned by people living elsewhere and, therefore, they are considered to be holiday homes being used by either the owners or others through the owners. By contrast, the proposal would enable the application property to be let for 11 months of the year without the requirement for occupiers to change every 4 weeks. This is considered to be tantamount to the creation of a dwelling in the Green Belt which would be contrary to policy.'

- 14.4 It is not considered that the situation has changed since that time and the combination of conditions 2 and 3 on the original approval for the holiday let are typical conditions when allowing new holiday lets within the New Forest District Council plan area. These conditions restrict the use to holiday accommodation only (No.2) and limit the length of stay to a maximum of four weeks (No.3)
- 14.5 In conclusion, there is considered no justification for allowing stays of up to 11 months as this would be tantamount to the formation of a new dwelling in the countryside.
- 14.6 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.

15. RECOMMENDATION

REFUSE the VARIATION of CONDITION

Reason(s) for Refusal:

1. The proposal would enable occupiers to stay in the property for 11 months of the year which is considered to be tantamount to the creation of a dwelling in the Green Belt, contrary to policy CS10 of the Core Strategy for the New Forest District outside the National Park and policy DM20 of the Local Plan part 2.

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 application was submitted without the prior benefit of pre-application advice and is a similar request to the previously refused proposal.

Further Information:

Major Team

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New Forest DISTRICT COUNCIL

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**Planning Development
Control Committee
May 2017**

Item No: 3g

Valley Cottage - Little Brook
Lymore Lane
Milford on Sea
17/10258
SZ2992

Scale 1:1250

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

