

**Application Number:** 17/10098 Full Planning Permission

**Site:** Land of EASTERN ROAD, LYMINGTON SO41 9HH

**Development:** 9 dwellings comprised: two pairs of semi-detached houses; four link-detached houses; one detached dwelling; carports; parking; cycle and bin storage; landscaping; demolition of existing

**Applicant:** Colten Developments Ltd

**Target Date:** 28/03/2017

**RECOMMENDATION: GRANT SUBJECT TO CONDITIONS**

**Case Officer: Vivienne Baxter**

**1 REASON FOR COMMITTEE CONSIDERATION**

Request of Member at the Planning Development Control Committee

**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
- CS3: Protecting and enhancing our special environment (Heritage and Nature Conservation)
- 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
- 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  
Achieving Sustainable Development  
NPPF Ch. 6 - Delivering a wide choice of high quality homes  
NPPF Ch. 7 - Requiring good design  
NPPF Ch. 12 - Conserving and enhancing the historic environment  
Section 72 General duty as respects conservation areas in exercise of planning functions  
Planning (Listed Buildings and Conservation Areas) Act 1990  
Section 197 Trees  
Town and Country Planning Act 1990

## **5 RELEVANT SUPPLEMENTARY PLANNING GUIDANCE AND DOCUMENTS**

SPD - Housing Design, Density and Character  
SPG - Lymington - A Conservation Area Appraisal  
SPD - Lymington Local Distinctiveness  
SPD - Mitigation Strategy for European Sites  
SPD - Parking Standards  
SPD - Design of Waste Management Facilities in New Development

## **6 RELEVANT PLANNING HISTORY**

17/10480 - Use as 1 residential unit; rear roof alterations; front dormers in association with new second floor; side extension; single-storey rear extension; lantern roof light; fenestration alterations; partial demolition of existing. Granted 6.6.17 (16, Western Road)

91/NFDC/48928 - two pairs of semi-detached houses with parking and access alterations. Refused 16.1.92

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

Lymington and Pennington Town Council - recommend refusal (over-development, inadequate access/turning, impact on neighbouring houses) and would not accept a delegated approval.

Following re-consultation:

Recommend permission and would not accept a delegated refusal but wonder whether the Conservation Officer might reconsider their advice with regard to the three storey houses.

A further comment has been received advising of continued reservations in respect of the height of plots 1 and 2.

## **8 COUNCILLOR COMMENTS**

Cllr Penson - please refer to Planning Development Control Committee if approval is recommended.

## **9 CONSULTEE COMMENTS**

9.1 Southern Gas Networks - offer advice

- 9.2 Conservation Officer - raise concern
- 9.3 Urban Design - No objection
- 9.4 Hampshire County Council Highway Engineer - no objection subject to conditions
- 9.5 Tree Officer - no objection subject to conditions

## **10 REPRESENTATIONS RECEIVED**

- 10.1 Objections have been received from over 20 local residents, some of whom have written in more than once. Their concerns are as follows:
- loss of privacy
  - loss of light to property
  - area is already congested
  - traffic congestion
  - parking problems, area is already saturated
  - over-development
  - safety concerns relating to the access including reversing out onto road
  - inadequate visitor parking
  - unsympathetic to character and appearance of area
  - site plan incorrect in terms of access to Buckland House
  - 3 storey houses will dominate sky line and be very imposing
  - other developments allowed in the area will add to parking problems
  - noise and disturbance from additional traffic
  - increase pollution
  - balconies will invade privacy
  - concern about tree roots adjacent to plots 1 and 2
  - potential harm to hedgehogs
  - plot 1 access dangerous
  - proposal conflicts with policy CS2
  - parking restriction needed in the area
  - bungalows would be better
  - residents unlikely to use difficult parking spaces
  - buildings too high
  - site is overlooked on all sides
  - development will be cramped
  - scheme refused on this site in 1991- reasons still stand
  - the amended plans do not address any concerns raised previously
  - front windows have been restricted to prevent overlooking to properties across the road, how can lounge windows 5m from adjoining gardens be acceptable?
  - potential loss of trees in adjoining gardens which contribute to the character of the area
  - buildings too close to the end of gardens
  - trees in adjacent gardens will not protect amenity in winter months
  - houses and car ports are too close to the end of peoples' gardens
  - 3-storey houses could be 4 bed properties
  - proximity of houses to trees would deprive them of sunlight needed for future growth and would limit light to proposed living areas
  - gardens are not big enough
  - the Town Council have changed their view but the plans don't address their concerns
  - loss of a view of trees from Eastern Road

- 10.2 A comment has been received regarding the unconventional parking arrangements to plot 1 (and referred to above) although this issue has since been resolved.

## **11 CRIME & DISORDER IMPLICATIONS**

None

## **12 LOCAL FINANCE CONSIDERATIONS**

If this development is granted permission, the Council will receive New Homes Bonus of £11,016 in each of the following four years, subject to the following conditions being met:

- a. The dwellings the subject of this permission are completed, and
- b. The total number of dwellings completed in the relevant year exceeds 0.4% of the total number of existing dwellings in the District.

Based on the information provided at the time of this report this development has a CIL liability of £51,568.00.

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 view of the difficult nature of this site and the comments received from both consultees and local residents, amendments have been sought in order to try and address the concerns raised which has enabled a positive recommendation to be made.

## **14 ASSESSMENT**

### **14.1 Introduction**

14.1.1 The site lies within the built up area of Lymington in a residential area. The eastern section of the site is within the Lymington Conservation Area. It is mainly a large graveled area last used as parking for the Colten offices at 16-18 Western Road and includes the existing access to the rear of nos.2-12, Western Road and the rear garden areas of 16-18 Western Road. There is a large out-building to the rear of no.16, last used as a sales office. The boundaries of the site are either timber fencing or brick walls although there are some garage doors immediately adjacent to the southern boundary. The site contains limited vegetation although there are mature trees off site, two of which have recently been statutorily protected. Adjoining the site to the north and south are predominantly semi-detached two storey houses although 16-18 Western Road are at the end of a terrace and east of the site is a block of flats.

14.1.2 The proposal entails the demolition of the sales building and the provision of two three-storey semi-detached houses (these are within the aforementioned Conservation Area), 5 link detached cottages and a pair of semi-detached 2-storey houses. Two triple car ports would be provided as well as further parking spaces, bin and cycle stores.

### **14.2 Residential amenity**

14.2.1 The layout of the scheme has been designed with the front and rear elevations of the proposed dwellings in excess of 30m from the rear of adjacent properties in Queen Elizabeth Avenue and Western Road. This distance is much greater than the 21m which is usually desirable in these situations. The front elevations of the proposed dwellings would face into the new street created by the development and properties in Western Road would be further protected in places by small trees and existing garages which are proposed to remain.

14.2.2 At the rear (north), the two-storey dwellings have been designed with en-suite or stair windows in order to minimise any loss of privacy to residents in Queen Elizabeth Avenue. It would be acceptable to include a condition requiring these windows to be obscure glazed as they are not habitable rooms.

14.2.3 The design of the three storey pair of houses has changed significantly since the application was submitted and there are no windows above ground floor level to the rear elevation in order to protect the amenity of residents to the north. In doing this, the windows for the main living accommodation for these houses would face towards the proposed car ports or the parking area for the adjacent flats.

14.2.4 The proposal would not adversely affect light to any adjoining dwelling

although it is noted that concerns have been raised in respect of a loss of light to gardens adjacent to the proposed three-storey building. Loss of light to the ends of relatively lengthy gardens is not usually considered to be an adverse impact. There are trees adjacent to the boundary in this location and, subject to appropriate protection during construction, would remain following development. These trees already take some light from the ends of the gardens and the provision of two houses is not considered to add significantly to this loss.

- 14.2.5 The access would be utilised by more dwellings than at present although this has to be balanced with the loss of the existing parking area adjacent. It is not considered that the proposal would have a significant impact on noise and disturbance to nearby dwellings.

### **14.3 Design/Conservation Area**

- 14.3.1 The current proposal gives articulation in the skyline and gaps between the buildings as though it were a small street of houses. The range and forms of the proposed buildings would offer a character of assorted outbuildings in the form of a mews which would enhance the character of the area.

- 14.3.2 The layout of the site ensures that the proposed three storey building has a setting within its own garden space and has a good relationship, filling what could be considered to be an awkward gap, in the street. The building itself sits more cohesively and responds to the age and architectural context within which it sits. The provision of a boundary around the building is welcomed.

- 14.3.3. However, in view of the concerns expressed in respect of the provision of windows to the rear elevation and the associated overlooking, the design of the three storey building has weakened given the loss of chimney stacks, fenestration pattern to the side elevations and largely blank rear elevation. This issue will be the subject of an update at the meeting.

### **14.4 Highways**

- 14.4.1 The scheme has generated much concern in terms of parking provision as, locally, there is significant on street parking. While some of the dwellings would have their own parking provision, others would have parking provided on a communal basis. On plot parking would generate the highest recommended parking provision at 19.5 spaces and the scheme would provide 23 spaces. Plots 2-6 and 9 would each have 2 spaces immediately adjacent to the dwellings leaving 9 spaces for the other three properties. It is therefore considered that the proposal would provide an adequate number of parking spaces.

- 14.4.2 The access point onto the highway would remain as currently located adjacent to 15, Eastern Road and it would be resurfaced, offering an improved access for 2-12, Western Road. The current access into the parking area would be closed up and a wall with railings on top provided in front of the three-storey dwellings. Within the site, the proposal includes adequate turning facilities for existing and proposed users of the access.

- 14.4.3 The scheme includes an area for bin bag collection which is placed within the appropriate distance for householders to carry their refuse and

within 20m of the maximum distance refuse operators are able to reverse.

- 14.4.4 The Highways Authority has requested that each dwelling has its own cycle storage provision and this is shown on the plans for plots 4-9. There is also adequate space for this facility to be provided in the other plots too.

#### **14.5 Trees**

- 14.5.1 Although the site does not contain any trees, there are several close to the northern boundary. Two of these, an oak to the rear of 11, Queen Elizabeth Avenue and a sycamore to the rear of The Old Police House have recently been statutorily protected in order that they are fully protected should development be approved. Additional information was subsequently submitted by the applicant detailing how the proposed scheme could be implemented with minimal disruption to the trees and the Tree Officer has confirmed that if the scheme is approved, it should be implemented in accordance with these details.

#### **14.6 Contributions**

- 14.6.1 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.
- 14.6.2 In the light of recent changes to national planning policy, it is considered inappropriate to secure a contribution towards affordable housing in respect of schemes of 10 residential units or fewer. In essence, national planning guidance would now outweigh the Council's own policies on this particular issue.

#### **14.7 Conclusion**

- 14.7.1 The proposal would provide a group of small houses in a sustainable location close to the town centre. It is a difficult site being located between two rows of long established dwellings but the resultant mews type appearance works well and given the orientation of the rooms, would have a limited impact on the level of amenity currently enjoyed by local residents. The scheme includes a level of parking in excess of the recommended standards in recognition of current difficulties.
- 14.7.2 Although there are concerns in respect of the design of plots 1 and 2 (in particular, the side and rear elevations) which will be the subject of an update at the meeting, the proposed building fills a gap in the street scene and is contextually appropriate from the front. Together with the limited impact on residential amenity and more than adequate parking provision, it is considered that approval be recommended.

14.7.3 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	
Financial Contribution	0	0	
<b>Habitats Mitigation</b>			
Financial Contribution	£31,050		

## CIL Summary Table

Type	Proposed Floor space (sq/m)	Existing Floor space (sq/m)	Net Floor space (sq/m)	Chargeable Floor space (sq/m)	Rate	Total
Dwelling houses	768	182	586	586	£80/sqm	£51,568.00 *

Subtotal:	£51,568.00
Relief:	£0.00
Total Payable:	£51,568.00

\* 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:

$\text{Net additional new build floor space (A)} \times \text{CIL Rate (R)} \times \text{Inflation Index (I)}$

Where:

A = the net area of floor space chargeable in square metres after deducting any existing floor space and any demolitions, where appropriate.

R = the levy rate as set in the Charging Schedule

I = All-in tender price index of construction costs in the year planning permission was granted, divided by the All-in tender price index for the year the Charging Schedule took effect. For 2017 this value is 1.1



## **15. RECOMMENDATION**

### **GRANT SUBJECT TO CONDITIONS**

#### **Proposed Conditions:**

1. 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: 04H, 06C, 08C, 10, 09A, 09, 10B, 11, 12, 17027-BT2, 103B, 08, Heritage and Design and Access Statement, Perspective views, Arboricultural Assessment and Method Statement

Reason: To ensure satisfactory provision of the development.

3. 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.

4. Before development commences, the proposed slab levels in relationship to the existing ground levels set to an agreed datum shall be submitted to and approved in writing by the Local Planning Authority. Development shall only take place in accordance with those details which have been approved.

Reason: To ensure that the development takes place in an appropriate way in accordance with policy CS2 of the Local Plan for the New Forest District outside the National Park (Core Strategy).

5. 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.

6. Before occupation of the first dwelling 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) 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 comply with Policy CS2 of the Local Plan for the New Forest District outside the National Park (Core Strategy).

7. Prior to the occupation of the first dwelling, details of the proposed cycle stores for plots 1-3 shall be submitted to for approval in writing by the Local Planning Authority. The development shall be undertaken in accordance with the approved details prior to full occupation of the site.

Reason: In the interests of reducing reliance on cars and in accordance with policy CS2 of the New Forest District Council Core Strategy.

8. The development hereby permitted shall not be occupied until the spaces shown on plan 04H for the parking and garaging of motor vehicles and cycles have been provided.

The spaces shown on plan 04H for the parking and garaging of motor vehicles and cycles shall be retained and kept available for the parking and garaging of motor vehicles and cycles for the dwellings hereby approved at all times.

Reason: To ensure adequate parking provision is made in the interest of highway safety and in accordance with Policy CS2 and CS24 of the Local Plan for the New Forest outside of the National Park (Core Strategy).

9. The works hereby approved shall be undertaken in full accordance with the provisions set out within the Barrell Tree Consultancy Arboricultural Assessment and Method Statement reference 17027-AA2\_DC dated 14 June 2017 or as may otherwise be agreed in writing with the Local Planning Authority.

Reason: To ensure the retention of existing trees and natural features and avoidance of damage during the construction phase in accordance with Policy CS2 of the Local Plan for the New Forest District outside of the National Park (Core Strategy).

10. 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.

11. The first floor windows on the rear elevations of plots 3-6 and side elevation of plot 7 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).

12. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015 (or any re-enactment of that Order) no extension (or alterations) 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, or means of enclosure otherwise approved by Class A of Part 2 of Schedule 2 to the Order shall be erected 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).

13. No windows above ground floor level shall be inserted into the rear elevation of plots 1 and 2.

Reason: In the interests of residential amenity and in accordance with 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.

In view of the difficult nature of this site and the comments received from both consultees and local residents, amendments have been sought in order to try and address the concerns raised. Some of the concerns raised were not able to be addressed fully at the pre-application stage.

2. In discharging condition No. 5 above the Applicant is advised that appropriate mitigation is required before the development is commenced, either by agreeing to fund the Council's Mitigation Projects or otherwise providing mitigation to an equivalent standard. Further information about how this can be achieved can be found here <http://www.newforest.gov.uk/article/16478/>

#### **Further Information:**

Vivienne Baxter, Case Officer

Major Team

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**New Forest**  
DISTRICT COUNCIL

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**Planning Development  
Control Committee**  
**July 2017**

**Item No: 3n**  
**Land of**  
**Eastern Road**  
**Lymington**  
**17/10098**  
**SZ3195**

Scale 1:1250  
N.B. If printing this plan from  
the internet, it will not be to  
scale.



