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**Application Number: 15/10064** Variation / Removal of Condition

**Site:** GOLDEN HILL COTTAGES, HARE LANE, HORDLE SO41 0GE

**Development:** Variation of Conditions 3 & 4 of Planning Permission 13/11416 to allow revised access and landscaping details

**Applicant:** Heatherdene Properties Limited

**Target Date:** 16/03/2015

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**1 REASON FOR COMMITTEE CONSIDERATION**

Previous Committee consideration (Item A04 8th April 2015)

**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
6. Towns, villages and built environment quality

**Policies**

- CS1: Sustainable development principles  
CS2: Design quality

**Local Plan Part 2 Sites and Development Management Development Plan Document**

None relevant

**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. 7 - Requiring good design

**5 RELEVANT SUPPLEMENTARY PLANNING GUIDANCE AND DOCUMENTS**

Hordle Village Design Statement

**6 RELEVANT PLANNING HISTORY**

- 6.1 14/10787 - variation of condition 3 of 13/11416 to allow revised landscaping scheme. Refused 14.8.14
- 6.2 13/11416 - 3 houses, detached garage, new access, associated parking. Granted 9.1.14
- 6.3 12/98418 - 3 houses; detached garage; new access; associated parking and communal store area; demolition of existing. Granted 8.10.12
- 6.4 10/96345 - 3 houses; detached garage; new access; associated parking and communal store area; demolition of existing. Granted 23.12.10

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

Hordle Parish Council - recommend refusal and would not accept a delegated approval. The PC gave some land to the developers, requiring them to provide a footpath along the length of the site. The proposal doesn't show this and it would result in a risk to pedestrian safety. They request an invitation to attend any future meetings.

## **8 COUNCILLOR COMMENTS**

Cllr Tinsley - objects. Supports the Parish Council views, there has been inadequate consultation with the PC and it doesn't address the safety issues of the footpath.

## **9 CONSULTEE COMMENTS**

- 9.1 Hampshire County Council Highway Engineer - no objection subject to condition
- 9.2 Drainage Engineer - no comment
- 9.3 Environmental Health (Contamination) - request condition

## **10 REPRESENTATIONS RECEIVED**

Objections have been received from three local residents concerned with:

- doesn't provide the required footpath
- pedestrians will be at risk
- kerb should not be flush with the road
- surfacing should be better than the existing
- approved scheme should be enforced
- countryside kerb not appropriate in an urban area
- reasons why original scheme hasn't been implemented haven't been provided
- a footpath the length of the site should be built

A further response was received from one of the residents amplifying their concern regarding the loss of a footpath along the whole of the site's frontage.

## **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 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 all the above apply and as the application was acceptable as submitted no specific further actions were required.

## 14 ASSESSMENT

### Post April Committee update

This application was deferred by the Planning Development Control Committee at their meeting held on 8th April 2015 as Members required additional information to be provided about the location of the footpath as originally approved. This is set out below

Permission was initially granted for three dwellings on this site in 2010 (10/96345) with the landscaping agreed at the time of granting (drawing 10006 SP3 A) and a condition placed on the approval requiring its implementation. A subsequent scheme, identical in terms of the proposal but with a reduced rate of financial contributions (12/98418) was approved with a condition requiring landscaping to be submitted. The previously approved plan was submitted and approved as a discharge of condition on September 24th 2013. It is under this application reference that the development was commenced.

Application 13/11416 proposed some elevational changes to the approved

dwellings and approval was granted subject to the approved landscaping scheme being implemented (condition 3). The design of the dwellings follows this approval although the landscaping was not implemented as required. Application 14/10787 was submitted to address the discrepancies between approved and implemented landscaping and was not found to be acceptable. The current scheme is trying to address this remaining concern. In essence the same landscaping scheme has been approved on three occasions, that implemented on site was recently refused permission and this current proposal seeks to address the concerns raised.

The April Committee report is set out in the following paragraph 14.1 to 14.10.

- 14.1 The site lies within but at the edge of the built up area of Hordle opposite Golden Hill. It has been developed with three detached houses which are all understood to be occupied. The approved landscaping scheme included a footpath along the front of the site with a hedgerow behind to replace the mature boundary hedge which used to run along the front of the site prior to works commencing. This landscaping was not provided in full and a subsequent application to retain the works implemented failed in 2014. This proposal follows enforcement action, in view of the highway safety issues which have arisen due to gravel migrating onto the highway and a site meeting to discuss the way forward.
- 14.2 The proposal entails the provision of a kerb bound hoggin footpath to the south section of the site, the retention of a wider vehicular access, relocation of the bin collection point and the reinstatement of the bank with planting to the northern section of the site. An existing close boarded fence, which was provided across the previously approved pedestrian access to the site, would be retained and planting, to soften its impact, provided in front. Additional hedge planting would be provided to the south of the access in front of plot 3. Described as a variation of condition application, the proposal seeks agreement for the stopping up of the former access and revised landscaping details.
- 14.3 Visually, the site was well screened prior to any development taking place and was bound by a mature mixed hedge on a bank above road level. There was no footpath. During the course of several applications for the redevelopment of the site, it was agreed that the hedge could come out subject to it being replaced behind the visibility splays. Some hedge planting has taken place, although it will be some time before it matures. To the south of the site, ornamental planting has occurred, which is not considered to be appropriate. The current proposal would replace this inappropriate planting with additional mixed hedge planting. Other ground cover planting on the bank adjacent to plot 3 would be retained.
- 14.4 The section of footpath implemented to the north of the access, behind the electricity posts, is inappropriate in view of the cut away bank which is not supported with any sort of retaining mechanism and could be dangerous. Further, it is not suitable for wheelchair or pram use due to its restricted width. Reinstating the bank would be a preferable option - the approved landscaping did not fully take the electricity/BT posts and associated stays into consideration and would not have been possible to implement without their relocation - and the highway authority has accepted that there will not be a footpath along this section of the site.
- 14.5 The provision of the close boarded fence to the north of the site is unfortunate given the previous boundary treatment and approved landscaping. However, it is hoped that with the right maintenance, the

proposed planting will mature to provide a softer edge to the development.

- 14.6 The Highway Authority has not raised any objections to the revised scheme, subject to a condition relating to the kerb details.
- 14.7 It is understood that there is much concern locally with regard to the loss of the proposed footpath. As stated above, prior to works commencing, there was no footpath along this section of Hare Lane. The original approved scheme and subsequent landscaping included a footpath along the boundary or slightly within the site for all but around 8/9m to the north of the site. The proposal would provide approximately 24m of footpath with a further 13.5m of hard surface across the vehicular access to the site, a total of 37.5m of safe access which is more than was available previously. In addition to this, improvements have been made to road safety at the junction of Hare Lane and Ashley Lane through the closure of the slip road in front of properties to the north of the site.
- 14.8 One reason for concern relates to the Parish Council's transfer of land to the developer in order for a footpath to be provided. It is unclear where this land is as the Parish Council does not appear to have had notice served on them for any application with ownership of the site being the applicant. The comment made by the Parish Council with regard to the deed of covenant is not a planning matter.
- 14.9 It is understood that the landscaping scheme originally agreed has been partially implemented where adjacent to the dwellings and in their rear gardens. The changes to the frontages of the houses and the associated drive area are minimal and subject to appropriate maintenance of the new hedge would be screened in the future. The Highway Authority is satisfied that the proposed scheme would not adversely affect highway safety and, subject to conditions relating to the further implementation and maintenance of the soft landscaping and details of the proposed footpath, approval is recommended.
- 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 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.

## **15. RECOMMENDATION**

### **GRANT the VARIATION of CONDITION**

#### **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. Materials shall be as approved by the Council's decision letter dated September 12th 2013.

Reason: In the interests of the visual amenities of the area and in accordance with Policy CS2 of the Core Strategy for the New Forest District outside the National Park.

3. All planting, seeding or turfing comprised in the approved details of landscaping shall be carried out in the first planting and seeding seasons following this approval. Any trees or plants which within a period of 5 years from the completion of the development die, are removed or become seriously damaged or diseased, including those already in situ, shall be replaced in the next planting season with others of similar size or species, unless the Local Planning Authority gives written consent to any variation.

Reason: To ensure the appearance and setting of the development is satisfactory and to comply with Policy CS2 of the New Forest District outside the National Park Core Strategy.

4. The visibility splays of 2.4 metres by 21 metres at the junction of the proposed private shared drive with Hare Lane shall be kept free of any obstacles over 600mm in height at all times.

Reason: In the interest of highway safety and in accordance with Policies CS1 and CS10 of the Core Strategy for the New Forest District outside the National Park.

5. The drainage shall be implemented and maintained in accordance with the details approved by the Council's decision letter of September 3rd 2013.

Reason: In order to ensure that the drainage arrangements are appropriate and in accordance with Policy CS2 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.

6. In the event that contamination is found at any time when carrying out the approved development that was not previously identified under application 98418, it must be reported in writing immediately to the Local Planning Authority. An investigation and risk assessment must be undertaken in accordance with the requirements of condition 9 of 98418, and where remediation is necessary a remediation scheme must be prepared in accordance with the requirements of condition 10 of 98418, which is subject to the approval in writing of the Local Planning Authority. Following completion of measures identified in the approved remediation scheme a verification report must be prepared, which is subject to the approval in writing of the Local Planning Authority in accordance with condition 11 of 98418.

Reason: To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems,

and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors in accordance with Policy CS5 of the Core Strategy for the New Forest District outside the National Park.

7. No development shall start on site until details of the construction of the proposed footway, including kerbing, have been submitted to and approved in writing by the Planning Authority. The development shall be carried out in accordance with the approved details unless otherwise first agreed in writing by the Planning Authority.

Reason: To ensure that the roads and footpaths are constructed to a satisfactory standard and in accordance with policy CS2 of the New Forest District Council Core Strategy.

8. The development permitted shall be carried out in accordance with the following approved plans: 13004-A-PL07 Rev B, 13004-PL08 Rev A and 13004-PL09 Rev A.

Reason: To ensure satisfactory provision of the development.

**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 all the above apply and as the application was acceptable as submitted no specific further actions were required.

**Further Information:**

Major Team

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DISTRICT COUNCIL

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**Planning Development  
Control Committee  
May 2015**

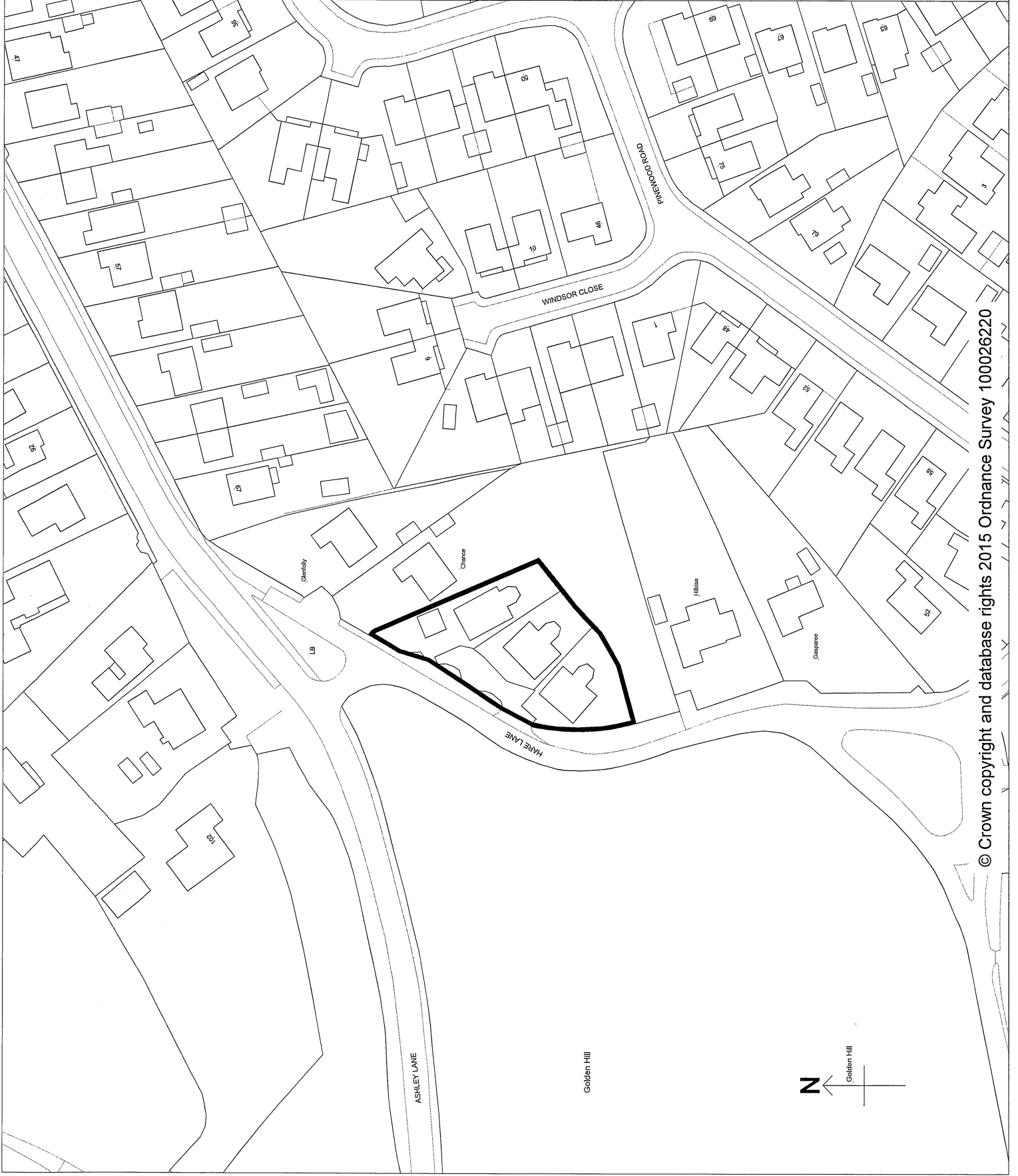
**Item No: 3(b)**

Golden Hill Cottages  
Hare Lane  
Hordle

App No 15/10064  
SZ2695

Scale 1:1250

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