

Application Number: 17/10975 Variation / Removal of Condition

Site: TOP END, CHAPEL LANE, BLACKFIELD, FAWLEY SO45 1YY

Development: Variation of Condition 2 of Planning Permission 16/10286 to allow additional window to side elevation

Applicant: Mr R Gray

Target Date: 15/09/2017

RECOMMENDATION: Grant Subject to Conditions
Case Officer: Richard Natt

1 REASON FOR COMMITTEE CONSIDERATION

Contrary to Parish Council View

2 DEVELOPMENT PLAN AND OTHER CONSTRAINTS

Built up area
HSE Consultation Zone

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

CS2: Design quality
CS10: The spatial strategy

Local Plan Part 2 Sites and Development Management Development Plan Document

None

4 RELEVANT LEGISLATION AND GOVERNMENT ADVICE

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

5 RELEVANT SUPPLEMENTARY PLANNING GUIDANCE AND DOCUMENTS

None

6 RELEVANT PLANNING HISTORY

6.1 House, detached garage - demolition of existing (16/10268) Granted with conditions on the 27th April 2016

7 PARISH / TOWN COUNCIL COMMENTS

Fawley Parish Council: Recommend refusal as we feel this is not neighbourly and contrary to approved plans. We note the contents of the on line objection regarding the additional window on what appears to be a premeditated retrospective application.

8 COUNCILLOR COMMENTS

None

9 CONSULTEE COMMENTS

None

10 REPRESENTATIONS RECEIVED

10.1 1 letter of objection concerned with overlooking from the proposed first floor window

11 CRIME & DISORDER IMPLICATIONS

No relevant considerations

12 LOCAL FINANCE CONSIDERATIONS

Based on the information provided at the time of this report this development has a CIL liability of 0. Self build exemption.

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

14 ASSESSMENT

- 14.1 Planning permission was recently granted to demolish a detached bungalow and to replace it with a two storey dwelling and garage under planning reference 16/10286. Works are well under way in which the garage is completed and the dwelling constructed including the window openings, however, there is still scaffolding around the building to complete the development.
- 14.2 The dwelling has not been built in accordance with the approved plans. An additional first floor window opening has been created on the side (south) elevation of the dwelling which was not shown on the approved drawings. Accordingly, this current application seeks to regularise the situation and proposes to vary condition 2 of planning permission 16/10286 to amend the plan No's to allow the additional first floor window on the side elevation.
- 14.3 The main issue in this case is whether the addition of a first floor bathroom window on the side elevation would unacceptably impact on the living conditions of the neighbouring properties. The first floor window would overlook the rear garden areas of Nos 2, 3 and 4 Hampton Gardens. The neighbouring property most greatly effected by the first floor window could be No 3.
- 14.4 The distance from the first floor window to the rear boundary to the dwellings in Hampton Gardens measures 3 metres. The distance from the first floor window to the rear elevation of the dwellings at Hampton Gardens measures 22 metres. Based upon these distances, the window would result in unacceptable overlooking of the rear garden areas to these dwellings.
- 14.5 However, the submitted plans show that the window will be glazed with obscure glass and would serve a bathroom. It is considered that if the window is glazed with obscure glass and fixed shut, this would mitigate against any overlooking to the neighbouring properties. This can be secured by a planning condition. While it is accepted that the window would increase the perception of overlooking, the window is a small opening and the distance to the dwellings at Hampton Gardens measures 22 metres. Moreover, it is not uncommon for bathroom windows to be installed at first floor on the side elevation of dwellings.

- 14.6 As this proposal is for a replacement dwelling there is no requirement for Habitats Mitigation and the scheme is not CIL liable as it has a self build exemption
- 14.7 In conclusion it is considered that the installation of the first floor bathroom window on the side elevation would not result in unacceptable overlooking to the neighbouring properties, provided that the window is glazed with obscure glass. The submitted plans indicate the window would be fitted with obscure glass and given that the window serves a bathroom, it would be reasonable to impose a condition to secure the window to be both fixed shut and obscurely glazed. While it is unfortunate that the window opening has already been created, the applicant seeks to regularise the situation and the application should be assessed on its individual merits.
- 14.8 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 permitted shall be carried out in accordance with the following approved plans: gr sht 3 Rev X, elevations 1, elevation 2, ground floor and first floor plan .

Reason: To ensure satisfactory provision of the development.

2. The first floor bathroom window on the side [south] elevation of the approved building shall be obscurely glazed and fixed shut at all times unless the parts that can be opened are more than 1.7m above the floor.

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).

3. The landscaping scheme shall be fully implemented in accordance with the submitted Landscape Design Drawing LD Rev 1 and details set out in e-mail of the 13th October 2016 by the end of the planting and seeding season following the occupation of the buildings or the completion of the development whichever is the sooner. 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 shall be replaced in the next planting season with others of a similar size or species, unless the Local Planning Authority gives written consent to any variation.

Reason: To ensure that the development takes place in an appropriate way and to prevent inappropriate car parking to comply with Policy CS2 of the Local Plan for the New Forest District outside the National Park (Core Strategy).

4. The surface water drainage shall be fully implemented in accordance with the drainage details set out on Wessex Drainage Solutions LTD Soakaway Design Data sheet prior to the occupation of the buildings or the completion of the development whichever is the sooner, unless otherwise agreed in writing by the Local Planning Authority.

Reason: In order to ensure that the drainage arrangements are appropriate and in accordance with Policy CS2 of the Local Plan for the New Forest District outside the National Park (Core Strategy) and the New Forest District Council and New Forest National Park Authority Strategic Flood Risk Assessment for Local Development Frameworks.

5. The first floor bedroom window on the side [south] elevation of the approved building 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).

6. The works hereby approved shall be undertaken in strict accordance with the Ecological Survey methodology, recommendations and details set out in the Ecological Surveys Ltd dated January 2016 unless otherwise first agreed in writing with the Local Planning Authority.

Reason: To safeguard protected species in accordance with Policy CS3 of the Local Plan for the New Forest District outside of the National Park (Core Strategy) and Policy DM2 of the Local Plan for the New Forest District outside the National Park (Part 2 : Sites and Development Management).

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:

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**Planning Development
Control Committee**

October 2017

Item No: 39

Top End
Chapel Lane
Blackfield Fawley
17/10975
SU4401

Scale 1:2500

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

