

Application Number: 17/11183 Full Planning Permission

Site: 5 DITCHBURY, LYMINGTON SO41 9FJ

Development: Use of land as garden curtilage; 1.2m high boundary fence
(retrospective)

Applicant: c/o Simpson Hilder Associates

Target Date: 26/10/2017

RECOMMENDATION: Grant Subject to Conditions
--

Case Officer: Peter Burridge

1 REASON FOR COMMITTEE CONSIDERATION

Contrary to Parish Council view

2 DEVELOPMENT PLAN AND OTHER CONSTRAINTS

Aerodrome Safeguarding Zone
Built-up Area
Plan 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

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

5 RELEVANT SUPPLEMENTARY PLANNING GUIDANCE AND DOCUMENTS

Lymington Local Distinctiveness

6 RELEVANT PLANNING HISTORY

In May 2015, this Committee considered 3 enforcement cases in relation to No's. 4, 5 and 7 Hives Way, Lymington where open space had been incorporated into garden curtilages on the opposite side of Marsh Lane to this application. Committee resolved that it was not expedient to take enforcement action, subject to suitable landscaping being planted to obscure the close boarded fencing when viewed from Marsh Lane (case nos. EN/14/0762, EN/14/0531 and EN/14/0533).

7 PARISH / TOWN COUNCIL COMMENTS

Lymington and Pennington Town Council: recommend refusal. We are not comfortable with this application as it appears to be an annexation of amenity land, this could set an unfortunate precedent.

8 COUNCILLOR COMMENTS

No comments received

9 CONSULTEE COMMENTS

No comments received

10 REPRESENTATIONS RECEIVED

No comments received

11 CRIME & DISORDER IMPLICATIONS

Not applicable

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.

In this case, the agent was requested to clarify details on the original plan and amended plan has been submitted correcting the height of the boundary fence.

14 ASSESSMENT

- 14.1 This retrospective application relates to a small area of land beyond the rear boundary of 5 Ditchbury that has been incorporated into the garden of this property with a new boundary fence erected. This land previously formed part of an open grassed bank to the side of Marsh Lane and measures 3m in length and 7.5m in width.
- 14.2 The Council would typically resist such proposals given that such pockets of open green space enhance the character and appearance of an area and help to avoid the need for harsh boundary treatments immediately adjacent to roads and footpaths (which can appear oppressive). However, in this instance, the fence remains set back from the footpath beyond an area of sloping grass bank while the fence is only 1.2m high and forms part of a staggered boundary running to the rear of these properties. As such, the extended curtilage and revised boundary position is not considered to be overly intrusive and is not considered to cause any significant harm to the character and the appearance of the area. On this basis, the proposal is considered to be acceptable with no design/ visual amenity objection raised.
- 14.3 The proposal is not considered to cause any adverse impact on the residential amenities of neighbouring residents. Similarly, it is not considered to give rise to any highway safety issues.
- 14.4 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 Subject to Conditions

Proposed Conditions:

1. The development permitted shall be carried out in accordance with the following approved plans: Site Location Plan, Site Block Plan, Fencing Elevation and photographs; drg no. 8291. 101 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.

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

Further Information:

Peter Burridge

Telephone: 023 8028 5588



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**
November 2017

Item No: 3e
5 Ditchbury
Lymington
17/11183
SZ 3196

Scale 1:1250

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

