

Application Number: 17/11350 Full Planning Permission

Site: 36 PADDOCK GARDENS, LYMINGTON SO41 9ES

Development: Use of land as garden land; relocation of boundary wall

Applicant: Mr Brunning

Target Date: 27/11/2017

RECOMMENDATION: Refuse
Case Officer: Peter Burridge

1 REASON FOR COMMITTEE CONSIDERATION

Discretion of Service Manager Planning and Building Control

2 DEVELOPMENT PLAN AND OTHER CONSTRAINTS

Built-up Area
Aerodrome Safeguarding Zone
Plan 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

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 Supplementary Planning Document (Feb 2011)

6 RELEVANT PLANNING HISTORY

ENQ/15/21303 Advice was given on the form of development now proposed when it was considered that this form of development was likely to be supported subject to resolution of issues relating to the service margin

7 PARISH / TOWN COUNCIL COMMENTS

Lymington and Pennington Town Council: recommend refusal; as we concur with the case officer, concerns with oppressive nature of the boundary treatment

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 application has been recommended for refusal with the applicant previously advised of the concerns set out below through the Parish Briefing.

14 ASSESSMENT

- 14.1 The application relates to a detached two-storey dwelling in Paddock Gardens, Lymington and seeks planning permission for a change of use of land to garden land to include land currently sited beyond the rear boundary wall. The proposal also seeks planning permission for the rebuilding of this wall in a new position closer to the highway to encompass the newly extended garden.
- 14.2 There is an objection to this proposal because this existing area of land, which forms part of the original estate layout, contributes positively to the character and appearance of the area. Such pockets of green space are therefore an important feature. The proposal would be contrary to policy CS2 that requires all new development to contribute positively to local distinctiveness and sense of place. Further, the position of the wall would appear oppressive to users of the highway.
- 14.3 Notwithstanding the above, it is acknowledged that the applicant entered into pre-application discussions with the Council in 2015 at which time similar plans were submitted. At this time, significant weight was attached to the large area of open space to the east of the application site and on this basis, the Officer concluded that the loss of the area to the rear of the application site would not significantly impact on the open character of the street scene and would be acceptable. This was subject to the wall being set back 1.8m (as now shown) to avoid a 1.8m wide service margin highlighted by Hampshire Highways.
- 14.4 The purpose of the large open area is however considered to differ from this small landscaped strip, which historic street view images show provided trees and planting at least up until 2011. Regard has also been had to a not dissimilar application at 5 Ditchbury in Lymington (ref 17/11183) refused by the Committee on 8 November this year (albeit noting that each application should be assessed on its own merits). Therefore, on balance, it is considered appropriate to withhold planning permission in this case.
- 14.5 It is not considered that the proposal would give rise to any issues of residential amenity or highway safety which would warrant refusal of this application.
- 14.7 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

Reason(s) for Refusal:

1. The proposed change of use of land and revised position of the boundary wall would result in the loss of an existing area of open green space which forms an integral part of the original estate layout and which contributes positively to the character and the appearance of the area. The loss of this area would be detrimental to this more spacious character afforded by such pockets of open green space and the revised position of the wall would appear oppressive by virtue of its height and proximity to the highway. The proposal is therefore considered to be contrary to the provisions of the NPPF and Policy CS2 of the Core Strategy for the New Forest District outside the National Park.

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, the application was recommended for refusal with the applicant previously advised of the concerns through the Parish Briefing.

Further Information:

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**Planning Development
Control Committee**

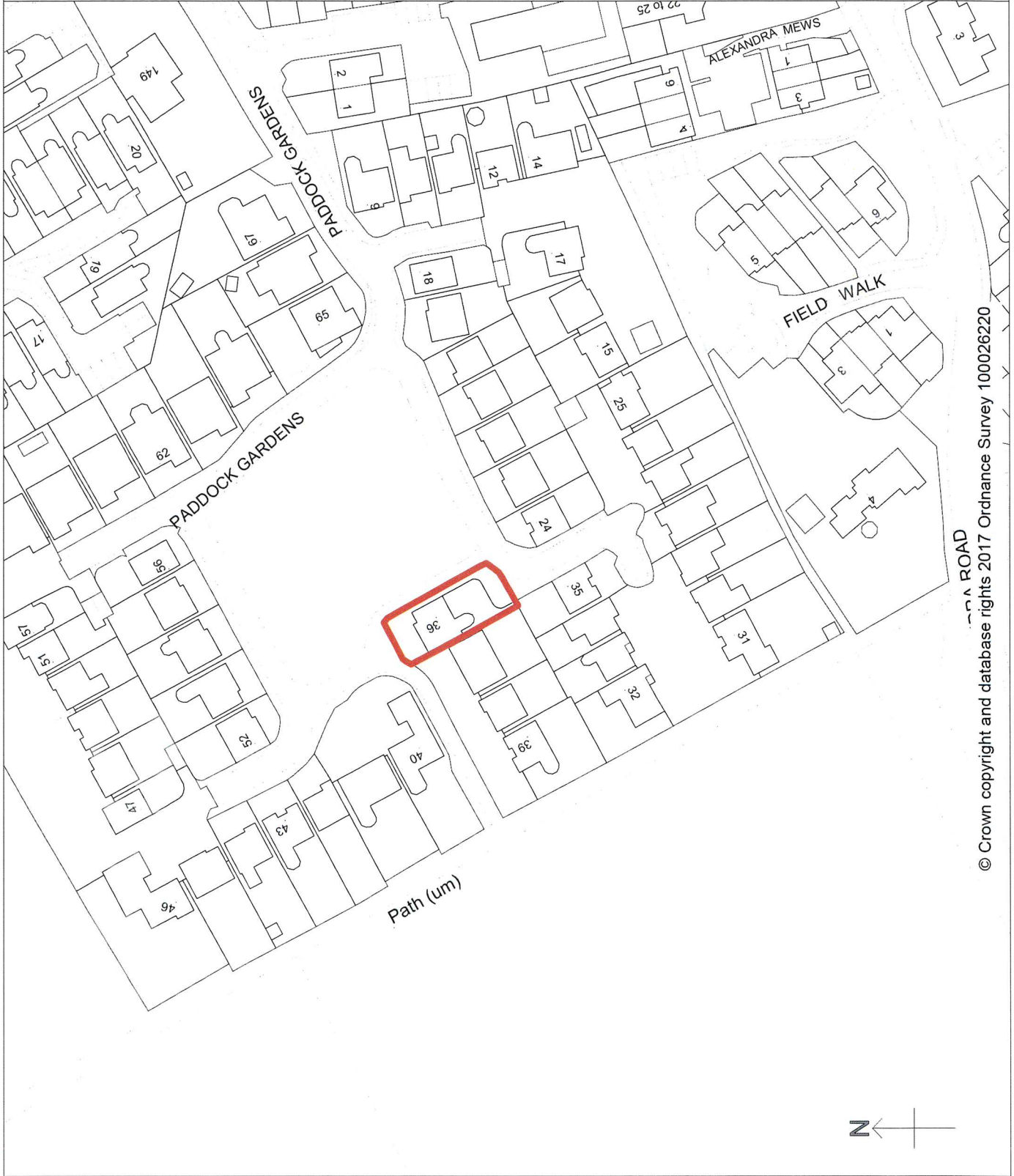
December 2017

Item No: 5i

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Paddock Gardens
Lymington
17/11350
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Scale 1:1250

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