Planning Committee

08 August 2018

Item 3 g

Application Number: 18/10685 Full Planning Permission

Site:

Land of 21 WALKERS LANE SOUTH, BLACKFIELD.

**FAWLEY SO45 1YN** 

**Development:** 

House

Applicant:

Mr & Mrs Bubb

**Target Date:** 

11/07/2018

**RECOMMENDATION:** Grant Subject to Conditions

Case Officer:

**Richard Natt** 

#### 1 REASON FOR COMMITTEE CONSIDERATION

Contrary to councillor view

#### 2 **DEVELOPMENT PLAN AND OTHER CONSTRAINTS**

Built up area

HSE Consultation Zone (outer 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 CS24: Transport considerations CS25: Developers contributions

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

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

#### 5 RELEVANT SUPPLEMENTARY PLANNING GUIDANCE AND DOCUMENTS

SPD - Parking Standards

SPD - Mitigation Strategy for European Sites

#### 6 RELEVANT PLANNING HISTORY

6.1 12 houses comprising 4 detached houses, 1 terrace of 4 houses, 1 pair of semi-detached houses, 1 pair of linked detached houses, access to Walkers Lane South (06/88782) Refused on the 5th December 2006. Appeal allowed.

## 7 PARISH / TOWN COUNCIL COMMENTS

Fawley Parish Council: recommend permission, we note officer comments.

#### 8 COUNCILLOR COMMENTS

Cllr Alexis McEvoy: Objection.

# **Initial comments**

This planning application represents an unneighbourly form of development.

The proposed development, by reason of its siting in this backland position, would result in a cramped and awkward form of development which would inevitably see an increase in environmental problems such as noise, outlook and garden enjoyment. This would especially affect the property at 43, Thornbury Avenue with a loss of privacy as the proposed 1st floor front facing window will look directly into its garden.

The new dwelling would have a limited amount of usable garden area resulting in a large building on a small plot which raises concerns of surface drainage and a risk of flooding in adjacent properties.

The proposed vehicular access will be squeezed between the proposed new property and 1, St. George's Court causing noise and nuisance to these properties.

The very narrow road of St Georges Court is owned collectively by the twelve residences and covenants allow no access to a 13<sup>th</sup> residence.

A single storey build with a shared driveway with 21, Walkers Lane South would avoid the very seriously detrimental impact of the proposed development upon the surrounding residents.

## Subsequent comments

I offered my previous comments on the basis of the information available to me at that time. Additional information has now become available.

The owners of 21, Walkers Lane South advise me that when they initially decided to develop St. Georges Court in 2005, they retained one building plot for their own amenity. This was part of the agreement with the developer and the owners of 21, Walkers Land South tell me they have a legal right of access to St. Georges Court. To facilitate future development of the retained plot, a dropped kerb was installed together with access gates and sewer connection.

#### 9 CONSULTEE COMMENTS

- 9.1 Hampshire County Council Highway Engineer: comment that St Georges Court is a private road and that the applicant should therefore establish the right of way for access
- 9.2 Natural England: have issued standing advice in relation to an Appropriate Assessment
- 9.3 Health and Safety Executive: no comment made

#### 10 REPRESENTATIONS RECEIVED

7 letters of objection concerned that the proposal is backland and an overdevelopment of the site. There are too many vehicles using St Georges Court, and the road is narrow and heavily congested with car parking. Concerned with loss of light, loss of privacy, loss of outlook. The overall footprint is larger than No 1. The existing access that serves No 21 should be extended to serve the proposed dwelling. Could the proposed dwelling be single storey? If approved, this would be the 13th house added to the road and will require street lights. St Georges Court is owned and maintained collectively by the 12 residents. There are covenants imposed on the residents to undertake shared responsibility for the maintenance and upkeep of its road, pathways, common user areas and curtilage.

#### 11 CRIME & DISORDER IMPLICATIONS

No relevant considerations

#### 12 LOCAL FINANCE CONSIDERATIONS

If this development is granted permission, the Council will receive New Homes Bonus £1224 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 £13,868.31.

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

## 14 ASSESSMENT

- 14.1 This full planning application proposes to construct a three bedroom detached chalet style bungalow with integral garage on part of the existing rear garden of No 21 Walkers Lane South. The proposed dwelling would be accessed from and front onto a recently developed residential cul de sac known as St Georges Court. Currently, the property at No 21 has an existing vehicular access into their rear garden from St Georges Court. The proposal would utilise this existing access point. The proposed dwelling would be sited immediately adjacent to No 1 St Georges Court and the existing property at No 21 would retain a rear garden area and car parking to the front.
- 14.2 The main issues in this case are the effect on the character and appearance of the area, the effect on the living conditions of the adjoining neighbouring properties and public highway safety matters.
- 14.3 In assessing the effect on the character and appearance of the area, the application site lies within a predominantly residential area. No 21 is a relatively large detached chalet style bungalow, which is set back from Walkers Lane South. The property sits on a spacious plot and has a fairly long front garden and there is a graveled area used for car parking to the front of the dwelling. The existing rear garden area is a pleasant open lawn with some small trees and its rear boundary backs onto No 1 St Georges Court. The north eastern boundary of the application site bounds Queen Elizabeth II Recreation Ground.
- 14.4 Walkers Lane South is characterised by detached bungalows, chalet style bungalows, with the occasional detached house. Dwellings are typically set back from the road with low walls and green front garden, in what is a low density and fairly spacious context.

- 14.5 The proposed dwelling has been designed to form an integral part of the residential development at St Georges Court which is a recent development comprising 12 dwellings served off a single private access road. St Georges Court was originally developed within the garden area of No 21 and is a relatively long and narrow strip of land between the residential dwellings of Thornbury Avenue and Queen Elizabeth II Recreation Ground. A long internal access road extends along the length of the site running adjacent to the rear boundaries of the properties on Thornbury Avenue.
- 14.6 St Georges Court is a high density development in which the dwellings are sited close to the road with short front and rear gardens. Rising to two storeys in height, the properties within this short cul de sac comprise detached, terraced and semi-detached dwellings. It is considered that the long access road with pavement on one side at St Georges Court is a rather harsh feature in its setting with limited soft landscaping. A 1.8 metre high boundary wall with fence panels form the side boundary of the application site which immediately abuts St Georges Court.
- 14.7 In considering the impact on the character of the area, it is considered that the severance of part of the existing garden area at No 21 to create a chalet style bungalow to front onto St Georges Court would be acceptable from a character point of view. The main views of the proposed dwelling would be seen from the public recreation ground to the north east and views from Walkers Lane south. However the proposed dwelling would be positioned around 45 metres back from Walkers Lane South and, accordingly, the views of the proposed development would be relatively limited. The main impact on the character of the area would be from St Georges Court.
- 14.8 The proposed dwelling has been designed to reflect the style and appearance of the neighbouring property at No 1 St Georges Court. Indeed, the two buildings would appear nearly identical, although the proposed dwelling has a slightly larger footprint. The proposed dwelling would front onto the road, following the established pattern of development in St Georges Court and as such would not be seen as a backland development. Moreover, the proposed plot size would measure around 22 metres long by 11 metres wide and this would be the same as the neighbouring plot size at No 1. The plot sizes to the other detached dwellings within St Georges Court are also of the same size. Accordingly, it is considered that the proposed development would respond to the character of St Georges Court.
- 14.9 While it is accepted that the size of the proposed plot is fairly small, this would be comparable to the other plot sizes in the area. Moreover, following the severance of part of the rear garden, the overall length of curtilage to No 21 would measure around 42 metres and it is considered that the property would still retain a spacious plot. If planning permission is granted, there is very limited scope for any further subdivisions to the rear garden of No 21 as this would leave the existing property with limited rear garden space.
- 14.10 Overall it is considered that the proposed development has been designed to reflect the character, scale and style of the properties in St Georges Court and the subdivision of the site and plot size would be comparable to what currently exists in the cul de sac.

- 14.11 With regard to residential amenity, the neighbouring properties that would be most affected by the proposal would be No 1 St Georges Court, the host property at No 21 and Nos 41 and 43 Thornbury Avenue.
- 14.12 The proposed dwelling would face onto the rear gardens of Nos 41 and 43 Thornbury Avenue, but separated by the existing road. There are a number of existing residential properties that face onto the rear gardens of Thornbury Avenue. Two first floor windows are proposed on the front elevation which would face in the direction of No 41 and 43 Thornbury Avenue. One of the windows is set back on the proposed building, but the main issue is whether the first floor bedroom window on the front gable would result in unacceptable overlooking to the properties in Thornbury Avenue. As stated above, there are already existing properties in St Georges Court which face the rear of the properties in Thornbury Avenue.
- 14.13 The distance from the proposed window to the rear boundary of these neighbours measures 8.5 metres and approximately 27 metres to their rear elevations. It is noted that there is currently an evergreen hedge along the rear boundary of No 41, which appears to be in the control of that property, whereas there is a small shed along the rear boundary at No 43. It is considered that the proposal would increase the extent of overlooking to these two dwellings, however, given the distances involved, in which there is a separation of around 27 metres, it is considered that the proposal would not materially impact on the privacy of these neighbours. It is also considered that given the scale of the dwelling and distances involved, the proposal would not materially impact on the light or outlook of those neighbours. Again, the proposed development would have a similar relationship to that already existing in St Georges Court and Thornbury Avenue.
- 14.14 In relation to No 1 St Georges Court, the proposed dwelling would be sited against its side elevation, but would not extend much beyond its rear elevation. There are currently two ground floor windows on the side elevation of No 1 which face the application site. One of the windows serves a bathroom and the other window is a study room. These windows currently face onto a 1.8 metre high boundary fence. The proposed dwelling has been designed such that the side elevation of the building would be recessed back from these two windows and this avoids the full length of the building spanning across the side elevation of No 1. Accordingly, given that the two ground floor windows do not serve main habitable rooms, they already face a high boundary fence, and the design of the building which is partly recessed in front of these windows, the proposal would not unacceptably compromise the available light or outlook of that neighbour.
- 14.15 Concerning the existing property at No 21, no first floor windows are proposed on the side elevation facing that property, which would maintain a reasonable level of privacy. Moreover, while the proposed dwelling would be sited to the rear of No 21, given the design of the proposed dwelling and fairly low scale, it is not considered that the proposal would unacceptably compromise their light or outlook.
- 14.16 In terms of public highway safety matters, there is currently an existing cross over and entrance gates to No 21 accessed from St Georges Court. It is proposed that the existing access and crossover will remain

to serve the proposed dwelling. Given that there is already an access and entrance which serves No 21, it is not considered that the proposal to utilise this entrance for a single dwelling would result in public highway safety issues.

- 14.17 Indeed, the proposed layout shows two off street car parking spaces to serve the proposed dwelling, one of which would be within the integral garage and the existing dwelling at No 21 would retain a large on site car parking area accessed from Walkers Lane South. Therefore the proposal would broadly accord with the recommended car parking standards set out in the Councils SPD.
- 14.18 A number of representations are concerned that St Georges Court is a private road owned and maintained by the existing 12 residents and that there are covenants imposed on the residents to undertake shared responsibility for the maintenance and upkeep of its road, pathways, common user areas and curtilage. In response to these concerns, it should be noted that restrictive covenants are civil matters and are not planning issues. The applicant has confirmed that they have a legal right of access to St Georges Court and this was part of their agreement when the development of the site came forward. Accordingly, if planning permission is granted it would be for the applicant to ensure that they have a right of access to the approved development.
- 14.19 The Local Planning Authority is not currently able to demonstrate a 5 year supply of housing land when assessed against its most recent calculation of Objectively Assessed Need. Relevant policies for the supply of housing are therefore out of date. In accordance with the advice at paragraph 11 of the NPPF, permission should therefore be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits or specific policies in the NPPF indicate that development should be restricted. In this case, the presumption in favour of sustainable development does not apply because the development requires an appropriate assessment in compliance with the Birds or Habitats Directive, and there is therefore a specific policy in the NPPF (paragraph 177) which indicates that development should be restricted.
- 14.20 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
- 14.21 In accordance with the Conservation of Habitats and Species Regulations 2017 ('the Habitat Regulations) an Appropriate Assessment has been carried out as to whether granting planning permission would adversely affect the integrity of the New Forest and Solent Coast European sites, in view of that site's conservation objectives. The Assessment concludes that the proposed development would, in combination with other developments, have an adverse effect due to the recreational impacts on the European sites, but that the adverse impacts would be avoided if the planning permission were to be conditional upon the approval of proposals for the mitigation of that impact in accordance with the Council's Mitigation Strategy or mitigation to at least an equivalent effect.

- 14.22 In accordance with the Habitat Regulations 2017 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
- 14.23 In conclusion, the proposed development would provide an additional house within the established settlement boundary which would appear as an integral part of the recently built development, known as St Georges Court. While the proposed plot size is fairly small, it is comparable to the other dwellings in the cul de sac and the overall impact of the proposed development would be low. The proposed development has been designed to blend into the existing development and still allow the retained garden area to No 21 to feel spacious. The proposed development would not have a detrimental impact on the living conditions of the neighbouring properties or on public highway safety. Accordingly approval is recommended.
- 14.24 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**

Proposal:			
Type of Contribution	NFDC Policy Requirement	Developer Proposed Provision	Difference
Affordable Housing			
No. of Affordable dwellings			
Financial Contribution			
Habitats Mitigation			
Financial Contribution			

## **CIL Summary Table**

Туре	Proposed Floorspace (sq/m)	Existing Floorspace (sq/m)	Net Floorspace (sq/m)	Chargeable Floorspace (sq/m)	Rate	Total
Dwelling houses	144	0	144	144	£80/sqm	£13,868.31

Subtotal:	£13,868.31
Relief:	£0.00
Total Payable:	£13,868.31

<sup>\*</sup> 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:

Net additional new build floor space (A) x CIL Rate (R) x 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 2018 this value is 1.2

# 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: bubb sht 3 Rev X, bubb sht 2 Rev X, bubb sht 1 Rev X.

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. The development hereby permitted shall not be occupied until the spaces shown on plan bubb sht 3 Rev X for the parking and garaging of motor vehicles and cycles have been provided.

The spaces shown on plan bubb sht 3 Rev X for the parking and garaging or motor vehicles and cycles shall be retained and kept available for the parking and garaging of motor vehicles and cycles for the dwelling 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).

6. 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).

7. Before development commences 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 prevent inappropriate car parking to comply with Policy CS2 of the Local Plan for the New Forest District outside the National Park (Core Strategy).

8. All external works (hard and soft landscape) shall be carried out in accordance with the approved plans and details set out in condition 7 within one year of commencement of development and maintained thereafter as built and subject to changes or additions only if and as agreed in writing with the Local Planning Authority.

Reason:

To ensure the achievement and long term retention of an appropriate quality of development and to comply with Policy CS2 of the Local Plan for the New Forest District outside the National Park (Core Strategy).

- 9. 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.

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.

#### Notes for inclusion on certificate:

- 1. In discharging condition No 9 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 <a href="http://www.newforest.gov.uk/article/16478/">http://www.newforest.gov.uk/article/16478/</a>
- 2. 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:**

Richard Natt

Telephone: 023 8028 5588

