

**Application Number: 18/10774** Variation / Removal of Condition

**Site:** SITE OF ARRACHAR, FOX POND LANE, PENNINGTON,  
LYMINGTON SO41 8FW

**Development:** Variation of condition 2 of planning permission 17/10532 to allow revised plan numbers to allow first-floor side extension; revised front boundary details; timber cladding; fenestration alterations - changes to rear windows, side rooflights, provision of oriel window; provision of flue

**Applicant:** Ms Ashworth

**Target Date:** 16/08/2018

**Extension Date:** 14/09/2018

**RECOMMENDATION: Grant Subject to Conditions**

**Case Officer: Vivienne Baxter**

**1 REASON FOR COMMITTEE CONSIDERATION**

Contrary Town Council view

**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**

NPPF1: National Planning Policy Framework – Presumption in favour of sustainable development

**4 RELEVANT LEGISLATION AND GOVERNMENT ADVICE**

Section 38 Development Plan  
Planning and Compulsory Purchase Act 2004  
National Planning Policy Framework  
NPPF Ch.2 - Achieving sustainable development

## **5 RELEVANT SUPPLEMENTARY PLANNING GUIDANCE AND DOCUMENTS**

SPD - Lymington Local Distinctiveness  
SPD - Parking Standards

## **6 RELEVANT PLANNING HISTORY**

- 6.1 18/10773 - outbuilding (LDGP). Not lawful 20.8.18
- 6.2 18/10327 - house, detached outbuilding, demolition of existing.  
Withdrawn 19.4.18
- 6.3 17/11503 - outbuilding, Refused 10.1.18
- 6.4 17/10532 - house, detached outbuilding, 1.8m high boundary fencing  
and gate, demolition of existing. Granted 6.6.17

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

**Lymington & Pennington Town Council:** recommend refusal. We cannot support this application which does not address concerns from the neighbouring properties relating to loss of amenity from potential overlooking and the impact of the mass, appearance and scale of the buildings within the whole development.

## **8 COUNCILLOR COMMENTS**

None received

## **9 CONSULTEE COMMENTS**

No comments received

## **10 REPRESENTATIONS RECEIVED**

In addition to the concerns raised in respect of the procedure and working continuing on site, the following 10 objections have been received from local residents:

- conditions on the previous application shouldn't be discharged e.g. landscaping and slab levels
- first floor side addition has an overbearing impact on lounge and study of adjacent dwelling
- loss of privacy due to large windows/roof light in side addition, fins would need to be monitored
- cladding is out of keeping
- PD rights should be taken away
- loss of privacy from larger rear dormer and full height windows
- potential for additional works to outbuilding/s to provide habitable accommodation
- loss of privacy from porthole window
- loss of privacy from loft space/window in outbuilding
- 1st floor extension not in keeping, makes house too large for plot
- too many roof lights looks horrendous

- vehicular access should be recessed again
- rear dormer has been built differently to that indicated on the plans
- roof lights not shown correctly
- cladding is out of keeping
- house is now too large for plot
- so many rooflights are not necessary for storage space
- cladding is suggested as an alternative to materials not previously approved

## **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 paragraph 38 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.

Concerns were raised in respect of the overlooking which could occur from the new first floor bedroom window and amendments received to mitigate against this concern.

## 14 ASSESSMENT

14.1 The site lies within the built up area of Pennington in a residential area. There is a variety of house types and styles in the area including bungalows, houses and terraced properties. Prior to works commencing on site, the site contained a detached chalet bungalow with garage in the rear garden. Following the approval for a replacement dwelling, the site was cleared and works commenced on the replacement structure. Works to the new dwelling are now nearing completion but are subject to the conclusion of this application. The rear garden boundaries to the site consist of 1.8m fencing.

14.2 The proposal entails the variation of condition 2 of 17/10532 to allow the following changes:

- front boundary - a 1m high rendered wall leading to recessed 1.8m high gates was approved. The proposal is now for a dwarf brick wall (implemented) with palisade fencing above with planting behind (implemented). The gate would be the same design along the front boundary.
- new flue
- high level first floor porthole window to the north elevation
- minor window/door alterations and provision of a mezzanine to the outbuilding
- alterations to the position and number of roof-lights to the southern elevation
- partial cladding to all but the southern elevation
- enlarged rear dormer
- first floor side addition
- reduction in size of the ground floor glazing to the rear

To clarify, there are no changes to the approved footprint or ridge height of the dwelling or outbuilding. While other works have occurred on site in relation to another outbuilding and a excavation on the site, they do not relate to this application and are being dealt with separately. While comments have been made about a lack of enforcement, this case has been dealt with in the appropriate way. The outbuilding would be permitted development had the dwelling been occupied and the excavation in the rear garden would not require planning permission in its own right.

14.3 Taking these changes in turn, there are no particular concerns with regard to the alternative boundary wall/fence/hedge now implemented. The area contains a variety of front boundaries and that now in situ is not out of context with the general character of the area. Behind this boundary, the frontage is now able to accommodate a green area in addition to the hard surfacing for cars and this is welcomed.

14.4 The flue is close to the ridge of the dwelling and has a limited visual impact. Several other properties in the area have chimneys, as did the previous dwelling on site. It is not considered that this would harm visual or residential amenity.

14.5 The new fixed porthole window in the northern elevation is situated in bedroom 2. It is 2.6m above floor level within this room and while it is clear glazed, it is not possible to look out of it. However, in view of concerns expressed locally about a loss of privacy and the changes

made internally to the buildings resulting in mezzanine floor space, it is considered appropriate to add a condition to prevent further mezzanine floorspace in this room. In view of the window's location to the side elevation, it has a limited visual impact.

- 14.6 The outbuilding was initially approved as a garden office/classroom with WC. The windows which included a rooflight and full height side window indicated that the classroom area was to have a vaulted ceiling. Works now implemented to this building show that a storage area is being created above the classroom and the window in the side elevation is just at high level. It is not proposed to have a staircase leading to this storage area and it would not be possible to stand up within it. The elevation with the side window would be some 6.2m from the boundary and would have a limited impact on residential amenity. Whilst this side window is perhaps less attractive than the original full height glazing, in visual terms, it is considered an acceptable change.
- 14.7 It is understood that the southern elevation of the proposed dwelling has undergone several variations between the initial approval and the situation now under consideration. The floor plan in this area has also changed from two ensuites and a dressing room to three smaller ensuites and part of an additional bedroom, the rest of which is included in the first floor extension. Above this area, a storage platform has been created.
- 14.8 The approval allowed three large rooflights - two for ensuites and a third a little higher up the roof slope servicing a dressing area. They would all have been above head level within those rooms. These roof lights have been provided slightly nearer to the ridge than approved and service the storage area now provided over the first floor accommodation. To account for the loss of roof lights to this area, three smaller roof lights have been provided for three smaller ensuites at first floor level. The cross section indicates that these are 2.3m above floor level. A further large roof light is also now included and this serves the new bedroom. The drawings indicate that this window would have opening restrictors.
- 14.9 In visual terms, whilst there are several roof lights to this southern elevation, they are only glimpsed from the street due to the set back of the dwelling from both Bay Tree House and the cottages south of this. It is however accepted that they have an impact on the residential amenity of the adjoining property.
- 14.10 Bay Tree House has a roof light to its northern elevation which provides light to the stairwell/landing. The large bedroom rooflight is not quite opposite this and the distance between the two is approximately 3m. Having looked through both roof lights, it is not considered that the new dwelling would have a reduced level of amenity due to the existence of the Bay Tree House roof light and due to the angle between the openings, it is not possible to see into Bay Tree House from the site. However, when open, the bedroom roof light would allow views into the rear garden of the adjacent property; the indication that a bed would be below the roof light cannot be guaranteed. The roof light is the only opening window for this bedroom, as well as the means of escape, so it would be inappropriate to request that it is fixed shut. The provision of a restrictor would enable both ventilation to, and escape from, the room when required while preventing inappropriate overlooking.

- 14.11 The approved scheme indicated that the replacement dwelling was to be rendered. The proposal now includes the provision of cladding in addition to maintaining render to the southern elevation. Cedar cladding is now proposed to the front, rear and side elevations of the front and rear projections and the front and rear of the main body of the dwelling. This leaves the main side elevations and side projection as render.
- 14.12 In this respect, the properties in the area are mainly constructed in brick and render with tiled or slate roofs. The area also contains timber fences and trelliswork and until Bay Tree House was built adjacent to the site, there was a timber shed located adjacent to the road. The proposed cladding would be quite recessive and would result in the dwelling being less obtrusive than were it fully rendered. The cladding would also weather down, resulting in a relatively pale property comparable to the rendered houses to the north of the site. This element of the proposal would not impact on residential amenity.
- 14.13 At the rear of the property, a dormer window was approved measuring 2.8m wide. The proposal includes a wider dormer of 4.6m wide and as a result, the bathroom roof light would be higher up the rear roof slope. While objections have been received from local residents in respect of increased overlooking, the window is in the same plane as the rear wall below and while it cuts through the eaves line whereas the approved dormer did not and at 47m, it is no closer to the properties at the rear than the approved dormer. The increase in size of this dormer (and associated relocation of the roof light) is not therefore considered to adversely affect residential amenity.
- 14.14 However, the works which have been implemented so far in this respect are neither the approved or proposed scheme and the overlooking concerns are understood as the existing structure has floor to ceiling windows and projects out over the ground floor. If approved, this projecting structure would be replaced with the dormer window, indicated as having a cill height of 1.03m. In visual terms, the enlarged dormer is not considered to have a significant impact on the amenities of the area given the modern design of the new dwelling.
- 14.15 The approved dwelling has a single storey side projection accommodating a utility room. During the construction process of the dwelling, permission was refused for a larger outbuilding and as a result of this and the requirements of the applicant's family, changes were required to the dwelling in order to accommodate mobility equipment. This resulted in an extension over the utility room, created by extending the roof slope down and glazing the front and rear elevations. Visually, this element of the building is recessed from the main elevation and has a limited impact on the street scene.
- 14.16 With regard to residential amenity however, the rear glazing, while facing directly down the applicant's garden, due to its proximity to the boundary, it also has views into the rear garden of Bay Tree House. The proposal therefore includes the provision of timber fins to the outer 0.9m of this window in order to prevent direct overlooking. Concern has also been expressed locally that this addition is overbearing to the adjacent dwelling and while it is accepted that it is relatively close to the boundary, it does not take additional light from the neighbouring property, being to its north.

- 14.17 The living space at the rear of the property is now proposed to have a slightly narrower extent of glazing proposed. To the north of this elevation, this will line up with the revised dormer window above and in visual terms would be an improvement. There would be no residential amenity issues in this respect.
- 14.18 The proposal includes several changes to the original approved dwelling. However, subject to the imposition of additional conditions specifically related to these changes, they are not, cumulatively or individually, considered to adversely affect the residential or visual amenities of the area.
- 14.19 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

<b>Proposal:</b>			
<b>Type of Contribution</b>	<b>NFDC Policy Requirement</b>	<b>Developer Proposed Provision</b>	<b>Difference</b>
<b>Affordable Housing</b>			
No. of Affordable dwellings	0		
Financial Contribution	0		
<b>Habitats Mitigation</b>			
Financial Contribution	0		

## CIL Summary Table

Type	Proposed Floorspace (sq/m)	Existing Floorspace (sq/m)	Net Floorspace (sq/m)	Chargeable Floorspace (sq/m)	Rate	Total
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Dwelling houses	268.29	165.17	103.12	103.12	£80/sqm	£9,931.25 *
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Subtotal:	£9,931.25
Relief:	£0.00
Total Payable:	£9,931.25

*\* 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 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. The development permitted shall be carried out in accordance with the following approved plans: LP.01B, EE.01, EP.01, LP.01A, PP.01, PE.02, GR.01, PP.01C, PE.01D, PE.02F, S.01C, FG.01D, PL.01B.

Reason: To ensure satisfactory provision of the development.

3. The proposed colour of the render and the new planting along the front boundary shall be as approved by the Council's decision notice dated 20.7.18 unless alternatives are previously agreed in writing.

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

4. The slab level shall be as approved by the Council's decision notice for 17/10532 and dated 20.7.18.

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 vaulted roof space in bedroom 1 and the storage space at second floor level shall not be used for or converted to habitable accommodation and at no time shall access to them be facilitated by way of a permanent staircase.



Reason: The creation of additional habitable accommodation could adversely affect residential amenity in view of the window openings above first floor level which would be contrary to Policy CS2 of the New Forest District Council Core Strategy.

6. Within 3 months of the date of this permission, full details of the proposed fins for the rear bedroom window shall be submitted to for approval in writing by the Local Planning Authority. The development shall be implemented in accordance with the approved details within 3 months of their approval.

Reason: In the interests of the residential amenities of the area and in accordance with policy CS2 of the New Forest District Council Core Strategy.

**Notes for inclusion on certificate:**

1. In accordance with paragraph 38 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.

Concerns were raised in respect of the overlooking which could occur from the new first floor bedroom window and amendments received to mitigate against this concern.

**Further Information:**

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# New Forest DISTRICT COUNCIL

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**Planning Development  
Control Committee**  
September 2018

Item No: 3d  
Site of Arrachar  
Fox Pond Lane  
Pennington Lymington  
18/10774

Scale 1:1250

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

