

Application Number:	P/VOC/2022/06349		
Webpage:	https://planning.dorsetcouncil.gov.uk/		
Site address:	Huntley Down Milborne St Andrew DT11 0LN		
Proposal:	Erect 25 No. dwellings with garages, form vehicular access (with variation of condition 2 of planning permission 2/2018/1240/FUL to amend the approved plans in relation to Plots 19, 20 & 21)		
Applicant name:	Lewis Wyatt (Construction) Ltd.		
Case Officer:	Robert Lennis		
Ward Member(s):	Cllr Parker		
Publicity expiry date:	25 November 2022	Officer site visit date:	17/01/2023
Decision due date:	11 January 2023	Ext(s) of time:	

1.0 The parish council has raised objection and requested for this application to be determined by the planning committee.

2.0 Summary of recommendation:

Grant planning permission.

3.0 Reason for the recommendation:

It is considered, after visiting the site and viewing the development from the various interested parties' properties, that the proposed design alterations and change in ground level to plots 19, 20, and 21 would not result in a materially detrimental impact on any of the adjacent neighbours in terms of privacy or noise.

4.0 Key planning issues

Issue	Conclusion
Impact on amenity	The degree of overlooking, and noise, does not amount to materially detrimental impact.

5.0 Description of Site

The site has a relatively steep slope and is located toward the north-northwest portion of the village. It was granted planning permission in 2018 for the development of 25no. dwellings (ref: 2/2018/1240/FUL).

The development was completed and occupied within the past year; including plots 19, 20, & 21 which are the subject of this application. These plots sit perpendicular to nos. 37 and 39 Coles Lane, and look onto the flank elevation and rear garden of no. 35 Coles Lane.

There is to be a landscaped buffer between the approved development and the dwellings in Coles Lane. Landscaping details approved as part of the development were carried out within the past year. There are trees, shrubs, and other foliage planted in the buffer.

6.0 Description of Development

This application relates to the rear elevations and the ground levels of plots 19, 20, and 21 as they were not built in accordance with the approved plans.

With regard to the rear elevations, plot 21 has been altered by swapping the position of the rear door and windows. While the rear elevation ground floor windows for plots 19 and 20 have been reduced in size from three units to two.

With regard to a change in ground levels, as built the rear gardens were profiled/backfilled to raise the ground level up to the rear doors thereby omitting the need for a landing and steps. For the sake of comparison, the approved plans showed a brick faced landing outside the rear door(s) with steps to provide access to the rear gardens. The landing heights relative to the ground level would have been approximately: 1.3m, 1.2m, and 1.0m respectively.

7.0 Relevant Planning History

2/2017/1871/FUL - Decision: REF - Decision Date: 24/07/2018

Erect 30 No. dwellings with garages, form vehicular access.

2/2018/1240/FUL - Decision: GRA - Decision Date: 01/10/2019

Erect 25 No. dwellings with garages, form vehicular access.

8.0 List of Constraints

There are no constraints which relate to this proposal in light of the approved development.

9.0 Consultations and representations

All consultee responses can be viewed in full on the website.

Consultees:

1. Milborne St Andrew PC – consider the changes will cause substantial overlooking concerns and issue for all adjoining neighbours.

Representations:

Two representations have been received from neighbouring residents raising concerns with regard to privacy and noise, and general dissatisfaction with the retrospective nature of this application.

10.0 Human rights

Article 6 - Right to a fair trial.

Article 8 - Right to respect for private and family life and home.

The first protocol of Article 1 Protection of property.

This recommendation is based on adopted Development Plan policies and the other material considerations; the application of which does not prejudice the Human Rights of the applicant or any third party.

11.0 Relevant Policies

North Dorset Local Plan Part 1(2016)

Policy 1 – Presumption in Favour of Sustainable Development

Policy 2 – Core Spatial Strategy

Policy 24 – Design

Policy 25 – Amenity

Milborne St Andrew Neighbourhood Plan (2018-2033)

Policy MSA14 – Character and Design Guidance; “New development should respond...with a high standard of amenity.”

12.0 Material considerations

National Planning Policy Framework

Para. 130. “...decisions should ensure that developments will function well and add to the overall quality of the area, not just for the short term but over the lifetime of the development...”

National Design Guide

Para 129. “...Amenity spaces have a reasonable degree of privacy...”

13.0 Public Sector Equalities Duty

As set out in the Equalities Act 2010, all public bodies, in discharging their functions must have “due regard” to this duty. There are 3 main aims:-

- Removing or minimising disadvantages suffered by people due to their protected characteristics
- Taking steps to meet the needs of people with certain protected characteristics where these are different from the needs of other people
- Encouraging people with certain protected characteristics to participate in public life or in other activities where participation is disproportionately low.

Whilst there is no absolute requirement to fully remove any disadvantage the Duty is to have “regard to” and remove or minimise disadvantage and in considering the merits of this planning application the planning authority has taken into consideration the requirements of the Public Sector Equalities Duty.

In this case, the level gardens that are now proposed would help with accessibility through the development by the removal of the previously proposed steps.

14.0 Planning Assessment

This is a retrospective application to consider the alterations to the rear elevations and change in ground levels to the rear gardens of plots 19, 20, & 21. It is considered that the main issue is the degree to which privacy would be compromised or lost.

The relevant policies by which to assess this application are set out above. The Neighbourhood Plan states that new development should respond with a high standard of amenity. Whilst in the adopted Local Plan Policy 25, which specifically addresses the issue of amenity, states that “development will be permitted provided that it is designed to protect the privacy of its occupants and those of the neighbouring properties.”

It is important to note that policy does not seek to eliminate overlooking, as some degree of overlooking is inevitable in built-up villages and towns. Hence, the more salient point is brought to the fore in these policies that is: to achieve a ‘reasonable degree of privacy’, ‘quality’ or ‘high standard’, and to minimise overlooking and in-looking to “protect privacy”.

Your Officers have been to the site and stood outside the rear door of plot 21 and considered the views to and from the neighbouring residents. At present, there is intervisibility between the rear door of plot 21 and the first floor bedroom/office windows of nos. 37 and 39 Coles Lane, but no intervisibility at ground level with any of the properties. This would be the case in either scenario: as approved or as proposed.

As built, there is more standing space adjacent to the rear elevation of plot 21 at a similar level to the rear door from which intervisibility can occur with the first floor windows of 37 and 39 Coles Lane. However, this area is relatively small and there is nothing else that would encourage unsocial behaviour. The view stepping away from the rear door of plot 21 into the garden was also considered by crouching down

to imagine the view if the ground level had not been raised. It seemed that the intervisibility would be the same in either scenario for an adult standing in the rear garden in either scenario.

Members should also be aware that the landscaping, specifically tree planting, has not had time to take affect having been planted within the past year. As a result, the ground appears bare and the trees spindly. The trees planted in the buffer zone are: pyrus (pear), carpinus betulus (hornbeam), and 2x malus (apple). These will, in time, provide additional screening of views between the properties here.

Time as a factor will also see the shrub mix planted grow and timber panel fencing weather in appearance.

It was also considered on-site that the degree of overlooking, or intervisibility, from plots 19 and 20 would not materially change in either scenario. Therefore, it is considered that comparatively the proposed design (as built) would not result in a materially detrimental impact on any of the adjacent neighbours in terms of privacy and overlooking.

Noise was also raised as an issue in the representations. Whilst on site it was observed that the degree of noise was typical of a residential area, i.e., very limited and occasional. There was nothing observed on-site that would indicate that the proposed change in design would cause any materially detrimental noise disturbance.

16.0 Conclusion

The proposed design alterations and the change in ground level plots 19, 20, and 21 would not result in a materially detrimental impact on any of the adjacent neighbours in terms of privacy or noise.

17.0 Recommendation Grant planning permission subject to the following conditions and the completion of a deed of variation to tie the S.106 to this application.

1.The development hereby permitted shall be carried out in accordance with the following approved plans:

- 17161.93 C Plots 19, 20 & 21 proposed floor plans & elevations
- Location and block plan (17161.79)
- Proposed Site Plan (17161.22)
- Plots 01 and 02 Plans and Elevations (17161.80)
- Plot 03 Plans and Elevations (17161.81)
- Plots 04 and 05 Plans and Elevations (17161.82)
- Plot 06 Plans and Elevations (17161.83)
- Plot 07 Plans and Elevations (17161.84)
- Plot 08 Plans and Elevations (17161.85)
- Plot 09 Plans and Elevations (17161.86)
- Plots 10 and 11 Plans and Elevations (17161.87)

- Plot 12 Plans and Elevations (17161.88)
- Plot 13 Plans and Elevations (17161.89)
- Plot 14 Plans and Elevations (17161.90)
- Plot 15 Plans and Elevations (17161.91)
- Plot 16, 17, 18 Plans and Elevations (17161.92)
- Plot 19, 20, 21 Plans and Elevations (17161.93)
- Plots 22 and 23 Plans and Elevations (17161.94)
- Plot 24 Plans and Elevations (17161.95)
- Plot 25 Plans and Elevations (17161.96)

Reason: For the avoidance of doubt and in the interests of proper planning.

2. The access, geometric highway layout, turning and parking areas as shown on drawing number 17161.22 shall be maintained, kept free from obstruction and made available for the purposes specified.

Reason: In the interests of highway safety

3. The approved cycle store scheme as shown on the General Arrangement Plan 813.27/08A dated March 2022 shall be maintained and kept free from obstruction, and made available for the purpose specified.

Reason: To ensure the proper construction of the parking facilities and to encourage the use of sustainable transport modes.

4. The approved drainage scheme shall be implemented and thereafter managed and maintained in accordance with the approved details.

Reason: To ensure future maintenance of the surface water drainage system and to prevent increased risk of flooding.

5. The development shall be carried out in accordance with the approved details for the disposal of foul and surface water drainage. No part of the development shall be occupied or brought into use until the approved scheme has been fully implemented.

Reason: To minimise the risk of flooding and/or pollution.

6. The development shall be carried out in full accordance with the approved arboricultural method statement.

Reason: in the interest of public amenity and ecology.

7. Planting approved planting shall be carried out before the end of the first available planting season following substantial completion of the development. In the five year period following the substantial completion of the development any trees that are removed without the written consent of the Local Planning Authority or which die or become (in the opinion of the Local Planning Authority) seriously diseased or damaged, shall be replaced as soon as reasonably practical and not later than the end of the first available planting

season, with specimens of such size and species and in such positions as may be agreed with the Local Planning Authority. In the event of any disagreement the Local Planning Authority shall conclusively determine when the development has been completed, when site conditions permit, when planting shall be carried out and what specimens, size and species are appropriate for replacement purposes.

Reason: In the interests of public amenity and ecology.

8. The Biodiversity Mitigation Plan submitted with the application (from Clare Bird and Adrien Meurer (Hankinson Duckett Associates) dated 11th December 2017) shall be implemented in full

Reason: To mitigate the potential adverse effects of the development on the local ecology.

9. The development shall be carried out in accordance with the approved details of hard and soft landscaping as approved on the Landscape Planting Plan drawing number 813.27/09 dated March 2022.

Reason: Landscaping is an important feature of the local character. Additionally, unmitigated sound coming from the development hereby approved could result in a detrimental harm to the neighbouring residents.

10. The approved Heathland Infrastructure Project (HIP) of application ref: 2/2019/0843/FUL shall be made available in perpetuity for the purposes set out in the letter from Natural England dated 13 December 2018 adjacent to the site or in an agreed alternative suitable location within the Parish of Milborne St Andrew.

Reason: In the interest of wildlife habitat and ecology.

11. The development shall be carried out in accordance with the LAP layout, planting, implementation and maintenance responsibilities as shown in the approved LAP Implementation and Maintenance Plan.

Reason: In the interest of public amenity and ecology.