

**Application No: 20/00621/VAR Variation / Removal of Condition**

**Site:** Orchard End, Rear Of 1 & 2 Shelleys Cottages, Manchester Road, Sway, SO41 6AS

**Proposal:** Application to vary Condition 2 of planning permission 18/00548 for New dwelling; shed; alterations to access to allow completion and retention of doors, windows and flue as built

**Applicant:** Mr Doran

**Case Officer:** Ann Braid

**Parish:** SWAY

**1. REASON FOR COMMITTEE CONSIDERATION**

Contrary to Parish Council view

**2. DEVELOPMENT PLAN DESIGNATION**

Defined New Forest Village

**3. PRINCIPAL DEVELOPMENT PLAN POLICIES**

SP19 New residential development in the National Park  
SP15 Tranquillity  
SP17 Local distinctiveness  
DP2 General development principles

**4. SUPPLEMENTARY PLANNING GUIDANCE**

Sway Village Design Statement

**5. NATIONAL PLANNING POLICY FRAMEWORK**

Sec 12 - Achieving well-designed places  
Sec 15 - Conserving and enhancing the natural environment

**6. MEMBER COMMENTS**

None received

**7. PARISH COUNCIL COMMENTS**

Sway Parish Council: Recommend refusal (4) for the reasons listed below (unanimous):

The Committee noted that the roof windows were not on the original plans and appear to be an unnecessary addition (unrelated to the need for accessibility), and cause concern in respect of SP15, Tranquillity, specifically the dark skies policy adjacent to the open forest.

If the roof windows had not been included in the application, the Committee would have been keen to support the amendments to enable accessibility and would have recommended granting permission (3).

## **8. CONSULTEES**

No consultations required

## **9. REPRESENTATIONS**

9.1 None received

## **10. RELEVANT HISTORY**

10.1 New dwelling; shed; alterations to access (18/00548) refused on 21 September 2018, appeal allowed on 2 April 2019

## **11. ASSESSMENT**

11.1 The site of Orchard End, formerly known as land rear of Shelley's Cottages, is now developed with a single storey dwelling, built in brick and timber cladding, with a slate roof. The house was granted planning permission at appeal in 2019 and is substantially complete.

11.2 The dwelling has been built with amendments to the approved design as follows:

- SE (rear) elevation: chimney and door omitted. Four rooflights installed.
- NE elevation: window and door swapped.
- SW elevation: window enlarged to a pair of doors.
- NW (principal) elevation: addition of a flue.
- Internal layout revised to allow wheelchair access.
- An enlarged patio, screened with fencing.

A comparison of the plans indicates that the building is no larger in footprint or ridge height than that approved at appeal in April 2019 and is located in the approved position. The issues to be assessed are whether the amendments that have been made to the design are acceptable in the light of the Appeal Inspector's decision. The conditions imposed by the Inspector in respect of external facing and roofing materials, levels and landscaping have been discharged and the development has been carried out in accordance with the approved details. With regard to hard landscaping a larger patio and screen trellis fencing have been added.

## The Appeal Inspector's Decision

- 11.3 In his decision, the Inspector concluded that the dwelling would not harm the character and appearance of the area. As such, it would comply with the (then) Core Strategy and the Sway Village Design Statement that seek development of the highest standards of design that enhances local character and distinctiveness, including the density, appearance, form and layout of development. He found that the mitigation measures proposed for ecological impacts both on and off the site were appropriate. With regard to other objections raised, he concluded that the...'*dwelling would result in additional light in this edge of village location. However, the site is part of an existing garden close to existing dwellings, such that it would not result in material additional light emissions in the area...The proposed dwelling would be of modest height and single storey such that the proposal would not result in material overlooking of neighbouring properties. As a result, the proposal would not have a material effect on the living conditions of occupiers of neighbouring properties with regard to privacy.*' The amended dwelling, as built, has been assessed in the light of these conclusions and it is considered to be acceptable. The New Forest National Park Local Plan 2016-2036 (August 2019) adopted since the Inspector's decision has not changed the policy stance, and the development is in accordance with Policies SP17 and DP2 of the Local Plan.
- 11.4 The Authority's appeal submissions included suggested conditions for the Inspector to consider should he be minded to grant consent. Officers requested a condition removing normal permitted development rights, and the Inspector considered the request in his decision letter. He stated '*I have not included a condition removing permitted development rights as I do not consider it to be necessary. Such rights should be removed only in instances of specific and precise justification. Given the limited height of the proposed building and location within an existing garden, it is unclear development in accordance with these rights would affect the living conditions of neighbouring occupiers or the character and appearance of the area. Consequently, I find no exceptional circumstances in this case such as to warrant the removal of these rights.*'
- 11.5 With regard to ecological mitigation, the Inspector found that subject to appropriate payments being secured through the unilateral undertaking submitted by the appellants in the course of the appeal, adverse recreational impacts on the New Forest and Solent Special Protection Areas associated with the new dwelling would be mitigated. No payments have yet been received in respect of that undertaking, and it is therefore necessary to impose a condition to ensure the necessary mitigation measures are carried out.

## The Proposed Revisions

- 11.6 Each of the proposed revisions is relatively minor, although cumulatively the changes are not considered to be non-material amendments, hence this revised application. Had the dwelling been completed as approved, each of the revisions now proposed could have been carried out without planning permission as the property benefits from full permitted development rights under the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (the GPDO). The alterations to the fenestration would be permitted under Class A, the roof lights under Class C, the patio under Class F and the flue under Class G of the GPDO. As the Inspector specifically stated that it was not clear that development using permitted development rights would adversely affect living conditions of neighbours or the character and appearance of the area, it must be concluded that he would have considered the amendments now proposed to be acceptable. This conclusion has been taken into account in consideration of this proposal and the full assessment of the amendments, on site, indicates that the development is acceptable, in accordance with Policies SP15, SP17 and DP2 of the Local Plan.
- 11.7 The Parish Council have objected to the installation of the four rooflights, as they consider the proposal to be contrary to Local Plan Policy SP15, Tranquillity; specifically the dark skies policy adjacent to the open forest. However, light emissions from the new dwelling were assessed by the Inspector (as set out in paragraph 11.3 above) and it must be concluded that he considered the implications of light emissions from rooflights when he decided not to restrict permitted development rights on the dwelling. The development will increase light emissions in this location, but not to the degree that refusal would be justified on this ground alone. The revised interior layout to allow for wheelchair access has been supported by the Parish Council and to increase the privacy, the applicant has erected a trellis screen on the new patio.
- 11.8 It is considered that the amendments that have been made to the dwelling as it has been built are acceptable, and do not alter the dwelling to the extent that it would have been unacceptable in the opinion of the Inspector. In the light of this, and following the inspection of the development on site, it is concluded that the changes have resulted in an acceptable form of development, which accords with the adopted Local Plan. It is recommended that consent for the revised dwelling be granted. All outstanding conditions imposed by the Inspector, and those requiring further action on the part of the applicant will be re-imposed.

## 12. RECOMMENDATION

Grant Subject to Conditions

### Condition(s)

- 1 Development shall only be carried out in accordance with drawing numbers: 416/11B and 416/10B and drawing numbers 01, 416/5A and 416/12 of planning permission 18/00548. No alterations to the approved development shall be made unless otherwise agreed in writing by the New Forest National Park Authority.

Reason: To ensure an acceptable appearance of the building in accordance with Policies SP17, DP18 and DP2 of the adopted New Forest National Park Local Plan 2016- 2036 (August 2019).

- 2 Unless otherwise agreed in writing by the National Park Authority, development shall only take place in accordance with the recommendations for ecological mitigation and enhancement which are set out in the Ecology Report by Martin Noble dated 28 June 2018. The specified measures shall be implemented and retained at the site in perpetuity.

Reason: To safeguard protected species in accordance with Policies DP2 and SP6 of the New Forest National Park Local Plan 2016-2036 (August 2019).

- 3 The development hereby permitted shall not be occupied until space has been laid out within the site in accordance with drawing no. 416/10B for cars to be parked and for vehicles to turn so that they may enter and leave the site in forward gear and that space shall thereafter be kept available at all times for those purposes.

Reason: To ensure adequate parking provision is made in the interest of highway safety and to comply with Policies DP2 of the New Forest National Park Local Plan 2016-2036 (August 2019).

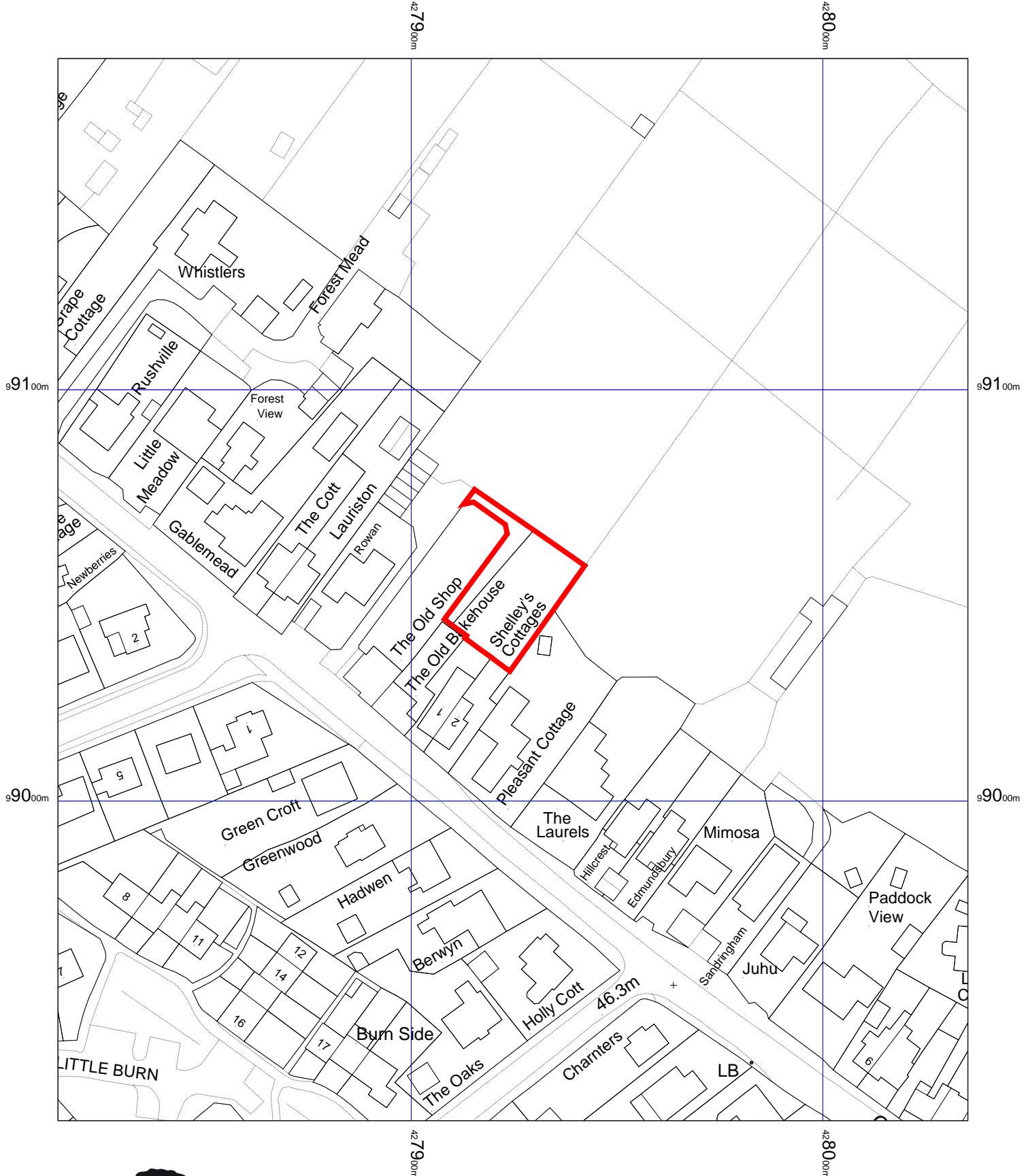
- 4 All hard and soft landscape works shall be carried out in accordance with the approved details as shown on plan number 416/20 (with additional statement) attached to consent reference 18/00548. The works shall be carried out in the first planting and seeding seasons following the occupation of the buildings or the completion of the development, whichever is the sooner.

Any trees or plants which within a period of 5 years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size or species, unless the National Park Authority gives written consent to any variation.

Reason: To ensure the appearance and setting of the development is satisfactory and to comply with Policy DP2 of the New Forest National Park Local Plan 2016-2036 (August 2019).

- 5 Prior to the occupation of the development, ecological mitigation for the Solent and New Forest Special Protection Areas, Special Areas of Conservation and Ramsar sites shall be submitted to and approved in writing by the New Forest National Park Authority. The ecological mitigation may take the form of financial contributions in accordance with the Authority's Habitat Mitigation Scheme and the Solent (SRMP) Explanatory Note, as secured in the unilateral undertaking submitted to the Planning Inspectorate under application reference 18/00548.

Reason: To safeguard sites of international ecological importance in accordance with Policies SP5 and SP6 of the adopted New Forest National Park Local Plan 2016- 2036 (August 2019), the Authority's Habitat Mitigation Scheme and the SRMP.



NEW FOREST  
NATIONAL PARK

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