

Application No: 22/00695 Full Application

Site: Paysanne, Godshill Wood, Fordingbridge, SP6 2LR

Proposal: Dwelling; detached garage with office over; sewage treatment plant; demolition of existing dwelling and outbuilding

Applicant: Mrs Vickers

Case Officer: Carly Cochrane

Parish: GODSHILL

1. REASON FOR COMMITTEE CONSIDERATION

Contrary to Parish Council view

Previous committee consideration

2. POLICIES

Development Plan Designation

Conservation Area

NPPF

Sec 12 - Achieving well-designed places

Sec 15 - Conserving and enhancing the natural environment

Sec 16 - Conserving and enhancing the historic environment

Principal Development Plan Policies

DP2 General development principles

DP18 Design principles

DP35 Replacement dwellings

DP36 Extensions to dwellings

DP37 Outbuildings

SP6 The natural environment

SP7 Landscape character

SP15 Tranquillity

SP16 The historic and built environment

SP17 Local Distinctiveness

Supplementary Planning Documents

Design Guide SPD

3. MEMBER COMMENTS

None received

4. PARISH COUNCIL COMMENTS

Godshill Parish Council: Recommend refusal, for the reasons as per the July 2022 meeting, which are that the proposed changes to the 'as built' dwelling do not mitigate the material planning harm it causes

- To neighbours through loss of privacy and amenity
- Through its light pollution in this dark sky area
- To the character of the local area creating an obtrusive and uncharacteristically dominant presence within the landscape.

It does not comply with nine policies:

- Policy SP16 a) Material harm to the Conservation Area, including views, trees and light pollution.
- Policy SP6 Geological features completely changed by construction work.
- Policy SP7 b) Massing and scale detract from the natural beauty of the National Park.
- Policy DP2 a) Inappropriate and unsympathetic in terms of scale, siting and layout.
- Policy DP2 b) It does not respect the natural, built and historic environment and biodiversity.
- Policy DP2 c) Individual trees and hedgerows removed, minimal appropriate new planting.
- Policy DP2 d) Suburban-type wooden fencing without prior permission.
- Policy DP2 e) Neighbour amenity impacted by visual intrusion, overlooking and light pollution
- Policy DP2 f) Unacceptable adverse impacts from light pollution.
- Policy SP17 Loss of local distinctiveness/character and suburbanising effect.
- Policy DP35 Dwelling of greater floor space than the original, contrary to the permitted plans.
- Policy DP36. Floor space increased beyond policy limit. No exceptional circumstances
- Policy DP37 Outbuilding granted retrospective permission for substantial increase in size, temporary residence, location change which exacerbates overlooking.
- Policy DP18 a) It harms the built and historic environment;
- Policy DP18 d) The submitted plans have often been self-contradictory; environmental practices are questionable.
- Policy DP18 e) It harms landscape setting (notably height, bulk and expanses of glazing).

5. **CONSULTEES** (comments summarised)

Building Design & Conservation Officer: Support - changes to the dwelling as per this application would have a neutral impact upon the significance of the Conservation Area and can be supported.

Ecologist: Support subject to condition controlling any future lighting.

Landscape Conservation Officer: No objection; the planting and lighting levels are acceptable and appropriate.

Planning Policy Officer: Considers the application policy compliant.

Tree Officer: No objection.

6. **REPRESENTATIONS**

25 letters of representation have been received; 17 letters are in support of the application, 7 letters raise objections and one letter makes a comment on the application. The material concerns raised within the letters of objection are summarised as follows:

- Site is overdeveloped and has taken on an urban feel
- Concerns with regard the height, size and bulk of the dwelling
- Concerns with regard the lighting, and light pollution and harm caused to the dark night skies
- Planting scheme not in accordance with the condition on the previous application
- Concerns with regard impact upon neighbouring amenity in relation to overlooking and loss of privacy, and overbearing impact
- 2018 permission has lapsed and there is no lawful fallback position; the application therefore should not be assessed as a replacement dwelling under Policy DP35 but should be considered as a new dwelling and is therefore contrary to policy
- To determine the application against Policies DP35 and DP36 would be open to further judicial review challenge
- The application is a premature attempt to regularise planning permission for an unauthorised dwelling

A letter has been received from the Council for the Protection of Rural England (CPRE) which objects to the proposal on the grounds of light pollution and impact on dark night skies.

7. **RELEVANT HISTORY**

- 7.1 Application to vary condition 2 of planning permission 18/00262 for Dwelling; detached garage with office over; sewage treatment plant; details of lighting; demolition of existing dwelling and outbuilding to allow minor material amendment (AMENDED PLANS) (21/00807) granted on 19 July 2022 - this decision is currently being challenged through an application for Judicial Review

- 7.2 Enforcement Notice issued on 26 February 2021 requiring demolition of as built dwelling and outbuilding. Appeal pending
- 7.3 Swimming pool; plant/pump house (20/00005) refused on 26 February 2021
- 7.4 Application to vary condition 2 of planning permission 18/00262 dwelling; detached garage with office over; sewage treatment plant; demolition of existing dwelling and outbuilding to allow minor material amendment (20/00903) refused on 15 February 2021
- 7.5 Retention of roof extension over existing log store, retaining wall, addition of 1no. rooflight to outbuilding (19/00303) granted on 14 June 2019
- 7.6 Dwelling; detached garage with office over; sewage treatment plant; demolition of existing dwelling and outbuilding (18/00262) granted on 14 September 2018
- 7.7 Replacement dwelling and detached triple garage with office over; sewage treatment plant; (demolition of existing dwelling and outbuilding) (Application for a Non Material Amendment to planning permission 16/00828) (17/00567) Raise Objections, 10 August 2017
- 7.8 Replacement dwelling and detached triple garage with office over; sewage treatment plant; (demolition of existing dwelling and outbuilding) (16/00828) granted on 20 December 2016
- 7.9 Replacement dwelling and detached triple garage with office over; sewage treatment plant; demolition of existing dwelling and garage (16/00392) withdrawn 05 July 2016

8. ASSESSMENT

8.1 Application Site

The application site is located to the southern side of the primarily unmade track which runs through Godshill Wood and serves a number of other residential properties. The site lies within the Western Escarpment Conservation Area and there is a public footpath which runs parallel to the eastern site boundary; there are two residential properties which adjoin this footpath on their western boundaries. To the south is agricultural land which features trees and wooded areas, and part of the south western site boundary adjoins the neighbouring property of Long Orchard.

- 8.2 Members will recall this site following the Committee's recent consideration and approval of application 18/00262 last July (see 7.1 above). To recap, planning permission for the replacement of the original single storey dwelling on site was granted in 2016 (16/00828) when the site was within a different ownership. Whilst this permission was not implemented, some preparatory works were carried out on site in the form of the removal of some trees and vegetation, and the installation of a sewage treatment plant. A further application for a replacement

dwelling, made by the current applicant, was granted in 2018 (18/00262), for a dwelling of a different design to that approved in 2016. The permission was implemented; however the dwelling as built and as exists on site now, differs from the approved plans and is unauthorised. In 2021, an application was made under s73 of the Town and Country Planning Act 1990 (for minor material amendments) (20/00903) in an attempt to regularise the unauthorised changes made to the earlier approved dwelling. This was refused as essentially the changes were not cumulatively considered to be minor, and concerns were raised in relation to the size, scale and floor area of the dwelling as well as the as-built design, extent of glazing and re-orientation of the dwelling which taken together had resulted in adverse impacts on neighbouring amenity, the locality, the wider conservation area and the landscape of the National Park.

8.3 The Authority subsequently served an Enforcement Notice requiring the demolition of the as built dwelling as no attempt had been made by the applicant to overcome the issues identified in the refusal of 20/00903. As noted above, the Notice has since been appealed and the appeal is due to be heard this year. Whilst it is open to the Authority to decline to determine an application for development that is the subject of an enforcement appeal, this is at the discretion of the Authority, and the amended plans submitted as part of application 21/00807 were provided in an effort to mitigate the harm that was considered to have resulted from the as built dwelling.

8.4 Central Government guidance relating to material minor amendments states that there is no statutory definition of a minor material amendment but that it is likely to include any amendment where its scale and/or nature results in a development which is not substantially different from the one which has been approved. Overall, the proposals put forward under the revised s73 application (21/00807) were considered to constitute minor material amendments to the scheme as approved in 2018 and addressed the reasons for refusal of the earlier s73 application (20/00903).

8.5 One neighbour has now challenged this most recent decision (21/00807) through an application for Judicial Review, claiming that the changes should not have been considered under a s73 application.

8.6 Proposed Development

This application seeks full planning permission for a dwelling of the same design and size as already approved under 21/00807 in order to address the concerns raised within the application for Judicial Review (i.e. that the previous application was determined under an incorrect procedure). An accompanying statement from the applicant sets out the rationale for the submission of the current application; to regularise some of the amendments already made (as built) which are not in accordance with the 2018 permission and to propose additional alterations to the as built dwelling to address the concerns raised in the refusal of application 20/00903 and as set out in the Enforcement Notice.

8.7 The 'as built' deviations from the 2018 Planning Permission which are sought to be retained and regularised through this application are as follows:

- The dwelling has been re-orientated so that the south elevation faces to south-south-east instead of south-south-west.
- As a result of the re-orientation, the house is closer, by 2.2 metres, to the boundary to the south west, and has been located to the south of the approved position.
- As a result of the re-orientation, the double height gable window is located further to the west and faces north-north-west.
- The plans indicate the ridge to be 0.8 metres higher (however, the slab level is some 0.3 metres lower than it would have been in its approved location).

8.8 It is proposed to make the following additional alterations to the 'as built' dwelling:

- Reduction of the internal floorspace by virtue of the reduction in the scale of the single storey side element (kitchen) in order to comply with the floorspace limitation of DP36; the width of this element would be reduced by approximately 1.8 metres. The height of this element would be reduced by approximately 650mm and the roof form would be hipped. The windows within this element would be altered so as to match those approved as part of the 2018 permission.
- Hipped roof 'cap' added to the double height glazed stairwell upon the northern elevation, of a design to match that upon the single storey element.
- Reduction in the depth of the gable projection upon the southern elevation by approximately 1 metre, with the balcony upon this elevation also set back by 1 metre.
- A window upon the ground floor west elevation would be moved to the left hand side of the chimney stack due to the reduction in depth of the gable.
- Security lighting has been installed in breach of condition and this is proposed to be removed.
- Amendments are proposed to the fenestration, which would have a resultant area of 34.7 square metres as opposed to the approved 31.5 square metres.

8.9 Considerations

The plans accompanying the current application are the same as those approved by the Planning Committee last July.

8.10 In considering this application, it is first necessary to address the assertion made by the planning consultant on behalf of the occupiers of the neighbouring property of Bluebell Cottage, which is located to the north and who are also the Claimants in the Judicial Review, that the

2018 Planning Permission (18/00262) has lapsed, and therefore “there is no lawful fallback position open to the applicant...as such, this application cannot be assessed as a replacement dwelling under Local Plan DP35 and nor can the 30% rule be assessed against DP36 - the pre-existing dwelling has now ceased to exist and there is no basis in planning law to treat it as anything else”.

- 8.11 In relation to the claimed ‘lapse’ of the 2018 permission, the Authority is of the view that this was lawfully implemented, for a number of reasons, as follows:
1. The 2018 application in part regularised development that had been carried out prior to the application in the form of a sewage treatment works, meaning that in effect, the permission was already implemented at the point of it being granted.
 2. The outbuilding included as part of the 2018 permission was constructed; whilst this was subject of a further application in 2019 (reference 19/00303) which regularised deviations from the approved plans, these deviations are not considered to be such that it took the outbuilding outside of the scope of what had been granted permission.
 3. The demolition of the original dwelling (being the single storey building) had occurred; this was included within the development description of the 2018 application and is considered a material operation for the purposes of section 56 of the Town and Country Planning Act 1990.
- 8.12 Therefore, the Authority is of the firm view that the 2018 permission was implemented and remains extant. This is a material consideration and constitutes a legitimate fallback position.
- 8.13 In relation to the policy requirements, the supporting text to Policy DP35 (paragraph 7.78 of the Local Plan) sets out that DP35 (replacement dwellings) does not apply to former dwellings that have either been demolished or abandoned. It goes on to clarify that in terms of abandonment, this is considered to have occurred where there has been a deliberate intention to cease the residential use of the property by (i) leaving the dwelling vacant for a considerable period; (ii) allowing the dwelling to deteriorate to an extent that residential re-use would involve what would be tantamount to rebuilding; or (iii) introducing a different use which supplants the earlier residential use.
- 8.14 In this instance, a residential dwelling has existed on site, and the site has been used for residential purposes, since the early 20th century. In combination with the successive granting of planning permissions for a replacement dwelling in 2016, 2018 and 2022, it is clear that the site has been in continuous residential use, with the intent for it to remain in this use. A case for abandonment then would be unfounded.
- 8.15 As such, Policy DP35 of the Local Plan allows the replacement of dwellings subject to the existing dwelling, which in this case was the original single storey dwelling, being a lawful dwelling and one which was not considered to be of historic significance. As has already been

established via the previous applications, this dwelling was considered lawful and was not of historical merit, and therefore the principal of a replacement dwelling is acceptable. In combination with a replacement dwelling under Policy DP35, an extension can be considered under Policy DP36, and this policy restricts the increase in floorspace to no more than 30% of the gross internal habitable floorspace that existed at the site in 1982. As a result of the proposed reduction in the scale of the single storey element and projecting gable upon the southern elevation, it is calculated that the floorspace of the dwelling would be increased by 27%. This is clearly well within the policy limitation, and therefore the dwelling adheres to DP36 in this respect. The areas under the cantilevered balconies are not included within the calculations as the balconies are cantilevered, and it is considered that a condition could appropriately control against these areas being infilled and incorporated into the main dwelling. In addition, it is considered reasonable for permitted development rights to be removed in order to ensure that the dwelling is not further enlarged contrary to DP36.

- 8.16 The height of the dwelling would measure 8.5 metres; the approved dwelling height as part of the 2018 permission was 7.5 metres. It is understood from an enforcement site visit that the slab level is a 300mm lower than originally intended, resulting in a finished ridge height that would be 0.7m higher than approved in 2018. The dwelling is set on a significantly lower ground level than that of the access track due to the sloping ground levels (north to south) which apply to the entire area and affect all dwellings. The dwelling is set back from the northern boundary by approximately 20 metres, from its south western boundary adjoining the neighbouring property by 8 metres and from the south eastern boundary by 25 metres, at the respective closest points. Due to the sloping ground levels, the ground level of the access track is roughly aligned with the eaves of the dwelling. The increase in the ridgeline height is therefore not considered to result in any materially increased visual impact upon the character and appearance of the area, and overall, the proposal would result in a reduced scale and bulk of built development, with the reduction in high level glazing, and therefore the proposed scheme is considered to have a neutral impact upon the character and appearance of the conservation area.
- 8.17 Similarly, the increase in the ridge height is not considered to give rise to any significantly exacerbated impact upon neighbouring amenity in relation to an overbearing appearance. Comments have been made within the letters of representation that the dwelling is unacceptable due to the fact that it is more visible when viewed from within neighbouring properties. Notwithstanding the fact that the proposal now would represent a reduction in the overall bulk of the dwelling in comparison to that which was approved in 2018, and that this scheme was not considered to result in any significant adverse impact upon neighbouring amenity, and whilst it is acknowledged that a two storey dwelling is more visible than the previous single storey dwelling at the site, this fact in itself does not automatically give rise to demonstrable harm.
- 8.18 In relation to the orientation and siting of the dwelling, this has resulted in the north elevation facing north-north-west. Resultantly, the occupiers

of Bluebell Cottage have a clearer view of the northern elevation of the dwelling from within their property. Again, the fact that this elevation is visible does not automatically result in harm in terms of overbearing appearance, and it is noted that there is no right to a view. However, the re-orientation has led to what is considered to be significant harm to the amenities of these neighbours by reason of light emissions across their garden, and the ability to see into this property from the upper floor of Paysanne. The capping of the roof of the double height glazed feature removes scope for actual overlooking into the neighbouring property and does not provide any additional opportunity for overlooking than the first floor windows serving the landing and shower room. It also reduces the bulk of the built development and the perceived overlooking impact.

8.19 It is also noted that the application property is set back approximately 20 metres from its northern boundary, and therefore the distances between the respective elevations is approximately 45 metres, with Bluebell Cottage upon a significantly higher land level than that of the application property. Due to the orientation of the dwelling and the distances to the other site boundaries, it is not considered that the orientation of the dwelling would give rise to any significantly exacerbated levels of overlooking above that which would have been experienced as part of the 2018 permission; it is noted that this orientation was also not considered to result in any significantly harmful impact upon neighbouring amenity.

8.20 It is apparent that the submitted landscaping plan does not accurately reflect the planting which has taken place on site. This shows four large hollies along the northern boundary, sited to mitigate any overlooking into the property to the north and act as a barrier with regard any light emissions. These have been planted in a slightly different position, and a different species has also been planted. However, the planting still serves its purpose, and there is no objection from the Authority's Landscape Conservation Officer in this respect. However, an updated landscape plan is expected to be submitted prior to Planning Committee.

8.21 Concern has been raised within the letters of representation and from the CPRE in relation to light emissions. The submitted plans shows that there would be seven external lights at ground floor level only, and that those existing upon the first floor levels would be removed. Due to the sloping site, any light spillage from lights upon the northern elevation (of which there would be five, with a light upon the north eastern corner of the dwelling) would be contained by the retaining wall and landscaping between the dwelling and the boundary. It is proposed that there would be two lights upon the southern elevation. These lights would be downward facing, and their number is not considered excessive or unreasonable. It is not considered that the external lights would give rise to any significant levels of light pollution, nor it is considered that that the lighting would result in significant effects on the populations of protected species due to their location. A condition can reasonably be attached requiring the details of any further proposed lighting to be submitted and approved by the Authority.

8.22 The application also includes within its description the detached outbuilding located to the east of the dwellinghouse. This outbuilding in its current form is subject of a separate application (19/00303) and an assessment of this outbuilding is not considered necessary. The sewage treatment plant is also included within the development description; again, this element was regularised by the 2018 permission, and does not warrant assessment now.

8.23 Notwithstanding all of the above, the fact that a dwelling has existed on this site since the early 20th century, together with the granting of successive planning permissions in 2018 and 2022 for a similar sized replacement dwelling, are material planning considerations that could be taken into account in determining the current application. In other words, even if it was concluded that the 2018 permission had lapsed, it would not be a perverse or unlawful planning decision to grant planning permission in 2023 for a similarly designed and proportioned dwelling and outbuilding as proposed through this application. There have been no substantive changes to the relevant development plan policies in the intervening period (i.e. 2018 to date).

8.24 Conclusion

For all these reasons, it is recommended that planning permission be granted, subject to conditions. It should also be noted that in the event that permission is granted, then it is very likely that the Authority will either amend the Enforcement Notice (to require the as built dwelling to be modified as per the approved plans) or withdraw the Enforcement Notice altogether.

9. RECOMMENDATION

Grant Subject to Conditions

Condition(s)

1. Within two years of the date of this decision, the as-built dwelling shall be amended in accordance with drawing number SGA-143-104N PL2 unless otherwise agreed in writing with the New Forest National Park Authority.

Reason: To ensure the dwelling remains of a size which is appropriate to its location within the countryside and to comply with Policies DP35 and DP36 of the adopted New Forest National Park Local Plan 2016- 2036 (August 2019).

2. Development shall only be carried out in accordance with drawing number SGA-143-104N PL2. 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 SP16, SP17, DP18 and DP2 of the adopted New Forest National Park Local Plan 2016- 2036 (August 2019).

3. The external facing materials to be used in the development shall match those used on the existing building, unless otherwise agreed in writing by the New Forest National Park Authority.

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

4. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) England 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 shall be erected or carried out without express planning permission first having been granted.

Reason: To ensure the dwelling remains of a size which is appropriate to its location within the countryside and to comply with Policies DP35 and DP36 of the adopted New Forest National Park Local Plan 2016 - 2036 (August 2019).

5. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any re-enactment of that Order) no 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 New Forest National Park 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 DP2 and SP17 of the adopted New Forest National Park Local Plan 2016 - 2036 (August 2019).

6. No external lighting shall be installed on the site except that shown on drawing number SGA-143-104N PL2 unless details of such additional lighting proposals have been submitted to and approved in writing by the New Forest National Park Authority.

Reason: To protect the amenities of the area in accordance with Policies DP2 and SP15 of the adopted New Forest National Park Local Plan 2016 - 2036 (August 2019).

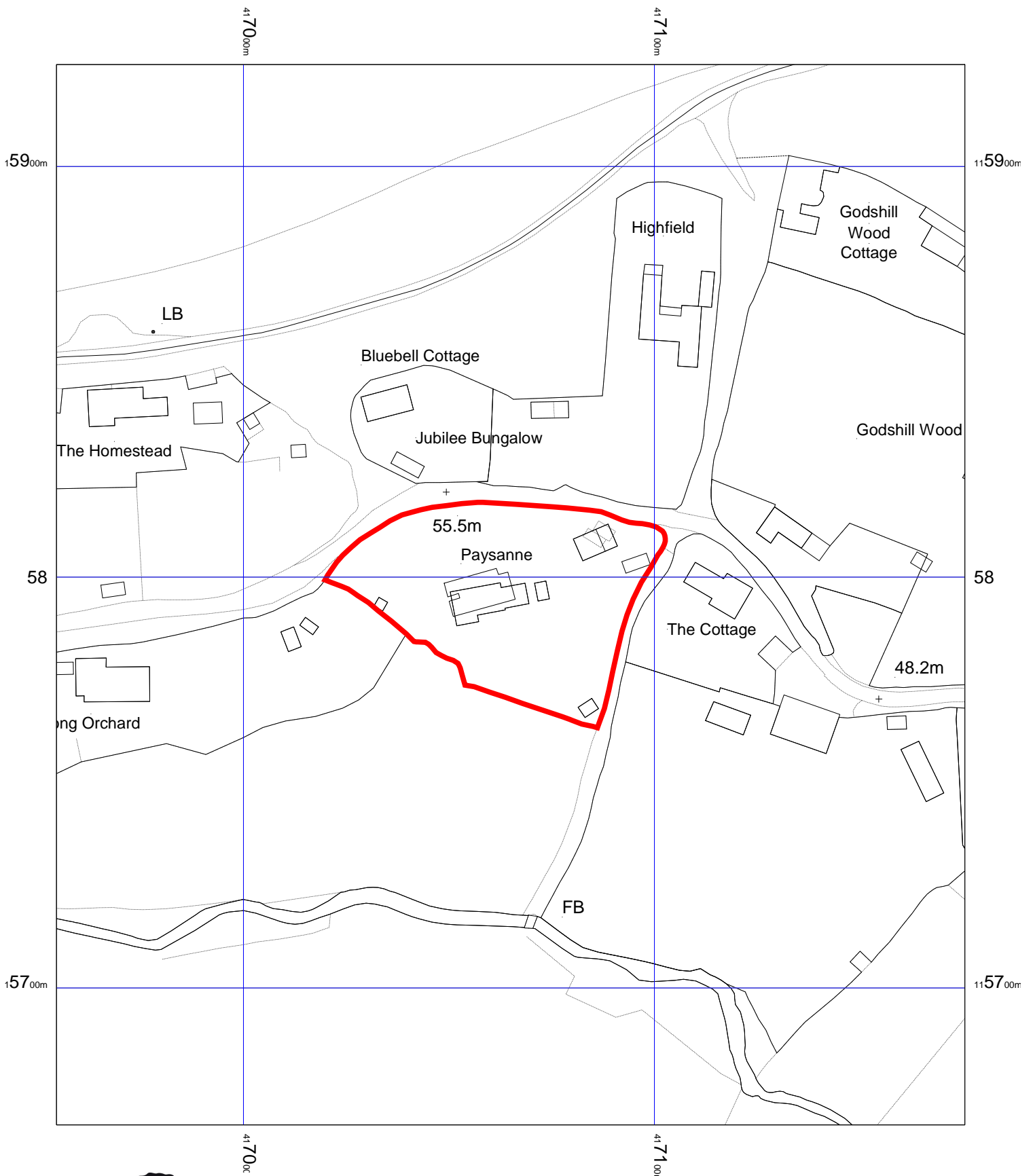
7. All materials, machinery and any resultant waste materials or spoil shall be stored within the red line application site unless otherwise agreed in writing by the local planning authority.

Reason: In the interests of protecting the locally distinctive

character of the Western Escarpment Conservation Area in accordance with Policy SP16 of the adopted New Forest National Park Local Plan 2016 - 2036 (August 2019) as well as the Western Escarpment Conservation Area Management Plan.

8. The areas covered by the balconies along the southern elevation shall at no point be in-filled or incorporated into the main dwellinghouse.

Reason: To ensure the dwelling remains of a size which is appropriate to its location within the countryside and to comply with Policies DP35 and DP36 of the adopted New Forest National Park Local Plan 2016- 2036 (August 2019).



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