

Application No: 23/01040FULL Full Application

Site: Lynton, Partridge Road, Brockenhurst SO42 7RZ

Proposal: 1no. dwelling; hardstanding

Applicant: Mr P Ledger

Case Officer: Liz Marsden

Parish: BROCKENHURST PARISH COUNCIL

1. REASON FOR COMMITTEE CONSIDERATION

Significant local interest

2. POLICIES

Development Plan Designations

Defined New Forest Village Brockenhurst

Principal Development Plan Policies

SP15 Tranquillity

SP17 Local distinctiveness

SP19 New residential development in the National Park

DP2 General development principles

DP18 Design principles

SP21 The size of new dwellings

DP34 Residential character of the Defined Villages

SP4 Spatial strategy

SP20 Specialist housing for older people (Use Class C2)

NPPF

Sec 5 - Delivering a sufficient supply of homes

Sec 12 - Achieving well-designed places

Sec 15 - Conserving and enhancing the natural environment

Supplementary Planning Documents

Design Guide SPD

3. MEMBER COMMENTS

Cllr Adam Parker (NFDC Councillor for Brockenhurst)

- Would like to see the planning authority encouraging and supporting building initiatives, such as this energy efficient passivhaus, whenever possible, in the right places and in accordance with local planning considerations.
- Aware that there have been many consultations are responses and 36 interested parties the majority in favour of this type of sustainably built, low carbon footprint, house as a precedent for other houses in the area.
- In addition to positive responses logged on the NFNPA planning portal, I have received 16 emails from Brockenhurst residents (either Partridge Road or nearby) who support the application and I have spoken to numerous neighbours who are in support of it. There appears to be a groundswell of support and goodwill for the application. I am only four months into the role as a recently elected Green Party councillor, but this is a first for me to encounter such positivity about an application. On the basis of the need for more housing of this type locally and this level of support, please consider me in support of these plans.

4. PARISH COUNCIL COMMENTS

Brockenhurst Parish Council: Recommend refusal but would accept the decision reached by the National Park Authority's Officers under their delegated powers for the following reasons:

The committee welcomed the design proposition for the Passive house. However, this application has a similar problem to that of the adjacent property which has already had an appeal decision rejected. The siting in the plot would upset the environmental considerations. Moreover, the proposed plan would have a negative effect on Highwood Road.

5. CONSULTEES

Tree Officer: Objection. Whilst it is accepted that the proposal could be accommodated without direct adverse impact on nearby trees, the potential overbearing impact and shading of the limited amenity area could result in future pressure to fell or prune the trees. The shading report that has been provided demonstrates that the plot is in shade for a considerable part of the day and the future growth of the young Oak that has recently been planted as replacement for a tree that was removed has not been illustrated accurately. For 50 years growth it would be expected to be at least 15m tall and similar in size to adjacent Oak trees as it would have reached maturity.

Policy Officer: The recent appeal decision on the adjacent plot is a material consideration in the determination of this application as is Policy DP34 relating to the character of the defined villages. It is recognised that

evidence of demand for self and custom housebuilding is also a material consideration, but the weight afforded to this should not, alone, be determinative in the assessment of the application.

Natural England: No objection subject to appropriate mitigation being secured

6. REPRESENTATIONS

38 letters of support from 36 households on the grounds of:

- Provides accommodation for local residents wishing to downsize.
- Important to provide small family homes in Brockenhurst, which is dominated by large properties.
- Demonstrates what can be provided within policy restrictions.
- Minimal environmental and visual impact and would enhance Highwood Road.
- Sustainable, high quality design and Passiv Haus credentials which should be encouraged and set a good precedent for future development in the National Park.
- Good location for family dwelling.
- Highwood Road is no longer rural in character and, given the presence of the village hall, surgery and play areas, the proposal would not have an adverse impact on the character of the area.
- Would enhance the sense of community on Highwood Road and some natural surveillance for users of the facilities there.
- Would not conflict with the other uses on Highwood Road.
- Important for the community to support projects that will assist in the fight against climate change.
- Need for smaller, single storey properties in the village.
- Precedent set by the subdivision of a site on Sway Road.

Friends of Brockenhurst also supported the proposal making following comments:

- Would provide much needed housing without undue urbanisation or damage to the New Forest SPA.
- Do not agree with the recent appeal decision, as due to the changes that have taken place along Highwood Road, it is no longer particularly rural.
- The design of the dwelling is satisfactory but the landscaping less so.

Three letters of objection on grounds of:

- Adverse impact on the character, appearance and well-being of the surrounding area.
- Increased urbanisation.
- Is in close proximity to a mixed-use games and area and could result in safety concerns.
- Adverse impact on neighbours due to increased noise and disturbance.

- Recent appeal decision dismissing a similar proposal on the adjacent site.
- Would set a precedent that would make it difficult to refuse further applications along the road that would have an increased and adverse cumulative impact on the road.
- Whilst the comprehensive development of this side of the road could result in an acceptable form of development, this is not what is being proposed and it is necessary to consider the application on its merits.

7. RELEVANT HISTORY

Application Site

Replacement dwelling; garage (21/01036) granted on 21 March 2022

Single Storey Extensions: Front Porch; Addition of Chimney; Roof Lights (14/00528) granted on 22 August 2014

Erection of a bungalow and garage with vehicular access (NFDC/89/43551) refused on 06 December 1989

Adjacent Site (Cranemoor)

Single storey dwelling with attached car port (21/00212) refused on 18 May 2021. Subsequent appeal dismissed on 28 March 2022.

8. ASSESSMENT

Application Site

- 8.1 Lynton is a modest bungalow, with an extant consent to be replaced with a chalet-style property. It is centrally located on the south side of Partridge Road, which is characterised by predominantly detached dwellings of a variety of types and design. The dwellings have sizeable rear gardens which extend down to Highwood Road to the south and a few properties, including the application site, have created additional accesses onto that road, with small outbuildings adjacent to them.

Proposed Development

- 8.2 The application is for the erection of a new, single-storey property in the rear garden of Lynton, utilising the existing access from Highwood Road, which is to be wheelchair accessible and self-build. The key considerations are:
- The implications for Policy SP19 – the site is located within the defined village of Brockenhurst where new dwellings are acceptable in principle.
 - Whether the size of the dwelling accords with Policy SP21.
 - The design of the proposal and whether it is appropriate to the site.

- The impact on the character and appearance of the surrounding area and whether the proposal is in accordance with Policy DP34 (Residential character of the Defined Villages).
- Any impact on residential amenity.
- Any impact on trees.

Consideration

- 8.3 The site lies within the defined New Forest village of Brockenhurst where new residential development is acceptable in principle, as set out in Policy SP19 of the New Forest National Park Local Plan 2016-2036 (August 2019). Policy SP21 of the Local Plan specifies that new dwellings will have a maximum internal floor space of 100 square metres. In this case, the originally submitted plans were slightly in excess of the policy limitation but amended plans have been received which reduce the floor area to just within Policy. The integral storage area would also usually be included as part of the habitable floor area, but this could be conditioned to remain separate and inaccessible from the dwelling. The roof and one wall of the building also extend across an open fronted seating area to the front of the dwelling, which would be capable of being enclosed at a future date but again it would be possible to control this by condition.
- 8.4 Policies DP2, DP18 and SP17 of the Local Plan require new development to demonstrate high quality design which enhances local character and distinctiveness ensuring that development is appropriate and sympathetic in terms of scale, appearance, form and siting. Policy SP17 also seeks to ensure that built development would not individually or cumulatively erode the Park's local character or result in its gradual suburbanisation. The Authority's Design Guide SPD likewise emphasises the importance of new dwellings fitting comfortably into their surroundings and respecting the spacing of the buildings and natural features. The guidance contained within the National Planning Policy Framework states that permission should be refused for development of poor design that fails to take the opportunities available for improving the character and quality of an area (paragraph 130).
- 8.5 Local Plan Policy DP34 requires that the density of new development be informed by consideration of the local character of the defined New Forest villages. The policy and supporting text recognise that the defined villages (including Brockenhurst) are small in size and are an important part of the New Forest landscape. There is a distinct pattern of development in the Sway Road area, with larger houses set in spacious plots along Sway Road and a series of cul-de-sacs branching off to the road to the east, characterised by smaller properties, set closer together with long rear gardens. Highwood Road is an anomaly in this location, being developed only on one side with community facilities, but the fact that there is little built form to the north has ensured the retention of a semi-rural appearance which, as stated in the recent appeal decision on land to the rear of Cranemoor '*makes a positive contribution to the townscape of this part of the village*'. (Appeal ref. APP/B(506/W/21/3286472).

- 8.6 The proposal, which would sub-divide the garden of Lynton, would significantly alter this character and appearance, creating a small plot at odds with the spacious nature of the properties in the vicinity of the site and reducing the area available to the existing dwelling. The proposed dwelling would cover a large proportion of the plot leaving a small private amenity area to the rear (north), the maximum depth of which is 6.8m, and a larger area to the front where there would be access and parking. The cramped appearance of the development would be exacerbated by the significant width of the walls (0.6m) which have resulted in a greater footprint than would be the case should a more standard width of wall be used. It is recognised that the proposed build aspires to the most effective 'Passiv Haus' standards, which is laudable, but there is no evidence provided to demonstrate that these standards could not be achieved with narrower walls. Limited online research suggests that external walls are usually between 12" (0.3m) and 24" (0.6m), the latter being required for extremely cold climates.
- 8.8 In terms of the design of the dwelling, this is considered to be unexceptional, although the simple clean lines of the building would be somewhat marred by the positioning of the angled solar panels on the flat roof. However, these would have a limited visual impact overall, outweighed by the benefits of renewable energy and it is not considered that an objection could be sustained on this basis. Many of the supporting letters have referred to the necessity of providing smaller and more affordable family homes within the village. These representations of support are noted, although it is a requirement of the development for all new homes in the National Park to be within 100 sq. m in internal floor area and the proposal would not be an 'affordable dwelling' as defined in national or local policy. Given the two-bedroom design and minimal amenity area, it is queried as to whether it would, in fact, be suitable for a family with children. It is noted that the replacement that was proposed for the existing house at Lynton, provided, with the same floor area, a greater level of accommodation with an additional bedroom, more appropriate to a family.
- 8.9 Detailed landscape plans have been submitted to demonstrate that the proposal would serve to enhance the planting along the frontage rather than diminish it. At the time of writing, there are discrepancies between the landscape plan and proposed site layout plan which lead to a lack of clarity over the proposed parking and manoeuvring areas available to the property. It is noted that the site would be secured by a cattlegrid rather than a gated entrance, which would further reduce the privacy available to the occupants of the property.
- 8.10 It has also been suggested by the applicants that the proposals would set a positive precedent for the development of the other rear gardens along this side of Partridge Road. However, there is no evidence of any comprehensive scheme for such a development which could, potentially, if well-designed, result in a positive alteration to the character of the area. What is currently proposed is a single property that results in the

overdevelopment of the plot and could, if permitted, make it difficult to resist the further piecemeal development of other gardens in the vicinity and result, as recognised by the appeal Inspector, to potential cumulative harm to the character of the road and area. The applicant's agent has argued that 'potential harm' is not the same as actual harm and that, in this case, the level of landscaping to be provided would retain the character of the street and improve the overall level of greenery, which could also be replicated in other proposals. This, however, fails to take into account the other impacts from residential development, the creation of more accesses, parked cars and domestication of the area and also makes the assumption that the existing trees will be retained and would not be subject to future pressure to reduce/remove them, as discussed in subsequent paragraphs.

- 8.11 With regard to neighbour amenity, whilst the distance between the proposed dwelling and the existing properties, Lynton and Cranemoor, is less than 15m, the single storey design of the proposal is such that it would not have an adverse impact on amenity through loss of outlook or privacy. There is some potential for increased noise as a result of residential activity but, given the limited size of both the dwelling and the garden area, the level of activity generated is not likely to be unduly harmful. The amenity available to the occupants of the proposed dwelling must also be assessed and reference has been made to the limited availability of private garden. However, given the close proximity to trees, the impact of these natural features on the living conditions of the residents should also be considered.
- 8.12 There is a significant mature Oak in the southeastern corner of the site that is protected by a Tree Preservation Order (TPO), together with a smaller sapling that has been planted recently to replace a previously protected Oak that needed to be removed. It has been acknowledged by the Authority's Tree Officer that the dwelling could be constructed without direct or immediate harm to these trees, but concern has been raised about their close proximity leading to future pressure to lop or fell the trees. Such pressure arises for a number of reasons, including:
- The overbearing presence of large trees close to a dwelling and the anxiety this can create.
 - Shading to the dwelling and the limited useable garden space that is not overhung or in shade.
 - Nuisance from falling debris from the trees such as leaves, twigs, acorns, honeydew and bird droppings.
- 8.13 Generally, where there is conflict between the living conditions of occupiers and the retention of a protected tree, the living conditions will prevail and for this reason it is advisable, where possible, to avoid building in close proximity to trees, the loss of which would have a significant detrimental impact on the visual amenities of the area. An objection has therefore been received from the Authority's Tree Officer.
- 8.14 The applicants have provided additional information in the form of a shading report, to address at least one of the issues. This seeks to demonstrate

that, even allowing for the future growth of the small replacement tree, adequate direct sunlight can be achieved for the development. This, according to the recommendations set out by the Building Research Establishment in BRE 209 (Site Layout Planning for Daylight and Sunlight) should ensure that at least half of the garden/open area can receive at least two hours sunlight on March 21st. However, whilst this may be the case, given the very constrained size of the site, the areas with light are extremely limited, with most of the private amenity area to the rear being in shade from noon onwards. Furthermore, there is some query about the accuracy of the shading plans, where the tree shown at the 50 year period is significantly smaller than would be expected from a mature Oak tree (i.e. around 15m high with a crown to match others in the vicinity). It is likely therefore that the future shading of the site would be more extensive than shown.

- 8.15 The applicant has referred to the benefits of shading, given the potential for increased temperatures in future years. However, it should be noted that shading is only one of the potential issues that results from proximity to trees, as set out above, which taken in combination would materially affect the quality of the living conditions experienced by future occupants of the dwelling. Though the TPOs would provide grounds for the Authority to resist pressure to remove/reduce the trees, adverse effect on living conditions would be likely to weigh in favour of action. The future of the trees and the positive contribution that they make to the character and appearance of the area and, more broadly, of the National Park would therefore be placed at risk should the development proceed.
- 8.16 The application site lies within 400m of the New Forest Special Protection area (SPA) and 5.6km of the Solent SPA. Policy SP5 requires all development to comply with the Conservation of Habitats and Species Regulations 2017 (as amended). Mitigation is required for all proposals that would have recreational impacts on the New Forest and Solent coastal designated sites. The applicant has indicated a willingness to make a financial contribution of the agreed amount, which would require a Unilateral Undertaking to secure the mitigation.
- 8.17 Excessive nutrients in the Solent's European Sites are causing eutrophication, leading to an increase in algae growth. This has an adverse impact on the habitats and species within the European nature conservation designations sites in and around the Solent (including the Solent and Southampton Water SPA) to which the Habitat Regulations apply. Following recent case law, Natural England has advised that there is a likely significant effect on the Solent's European sites due to the increase in wastewater from new housing. They have also advised that any development proposed through any planning application providing overnight accommodation which would discharge into the Solent would also be likely to cause a significant effect. The applicant has submitted a nutrient budget calculation in accordance with Natural England latest methodology and indicated acceptance of a condition that would secure the necessary mitigation in the appropriate catchment area prior to occupation.

Other considerations

- 8.18 The applicant is aware of the previous appeals which have been dismissed. Whilst the appeal relating to Lynton dates back to 1989 (prior to the creation of the National Park), the most recent appeal, which relates to the adjacent site to the rear of Cranemoor, was dismissed in 2022. However, it is sought to distinguish the current proposal through the provision of a) a wheelchair accessible dwelling and b) a self/custom build property, which it is claimed that there is an inadequate supply of within the National Park.
- 8.19 In terms of wheelchair accessibility, it is recognised that this could be a desirable feature, though all modern dwellings are required to have a greater level of accessibility than perhaps existed historically, even if not to the extent of providing full wheelchair access. However, the speculative provision of a wheelchair friendly dwelling, clearly not currently required by the applicants, does not outweigh the significant objections to the proposal. The applicants maintain that of the housing allocation sites none, other than perhaps to the care home at Ashurst Hospital, mention any requirement for Part M4(2) accessible or Part M4 (3) wheelchair accessible dwellings (para. 6.29 of the Planning Statement). It should, however, be noted that the 120 houses in the Fawley application, are all to be compliant with the Disability Discrimination Act (DDA), with the provision of gradual ramps in place of steps where it is necessary to raise thresholds and this has been incorporated into the Design Code.
- 8.20 It is acknowledged that the Self Build and Custom Housebuilding Act 2015 requires planning authorities to consent sufficient schemes to meet the identified demand and the applicant's agent has placed significant emphasis on the lack of provision of self/custom build (SCB) dwellings in the National Park. The applicant notes that the National Park Authority do not charge the Community Infrastructure Levy (CIL) and therefore the only method of ensuring that a permission is SCB, for the purposes of the legislation is to have the applicants complete a Section 106 legal agreement committing to self-build or to attach a planning condition for the same. However, the current self-build legislation does not prescribe how suitable permissions must be recorded by the Planning Authority. Extant Government guidance in the NPPG section on self and custom housebuilding confirms that it is for the local planning authority to determine whether an application, permission or development is for self or custom build using indicators such as:
- Whether developers have identified that self-build or custom build plots will be included as part of their development and it is clear that the initial owner of the homes will have primary input into its final design and layout;
 - Whether a planning application references self-build or custom build and it is clear that the initial owner of the homes will have primary input into its final design and layout; and

- Whether a Community Infrastructure Levy or Section 106 exemption has been granted for a particular development.
- 8.21 The applicant has disputed this, citing appeal decisions (unspecified) where it has been determined that unless local planning authority has evidence to secure SCB, they cannot be counted as such. The Authority, however, in the absence of CIL, considers that the approach taken, based on the type of application and the intended future occupiers is a reasonable and justifiable approach to determining SCB. Our approach is consistent with that adopted by other planning authorities and reasonable. Where, as pointed out by the applicant, there is little space to develop within the National Park, the majority of SCB are as the result of replacement dwellings, of which there are numerous on a yearly basis. As the homeowner would have had primary input into the design of the development, this would qualify as a self-build.
- 8.22 It is recognised that with the introduction of the Levelling Up & Regeneration Act (LURA), which received royal assent on 27 October 2023, the requirements for verifying and accounting for SCB may alter. Many of the changes set out in the Act will take effect after associated regulations and changes to national policy/guidance are in place, and a number of sections in the Act will require secondary legislation before they are implemented according to the amendment text Clause 115, page 148, line 30
*“(aa)after subsection (5) insert—
 “(5A) Regulations may make provision specifying descriptions of planning permissions or permissions in principle that are, or are not, to be treated as development permission for the carrying out of self-build and custom housebuilding for the purposes of this section.”*
- 8.23 In the absence of the wording of those regulations, there is no certainty as to what the future specific descriptions are to be. Current Government guidance on what contributes towards the delivery of self and custom build is set out in the NPPG section on ‘self and custom housebuilding’ and this remains the extant statement of Government policy. It is noted from recent correspondence received from the agent that, they do not agree with this interpretation, stating that, as the Act is legislation it should be given a greater weight than the NPPG guidance and that in the absence of a condition or legal agreement specifying SCB, any permission cannot be described as such. The applicant has confirmed that they would be willing to accept a planning condition, 106 Agreement or provide a Unilateral Undertaking to secure the development as SCB.
- 8.24 It is confirmed in the NPPG guidance on self and custom housebuilding that self and custom housebuilding registers are likely to be a material consideration in decisions involving proposals for such properties and thus carries some weight. However, set against this weight and the benefit to be derived from an additional dwelling and its wheelchair accessibility is the localised harm to the character and appearance of the area and a reduction of the contribution that the appeal site makes to the character of the National Park as a whole. This was emphasised in the recent appeal

decision on the adjacent site which, whilst all applications must be assessed on their own merits, is also a material consideration of some weight. The Inspector stated:

'the appeal proposal would cause significant harm to the character and appearance of the area. It would therefore be contrary to Local Plan Policies SP17, DP2 and DP18 and the Design Guide SPD. These policies and guidance, amongst other things, seek to ensure that new development comprises the highest standards for new design, which enhances local character and distinctiveness, including appropriate form, siting and layout, and that it avoids a gradual suburbanising effect within the National Park...For similar reasons the proposal would not accord with policies of the Framework which require well-designed places and the conservation and enhancement of the natural environment, noting that great weight should be given to conserving and enhancing landscape and scenic beauty in National Parks, as set out in Chapters 12 and 15 respectively.' – paragraphs 17 & 18.

- 8.25 National Planning policy confirms that 'the planning balance' in National Parks differs to areas outside nationally protected landscapes (footnote 7, para. 11, NPPF 2023). The benefits gained through the delivery of a net new SCB dwelling are not considered to outweigh the detrimental impacts the provision of a new dwelling on this cramped site would have on the character and local distinctiveness of this part of the National Park.
- 8.26 Other queries have been put forward by the applicant/agent during the application process in response to the comments of the Authority's policy team relating to the provision of new homes within the National Park, in particular whether the Authority has permitted the number of properties, as set as set out in the Local Plan, on windfall sites in the Plan period to date. Monitoring illustrates that between start of the Local Plan period (1 April 2016) and the latest period for which data is available (31 March 2023) a total of 173 windfall dwellings have been completed within the National Park area. This equates to an average of just under 25 dwellings per annum, exceeding the windfall figures of 20 dwellings per annum set out in paras. 7.10, 7.41-7.44 of the Local Plan. Although the New Forest National Park is not covered by the Government's Housing Delivery Test, dwelling completions and housing land supply are monitored and publicly reported on through annual monitoring reports. The Authority can currently demonstrate over eight years of housing land supply and there are no housing delivery grounds to override the harm to local character that would arise from this proposal.

Conclusion

- 8.27 For the reasons given above, it is considered that the development of the site, as proposed would conflict with development plan Policies DP2, SP17, DP18 and DP34 which deal with design, layout and the character and appearance of the surrounding area and the wider National Park. Given this conflict it has been considered whether there are material considerations

which indicate that the proposal should be determined other than in line with the development plan.

- 8.28 Weighing in favour of the proposal are the sustainable location of the site within the defined village, together with the energy efficient design and provision of an additional self and custom build, wheelchair accessible dwelling. All of these features are supported by the Authority where they can be appropriately accommodated without harm to interests of acknowledged importance.
- 8.29 Weighing against the proposal is the Authority's assessment that a dwelling on this cramped and constrained site would not be in keeping with the existing pattern of development and spacious nature of the locality. The resultant development, together with the strong likelihood of future pressure to fell or lop protected trees close to the site would therefore erode the existing character of this part of the National Park. The villages of the New Forest are an integral part of the National Park and adopted local planning policies highlight that it is essential that the general pressure for development within the National Park does not lead to inappropriate development with the defined villages or result in the suburbanising effect that the Local Plan seeks to avoid.
- 8.30 The importance of retaining this character and the landscape and scenic beauty of the National Park, was recognised by the Inspector in the determination of the recent appeal who stated that '*whilst the Framework encourages the effective use of land in meeting the need for homes.... these matters are not unqualified and would not address or outweigh the aforementioned harm that I have identified to the character and appearance of the area*'. Notwithstanding the environmental and inclusive credentials of the currently proposed development, is not considered that these benefits are sufficient to outweigh the demonstrable harm that would result. The proposal would therefore be contrary to Policies DP2, SP6, SP17, DP18 and DP34 of the New Forest National Park Local Plan 2016-2036 (August 2019).

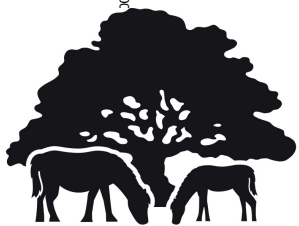
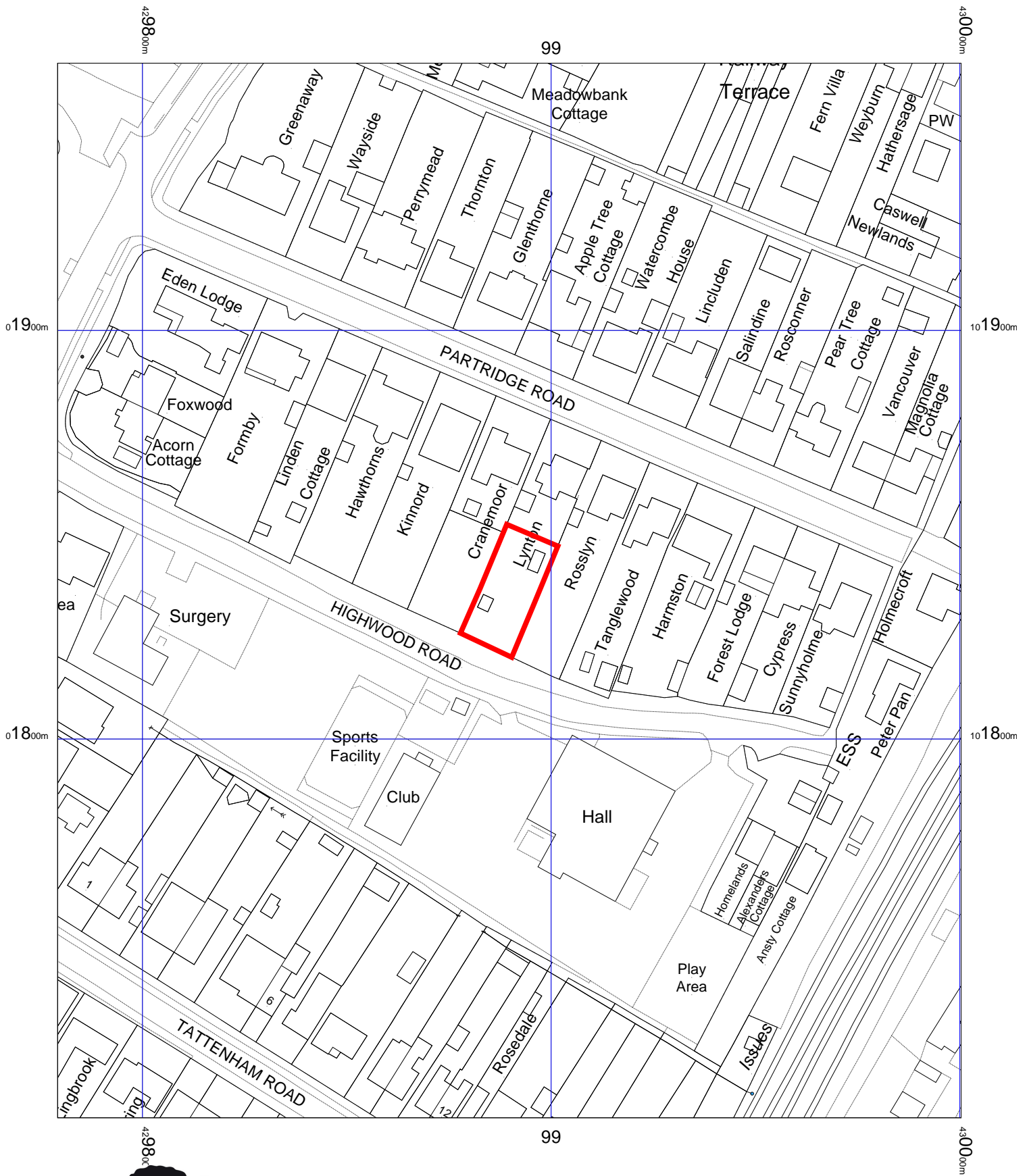
9. RECOMMENDATION

Refuse

Reason(s) for refusal:

1. The proposal, by reason of its location, layout, density and scale would result in a form of development that would be out of keeping with and adversely harm the semi-rural character of Highwood Road which remains free of significant residential development. The development would therefore be contrary to Policies SP17, DP2 and DP18 of the adopted New Forest National Local Plan 2016-2036 (August 2019).

2. The proposed development would be located in close proximity to trees which are covered by a Tree Preservation Order and have a high public amenity value. The issues arising from such proximity, including excessive shading and nuisance from falling tree debris, could conflict with the residential amenities of the occupants of the dwelling and be likely to lead to future pressure to lop or fell the trees, with consequent harm to the character and appearance of the locality. The proposed development would therefore be contrary to Policies SP6 and DP2 of the New Forest National Park Local Plan 2016-2036 (August 2019).



NEW FOREST
NATIONAL PARK

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