

Application Number: 16/10759 Full Planning Permission

Site: CHURCH, FORDINGBRIDGE ROAD, WHITSBURY SP6 3QB

Development: Use as 1 residential dwelling; windows; rooflights; minor external alterations; partial demolition

Applicant: Mrs Mann

Target Date: 26/07/2016

Extension Date: 12/08/2016

1 REASON FOR COMMITTEE CONSIDERATION

Contrary to Policy; To agree the waiving of the affordable housing contribution

2 DEVELOPMENT PLAN AND OTHER CONSTRAINTS

Countryside, Conservation Area, Area of Outstanding Natural Beauty

3 DEVELOPMENT PLAN, OBJECTIVES AND POLICIES

Core Strategy

Objectives

1. Special qualities, local distinctiveness and a high quality living environment
3. Housing
6. Towns, villages and built environment quality
7. The countryside

Policies

CS2: Design quality

CS3: Protecting and enhancing our special environment (Heritage and Nature Conservation)

CS8: Community services and infrastructure

CS10: The spatial strategy

CS15: Affordable housing contribution requirements from developments

CS24: Transport considerations

CS25: Developers contributions

Local Plan Part 2 Sites and Development Management Development Plan Document

DM1: Heritage and Conservation

DM3: Mitigation of impacts on European nature conservation sites

DM20: Residential development in the countryside

DM24: Loss of rural employment sites, shops, public houses and community facilities

4 RELEVANT LEGISLATION AND GOVERNMENT ADVICE

Section 38 Development Plan
Planning and Compulsory Purchase Act 2004
National Planning Policy Framework

5 RELEVANT SUPPLEMENTARY PLANNING GUIDANCE AND DOCUMENTS

SPD - Mitigation Strategy for European Sites
SPD - Parking Standards

6 RELEVANT PLANNING HISTORY

6.1 Use as 1 residential unit (Use Class C3); associated external alterations (14/11749) - withdrawn 12/2/15

6.2 Use as 1 residential unit (Use Class C3); associated external alterations (15/10198) - refused 11/6/15

7 PARISH / TOWN COUNCIL COMMENTS

Whitsbury Parish Council:- Recommends permission - wholeheartedly supports, which will resuscitate an important and prominent building which has become an eyesore in a beautiful village; considers the conversion would be sympathetic to this historic building

8 COUNCILLOR COMMENTS

Cllr Edward Heron:- Supports - considers the site is suitable for conversion to a single dwelling; considers there to be a lack of demand for potential alternative uses, which would be inappropriate in this location given the specific character of the site / village. Feels the loss of the yew tree would be an acceptable, if regrettable, cost for ensuring the future use of the building; Considers the proposal would not detract from the building's setting within the Conservation Area.

9 CONSULTEE COMMENTS

9.1 Hampshire County Council Highway Engineer:- No objection subject to parking conditions

9.2 Tree Officer:- Would support a refusal of planning permission due to the unnecessary removal of a protected yew tree that could be retained and contribute to the area for many years to come.

9.3 Conservation Officer:- Supports. Proposal is appropriate when balancing the positive changes made and considering the proposal would create a long term sustainable use for the building.

9.4 Ecologist:- No objection subject to condition

9.5 Land Drainage:- No comment

9.6 Southern Gas:- No objection

9.7 Estates & Valuation:- Concludes that residential conversion for holiday usage would not be viable.

10 REPRESENTATIONS RECEIVED

10.1 1 letter of support from adjacent property

11 CRIME & DISORDER IMPLICATIONS

No relevant considerations

12 LOCAL FINANCE CONSIDERATIONS

If this development is granted permission and the dwelling built, the Council will receive £1152 in each of the following six years from the dwelling's completion, and as a result, a total of £6912 in government grant under the New Homes Bonus will be received.

From the 6 April 2015 New Forest District Council began charging the Community Infrastructure Levy (CIL) on new residential developments.

Based on the information provided at the time of this report this development has a CIL liability of £1,920.35.

Tables setting out all contributions are at the end of this report.

13 WORKING WITH THE APPLICANT/AGENT

In accordance with paragraphs 186 and 187 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.

In this case, the application proposals have been the subject of discussion and negotiation with the applicant / agent and this has enabled an appropriate proposal to be submitted, thereby enabling a positive recommendation to be made.

14 ASSESSMENT

- 14.1 The application site is a redundant Methodist chapel that dates from 1901. The building, which fronts onto Whitsbury's main highway, is located within a relatively modest plot that is bounded by the large and mature gardens of 2 adjacent dwellinghouses. There is a low wall with railings along the front boundary of the site, while to the rear of the site there are a number of mature trees, including trees that are protected by a Tree Preservation Order. Beyond the site, the nearby highway is mainly bounded by mature hedgerows, and the area generally has an attractive rural character. The site is located within the Whitsbury Conservation Area and within a designated Area of Outstanding Natural Beauty.
- 14.2 In June 2015 planning permission was refused for the conversion of the former chapel to a single dwellinghouse. The creation of a new dwelling in this countryside location was considered to be contrary to policy and without justification in view of the potentially more acceptable uses that the chapel could be converted to. The application was also considered harmful to the character and appearance of the Whitsbury Conservation Area due to the relocation of the front boundary wall and railings and because some of the proposed alterations to the building were deemed to be inappropriate. The application was also felt to be unacceptable as it would have resulted in the unjustified loss of a significant protected yew tree. The proposal also failed to secure any habitat mitigation contributions.
- 14.3 The application that has now been submitted also seeks to convert the redundant chapel to a single dwellinghouse. The proposal is broadly similar to the previously refused application. However, there has been a change to some of the proposed external alterations to the building as well as a change to the position of the relocated front boundary. The application is also accompanied by a greater level of supporting information that seeks to justify the proposal in the light of the Council's policies and the previous reason for refusal.
- 14.4 The proposed residential conversion would result in the loss of an existing community facility. Local Plan Part 2 Policy DM24 only allows for the loss of rural community facilities where certain criteria are met. In this case, none of the relevant criteria would be met and therefore the proposed development would not be in accordance with Policy DM24. However, the chapel has been redundant for a few years, and there seems to be little prospect that the building would continue to function as a place of worship. Although the possibility of using the building for an alternative community uses does not appear to have been actively explored, it seems unlikely that using the building for alternative community uses would be viable in this specific rural location, taking into account the absence of that dedicated parking area. In these circumstances, it is felt permitting the loss of the existing community use would be justified, notwithstanding an apparent conflict with Local Plan Part 2 Policy DM24.

- 14.5 Policy DM20 of the Local Plan Part 2 only allows for new dwellings in the countryside where they are replacement dwellings, dwellings to meet local affordable housing need or dwellings for agricultural workers. The residential conversion that is proposed would not meet a local affordable housing need, and nor would it be a dwelling for an agricultural worker. As such, the residential conversion that is proposed would be contrary to Local Plan Part 2 Policy DM20.
- 14.6 The applicant's agent has sought to justify the proposal on the basis that the proposal would assist in boosting housing supply; would through re-using a redundant building enhance the immediate area; would make a positive contribution to the Whitsbury Conservation Area; and would be the most practical and viable use. The applicant's agent considers their proposals to be consistent with national planning policies, even though the proposal would not be consistent with Local Plan Policy DM20.
- 14.7 Whitsbury Chapel is a building of historic interest that contributes positively to the character and appearance of the Whitsbury Conservation Area. It is important that a new use is found for the building. However, given the restrictions imposed by Local Plan Part 2 Policy DM20, it must first be considered whether the building could be put to a more policy compliant alternative use, appropriate to the site's context. In this respect, the applicant's agent has sought to argue that the building is unsuitable for conversion to other uses. Specifically, the applicant's agent considers that the building is not suitable for conversion to an employment or community use due to a lack of external parking, a lack of demand, and due to the chapel's unsuitable location. The applicant's agent also considers that conversion to a holiday let would not be an economically viable business proposition, and has submitted a detailed assessment to support this view.
- 14.8 With the previously refused application, the Council's Senior Valuer felt that the applicants had not put forward adequate evidence to demonstrate that the building could not reasonably and viably be used for alternative uses. The Council's Senior Valuer has reviewed his position in the light of the additional evidence that has now been put forward. For a holiday let conversion, the Council's Senior Valuer now feels that the development site value would be below the Current Use Value, and in these circumstances he has concluded that residential conversion to holiday accommodation would not be viable.
- 14.9 A holiday let conversion is felt to be the most appropriate policy compliant use in this particular context. From a practical perspective, and given the site's location and constraints it is considered that conversion of the chapel to an employment use would be a less attractive proposition, and one that would raise amenity concerns. The applicants have not demonstrated that an employment use would be unviable (through, for example, an appropriate marketing exercise). However, it does not seem particularly likely that a positive employment use would be found for the building if it were to be marketed again.
- 14.10 Given the lack of likelihood that the chapel would be converted to an alternative use to a permanent dwelling, and given the amenity issues arising from certain employment uses, it is felt that the principle of conversion to a permanent dwelling would now be acceptable, notwithstanding the conflict with Policy DM20. Having regard to all of the available evidence, it would appear that conversion to a dwelling is the

only viable and realistic use to which this valued local building can now be put. In reaching the conclusion that the proposed conversion is acceptable regard has been had to the National Planning Policy Framework, which is broadly supportive of the conversion of redundant buildings in the countryside to new homes where there would be an enhancement to the immediate setting. The fact that many other types of building in the countryside can now be converted to a permanent dwelling under permitted development rights is also a material consideration that weighs in favour of this application.

- 14.11 Most of the physical alterations to the chapel building are low-key, well-considered, and sympathetic to the site's historic context. The application now seeks to retain the Chapel name plaque on the front gable, albeit that the plaque would be relocated to a slightly higher position in order to facilitate a new window. Windows to the front elevation are no longer proposed for replacement, but would be retained with secondary glazing. Since the application has been registered, amended / additional details have been submitted to address a concern that the new first floor structure could appear visually awkward relative to the front windows. It appears that this amendment / information has satisfactorily addressed this point, (subject to confirmation from the Council's Conservation Officer, which is still awaited).
- 14.12 The previously refused application gave rise to a concern that the Conservation Area would be harmed by the relocation of the existing historic front wall railings back towards the chapel so as to facilitate a parking space. This application still seeks to relocate the front boundary railings in order to facilitate the creation of a parking space, which would still cause some erosion of the frontage space. However, the railings would not be set so far back as was proposed previously and a change in surfacing is proposed in front of the relocated railings, which would help to provide some definition to this frontage space. This change to the position of the railings is not ideal, but when balanced against the positive changes that have been made elsewhere, it is considered that it would be a reasonable and justified change that would not cause material harm to the character and appearance of the Whitsbury Conservation Area.
- 14.13 Situated in the rear south-western corner of the site is a group of 3 yew trees protected by a Tree Preservation Order. The application seeks to remove all 3 trees. The removal of 2 of these trees (T2 and T3) is considered to be justified as neither tree provides public amenity value. However, by contrast, the remaining tree (T1) is considered to provide a good level of public amenity. Removing this tree would be detrimental to the visual amenities of the area and would have an adverse impact on the character and appearance of the Whitsbury Conservation Area. The applicant recognises that the loss of this tree would be harmful, but views it as necessary to provide adequate drainage to the property, there being no drainage to the property at the current time. In their supporting statement, the applicant indicates that they have given consideration to providing drainage (a sewage treatment plant) to the front of the property, but have had to rule it out as the necessary treatment plants are not designed to withstand the loadings which would be imposed if positioned close to the highway or below parking areas, whilst a siting too close to the front of the building would require significant engineering work / underpinning, making a siting here economically unviable. The applicant considers that siting the requisite

sewage treatment plant to the rear of the building (thereby necessitating the removal of the yew tree) is the only economical and safe position in which to meet the property's drainage needs.

- 14.14 It is accepted that the property must be served with an appropriate drainage scheme, and there is no good reason to doubt the applicant's assertion that providing the necessary sewage plant to the front of the building would be economically unviable / unworkable. Therefore, accepting that drainage must be provided to the rear of the building, it would appear that the removal of the yew tree is an inevitable consequence of converting the building to a permanent dwelling. As such, there is a need to weigh up the benefits of the conversion against the harm arising from the proposed tree loss. The tree in question is a good quality yew tree, and its loss would be visually harmful. However, the tree is set to the rear of the building, and it is not especially prominent within the wider landscape, which being rural has a green and verdant character with many other noteworthy trees. The building is a unique building within the village, and its continued vacancy is undesirable. Putting the building into use again will secure the long-term future of a building that is prominent within the local streetscene, and which contributes positively to the character and appearance of the Conservation Area. On balance, it is felt that the benefits of securing a positive new use for the building would outweigh the harm arising from the tree's removal. Therefore, it is felt the removal of the tree would be justified.
- 14.15 The proposal would see the introduction of first floor accommodation. The rooflights on the respective side-elevations would not result in undue overlooking of neighbouring dwellings, given their distance from those neighbouring dwellings and given the modest size and design of the rooflights. Overall, it is considered the proposed conversion could take place without detriment to the amenities of neighbouring dwellings.
- 14.16 The application is accompanied by an ecological report. The Ecologist is satisfied that the proposed conversion would not harm any protected species and therefore, subject to conditions, the proposal is one that would not harm biodiversity interests.
- 14.17 On 19th May 2016 the Government issued planning guidance setting out the specific circumstances in which contributions for affordable housing and tariff style planning obligations (section 106 agreements) should not be sought from small scale and self-build development. This guidance has been reissued following the order of the Court of Appeal dated 13th May 2016 (*West Berkshire District Council and Another v The Secretary of State for Communities and Local Government*). The planning guidance specifies the circumstances in which contributions should not be sought as follows:
- "Contributions should not be sought from developments of 10 units or less and which have a maximum combined gross floorspace of no more than 1,000 sqm; In designated rural areas, local planning authorities may choose to apply a lower threshold of 5 units or less...;*
- Affordable housing and tariff style contributions should not be sought from any development consisting only of the construction of a residential annex or extension to an existing house"*

This national guidance is at odds with Policy CS15 of the Council's Core Strategy which requires many small scale housing developments including the current application proposals to make affordable housing provision.

- 14.18 The presumption in favour of the development plan remains, in that the decision should be taken in accordance with the plan unless material considerations indicate otherwise. The new guidance is a material consideration which post-dates the adoption of the Local Plan. It is for the Council to decide which should prevail in the determination of a planning application. However, the Secretary of State, through his Inspectors, can be anticipated to give greater weight to the Government's national guidance unless there are reasons to make an exception.
- 14.19 While the need for affordable housing in this District is pressing, this in itself is unlikely to be considered by the Secretary of State as sufficient reason for the Council to apply its own development plan policy rather than applying national policy. Therefore, it is recommended that no affordable housing or tariff style contributions are sought from this development, in accordance with national Planning Practice Guidance, contrary to the provisions of Policy CS15 of the Core Strategy. In any event, it should be noted that in this instance, the applicants submitted a viability appraisal, which concluded that any affordable housing contribution would make the scheme unviable, a conclusion that has been accepted by the Council's estates and valuation team. Therefore, irrespective of the latest government advice, the scheme is one where the affordable housing requirement should be reasonably waived.
- 14.20 In accordance with the Habitat Regulations 2010 an assessment has been carried out of the likely significant effects associated with the recreational impacts of the residential development provided for in the Local Plan on both the New Forest and the Solent European Nature Conservation Sites. It has been concluded that likely significant adverse effects cannot be ruled out without appropriate mitigation projects being secured. In the event that planning permission is granted for the proposed development, a condition is recommended that would prevent the development from proceeding until the applicant has secured appropriate mitigation, either by agreeing to fund the Council's Mitigation Projects or otherwise providing mitigation to an equivalent standard.
- 14.21 Overall, the proposed development would not be wholly consistent with Local Plan policies. However, having regard to National Planning policies and the specific benefits associated with this proposed residential conversion and the lack of viability associated with a holiday let conversion, it is felt that conversion to a permanent dwelling would be justified. The new use and the proposed building works would have an acceptable impact on the Whitsbury Conservation Area. Removal of a protected yew tree would be regrettable, but seemingly unavoidable if a beneficial new use is to be found for the building, and therefore justified. Contributions to affordable housing could be reasonably waived. Accordingly, it is considered appropriate to recommend this application for permission subject to appropriate conditions.
- 14.22 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

Proposal:			
Type of Contribution	NFDC Policy Requirement	Developer Proposed Provision	Difference
Affordable Housing			
No. of Affordable dwellings	0	0	0
Financial Contribution	£43,400	0	-£43,400
Habitats Mitigation			
Financial Contribution	£3050		

CIL Summary Table

Description of Class	GIA New	GIA Existing	GIA Net Increase	CIL Liability
Dwelling houses	84.75	61.72	23.03	£1,920.35 *

15. RECOMMENDATION

Grant Subject to Conditions

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: 1239-00, 1239-04B, 1239-03 rev B, 1239-05, 1239-06, 1239-02, 1239-01, 1239-08.

Reason: To ensure satisfactory provision of the development.

3. No development shall be carried out until proposals for the mitigation of the impact of the development on the New Forest and Solent Coast European Nature Conservation Sites have been submitted to and approved in writing by the local planning authority, and the local planning authority has confirmed in writing that the provision of the proposed mitigation has been secured. Such proposals must:
- (a) Provide for mitigation in accordance with the New Forest District Council Mitigation Strategy for European Sites SPD, adopted in June 2014 (or any amendment to or replacement for this document in force at the time), or for mitigation to at least an equivalent effect;
 - (b) Provide details of the manner in which the proposed mitigation is to be secured. Details to be submitted shall include arrangements for the ongoing maintenance and monitoring of any Suitable Alternative Natural Green Spaces which form part of the proposed mitigation measures together with arrangements for permanent public access thereto.
 - (c) The development shall be carried out in accordance with and subject to the approved proposals.

Reason: The impacts of the proposed development must be mitigated before any development is carried out in order to ensure that there will be no adverse impacts on the New Forest and Solent Coast Nature Conservation Sites in accordance with Policy DM3 of the Local Plan Part 2 and the New Forest District Council Mitigation Strategy for European Sites Supplementary Planning Document.

4. The development hereby permitted shall not be occupied until the space shown on the approved plans for the parking of motor vehicles has been provided, and the space shall thereafter be retained for its intended purpose at all times.

Reason: To ensure adequate parking provision is made in the interest of highway safety and in accordance with Policy CS2 and CS24 of the Local Plan for the New Forest outside of the National Park (Core Strategy).

5. Before the commencement of development (including any demolition / tree removal), details of bat mitigation and compensation measures, based on an up to date survey of the site, shall be submitted to and approved in writing by the Local Planning Authority. Development shall only proceed in accordance with the approved details.

Reason: To safeguard ecological interests in accordance with Policy CS3 of the Core Strategy for New Forest District outside of the National Park.

6. Before development commences, samples of the new bricks and slate roofing tiles to be used in the approved conversion of the building shall be submitted to and approved in writing by the Local Planning Authority. Development shall only be implemented in accordance with the approved details.

Reason: To ensure an acceptable appearance of the development and to safeguard the character and appearance of the Whitsbury Conservation Area in accordance with policy CS3 of the Core Strategy for the New Forest District outside the National Park, and Policy DM1 of the Local Plan Part 2: Sites and Development Management.

7. Before development commences, the following details shall be submitted to, and approved in writing by the Local Planning Authority:-
- a) A detailed set of drawings (elevations and sections) showing all of the proposed new windows and doors;
 - b) A detailed specification for the rooflights, lead roll ridge, bargeboards and flue.

Development shall only take place in accordance with those details which have been approved.

Reason: To ensure an acceptable appearance of the development and to safeguard the character and appearance of the Whitsbury Conservation Area in accordance with policy CS3 of the Core Strategy for the New Forest District outside the National Park, and Policy DM1 of the Local Plan Part 2: Sites and Development Management.

8. The dwelling hereby approved shall not be occupied until the existing front boundary railings and associated pillars / dwarf wall, which are to be relocated, have been moved into their approved new position, with details of any new brickwork being submitted to and approved in writing before the Local Planning Authority before the new front boundary line is first formed.

Reason: To ensure an acceptable appearance of the development and to safeguard the character and appearance of the Whitsbury Conservation Area in accordance with policy CS3 of the Core Strategy for the New Forest District outside the National Park, and Policy DM1 of the Local Plan Part 2: Sites and Development Management.

9. Before development commences a scheme of landscaping of the site shall be submitted for approval in writing by the Local Planning Authority. This scheme shall include :

- (a) a specification for the proposed new planting (species, size, spacing and location);
- (b) a specification for the hard surfaced areas to the front of the existing building.
- (c) a method and programme for its implementation and the means to provide for its future maintenance.

No development shall take place unless these details have been approved and then only in accordance with those details.

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

10. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) 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, or 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 small size of the plot and the site's sensitive historic context, this is a site where small scale alterations could potentially have a significant impact, and the Local Planning Authority would therefore wish to ensure that any future development proposals do not adversely affect the amenities of the area and the site's historic context, contrary to Policy CS3 of the Core Strategy for New Forest District outside of the National Park and Policies DM1 and DM20 of the Local Plan Part 2: Sites and Development Management.

Notes for inclusion on certificate:

1. In accordance with paragraphs 186 and 187 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.

In this case, the application proposals have been the subject of discussion and negotiation with the applicant / agent and this has enabled an appropriate proposal to be submitted, thereby enabling a positive recommendation to be made.

Further Information:

Major Team

Telephone: 023 8028 5345 (Option 1)



New Forest
DISTRICT COUNCIL

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**Planning Development
Control Committee
August 2016**

Item No: 3y

Church
Fordingbridge Road
Whitsbury
16/10759
SU1219

Scale 1:1250

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

